Journal of the Senate

Number 24—Regular Session **Thursday, April 29, 1999**

CONTENTS

CALL TO ORDER

The Senate was called to order by President Jennings at 9:30 a.m. A quorum present—38:

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

Excused: Conferees periodically for the purpose of working on Civil Litigation Reform: Senator Latvala, Chairman; Senators Grant, Laurent, Lee and Silver; Alternate, Senator Kurth

PRAYER

The following prayer was offered by Rev. Michael Mitchell, Pastor, St. Stephen African Methodist Episcopal Church, Jacksonville:

"O Lord, our Lord, how wonderful is your name in all the earth." Because of you, God, morning by morning new mercies we are blessed to see. We come realizing that today is yet another day which you have blessed us to be able to behold. Therefore, we come today with gratitudes in our heart unto you, O God. We come today just to say thank you for your many blessings toward us—for waking us up this morning, we say thank you and for starting us on our way, we say thank you. We thank you for the joy just to be able to share in fellowship together in yet another session of this, your Senate.

Dear God, as we come today, we confess our need for you. I ask now your blessings upon each and everyone that is under the sound of my voice. As your people deliberate today, I ask that you will continue to direct their minds and direct their hearts, for certainly you know the concerns of our state. You know what's best for our children. You know what's best for our families so, God, I ask right now that you will help this legislative body to be able to make the right decisions. Touch now, one by one, name by name. In thy name, we pray. Amen.

PLEDGE

Senate Pages Cathy Reiter of Summerville, South Carolina, and Princess Roshell of Zephyrhills, 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 Thomas—

By Senator Thomas—

SR 1512—A resolution recognizing the year 2000 as The Year of the River.

WHEREAS, the Chattahoochee and Apalachicola Rivers are among the most important natural resources in Florida, and

WHEREAS, the Chattahoochee and Apalachicola Rivers have played an important role in the cultural and historical development of Florida and the neighboring states of Alabama and Georgia, and

WHEREAS, the Chattahoochee and Apalachicola Rivers have contributed to recreational opportunities, economic development, and the tourism potential of communities in the tri-state area of Florida, Alabama, and Georgia, and

WHEREAS, the states of Alabama, Georgia, and Florida can transcend state boundaries to promote the conservation of the Chattahoochee and Apalachicola Rivers and the economic development and improvement of the tri-state area, and

WHEREAS, the development of environmentally friendly tourism in the Chattahoochee-Apalachicola watershed has the potential to bring economic benefits to some of the poorest counties in Florida, Alabama, and Georgia while at the same time providing an economic justification for preserving, protecting, and improving the rivers, and

WHEREAS, the preservation of historic sites and folk cultures and the development of parks, greenways, trails, and other environmentally sensitive recreational facilities can contribute to economic development and the creation of employment opportunities in the region, NOW, THEREFORE,

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

That the year from January 1, 2000, to December 31, 2000, is recognized as The Year of the River with regard to the Chattahoochee and Apalachicola.

BE IT FURTHER RESOLVED that the Florida Senate encourages Floridians and visitors to Florida in the areas surrounding the Chattahoochee and Apalachicola Rivers to participate in activities to develop the recreational, tourism, and economic potential of these resources in coordination with the states of Georgia and Alabama.

BE IT FURTHER RESOLVED that the Florida Senate calls upon communities, civic groups, businesses, and individuals in the three states as well as the agencies of the state government and other statewide organizations in Florida, Alabama, and Georgia to adopt specific activities for developing recreation, eco-tourism, and heritage tourism during The Year of the River.

—**SR 1512** was introduced, read and adopted by publication.

At the request of Senator Hargrett—

By Senator Hargrett—

SR 2732—A resolution commending the Legal Environmental Assistance Foundation, Inc. (LEAF), for protecting the health of people from pollution.

WHEREAS, the Legal Environmental Assistance Foundation, Inc. (LEAF), is a nonprofit organization dedicated to protecting the health of all people from pollution, and

WHEREAS, LEAF seeks to protect life-sustaining natural resources from pollution, and

WHEREAS, LEAF is celebrating its 20th anniversary, and

WHEREAS, LEAF has served the people of Florida since 1984, and

WHEREAS, LEAF continues to assist Floridians in their endeavors to promote the environment, health, and well-being of all communities in Florida, NOW, THEREFORE,

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

That LEAF is commended on its 20th anniversary for its role in promoting the environment, health, and well-being of Florida communities.

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

—**SR 2732** was introduced, read and adopted by publication.

At the request of Senator Silver—

By Senator Silver—

SR 2734—A resolution urging the increased education of the citizens of the state with regard to the awareness, prevention, and treatment of obesity as a major health concern.

WHEREAS, 1996 Behavioral Risk Factor Surveillance Data from the federal Center for Disease Control and Prevention indicates the percentage of state populations who are overweight ranges from 22 to 34 percent, and

WHEREAS, the prevalence of obesity in the adult population has grown a shocking 34 percent during the past ten years, and

WHEREAS, a causal relationship exists between obesity and a number of serious disorders, including hypertension, dyslipidemia, cardiovascular disease, diabetes (Type II), gall bladder disease, respiratory dysfunction, gout, and osteoarthritis, and

WHEREAS, the National Institute of Diabetes and Digestive and Kidney Diseases has provided information that indicates that nearly 80 percent of patients with diabetes mellitus are obese and that the incidence of symptomatic gallstones soars as a person's body-mass index increases beyond a certain level, and

WHEREAS, the information also reveals that nearly 70 percent of diagnosed cases of cardiovascular disease are related to obesity, that obesity more than doubles a person's chances of developing high blood pressure, that almost half of breast cancer cases are diagnosed among obese women, and that 42 percent of colon cancer cases are among obese individuals, and

WHEREAS, obesity ranks second only to smoking as a preventable cause of death and results in some three hundred thousand deaths annually, and

WHEREAS, a 1997 study indicates that the total direct cost of obesity-related diseases in the United States in 1990 was $45.8 billion, and

WHEREAS, the study concluded that there is a significant potential for a reduction in healthcare expenditures through obesity-prevention efforts, and

WHEREAS, there is an urgent need for state healthcare groups and medical societies to place obesity at the top of their state's healthcare agenda, and

WHEREAS, many physicians do not treat obesity because they mistakenly believe there is no treatment for it, and

WHEREAS, the National Institutes of Health, the American Society for Bariatric Surgery, and the American Obesity Association recommend that patients who are morbidly obese receive responsible, affordable medical treatment for their obesity, and

WHEREAS, recent breakthroughs in drug therapy can treat obesity successfully, and

WHEREAS, the New England Journal of Medicine recently emphasized the legitimate use of pharmacotherapy as a component of treatment of medically significant obesity, and

WHEREAS, there is also great concern regarding what effect obesity in children may have on overall health in children and regarding healthcare costs for children and the need for treatment modalities to address the problem of obesity in children, and

WHEREAS, it is of critical importance to raise the awareness of the public and private sectors to the fact that obesity is a disease of epidemic proportions which is treatable, and that proper treatment will reduce healthcare costs and improve the quality of life for a large number of our citizens, NOW, THEREFORE,

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

That the State of Florida shall endeavor to increase public awareness among the citizens of the State of Florida with regard to the awareness, prevention, and treatment of obesity as a major health concern.

—**SR 2734** was introduced, read and adopted by publication.

At the request of Senator Meek—

By Senator Meek—

SR 2736—A resolution recognizing the week of June 21 through June 27, 1999, as Workers' Right to Organize Week.

WHEREAS, federal law protects employees' rights to form or join unions, and

WHEREAS, unions provide employees with a voice on the job, and

WHEREAS, unions have resulted in better benefits and greater job security for workers, and

WHEREAS, unionized employees generally earn more than their nonunion counterparts and contribute to the economic vitality of our communities, and

WHEREAS, unions have contributed to the growth of democracy, the well-being of America's working families, and our communities generally, NOW, THEREFORE,

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

That the week of June 21 through June 27, 1999, is recognized as Workers' Right to Organize Week.

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

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Thomas, by two-thirds vote **SB 1360**, **SB 1362**, **SB 2042**, **SB 2194** and **SB 2196** were withdrawn from the committees of reference and further consideration.

MOTIONS

On motion by Senator Latvala, the House was requested to return **CS for SB's 2422 and 1952**.

On motion by Senator McKay, a deadline of 9:00 p.m. this day was set for filing amendments to Bills on Third Reading and the Special Order Calendar to be considered Friday, April 30.

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**, **CS for SB 2296** and **CS for SB 264** was deferred.

CS for SB 1564—A bill to be entitled An act relating to economic development; 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 machinery or equipment purchased or leased for use in the production, transmission, receipt, or redistribution of digital television signals; defining the term "machinery and equipment" for purposes of such exemption; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 1564** to **HB 2073**.

Pending further consideration of **CS for SB 1564** as amended, on motion by Senator Kirkpatrick, by two-thirds vote **HB 2073** was withdrawn from the Committees on Commerce and Economic Opportunities; Governmental Oversight and Productivity; and Fiscal Policy.

On motion by Senator Kirkpatrick, the rules were waived and—

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.

—a companion measure, was substituted for **CS for SB 1564** as amended and read the second time by title.

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 1 (092674)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *Twenty-first Century Digital Television and Education Act.—*

(1) Short title.—This act may be cited as the "21st Century Digital Television and Education Act."

(2) Legislative findings and intent.—The Legislature finds that the federally mandated transition from analog to digital television will provide numerous new, improved, and innovative information and entertainment services to the public. The Legislature further finds that, whereas all commercial and noncommercial television markets in the United States must begin digital broadcasts by no later than May, 2003, it is in the interest of the state to facilitate the conversion of existing television stations, studios, networks, and production companies to digital technology as well as to encourage new companies involved in digital television and related industries to locate in Florida. It is therefore the intent of the Legislature to investigate and create the economic incentives and educational opportunities necessary to position Florida as a 21st century leader in the production, transmission, manufacturing, and research and development of digital television and related digital communication.

(3) Task force; membership; duties.—

(a) The "21st Century Digital Television and Education Task Force" is hereby created to serve through February 1, 2000. The task force is created within the Office of Tourism, Trade, and Economic Development, which shall provide staff support for the activities of the task force. The task force shall consist of the following members:

1. Two members to be appointed by the Governor.

2. Two members of the Senate, or their designees, to be appointed by the President of the Senate.

3. Two members of the House of Representatives, or their designees, to be appointed by the Speaker of the House of Representatives.

4. The Commissioner of Education or the commissioner's designee.

5. The Chancellor of the State University System or the chancellor's designee.

6. The Executive Director of the State Community College System or the executive director's designee.

7. The President of the Independent Colleges and Universities of Florida or the president's designee.

(b) Each appointed member of the task force shall serve at the pleasure of the appointing official. A vacancy on the task force shall be filled in the same manner as the original appointment.

(c) The task force shall elect a chair from among its members. A vacancy in the chair of the task force must be filled for the remainder of the unexpired term by an election of the task force members.

(d) The task force shall meet as necessary, at the call of the chair or at the call of a quorum of the task force, and at the time and place designated by the chair. A quorum is necessary for the purpose of conducting official business of the task force. Six members of the task force shall constitute a quorum. The task force shall use accepted rules of procedure to conduct its meetings and shall keep a complete record of each meeting.

(e) Members of the task force shall receive no compensation for their services, but shall be entitled to receive per diem and travel expenses as provided in s. 112.061, Florida Statutes.

(f) The Task Force shall act as an advisory body and shall make recommendations to the Governor and the Legislature on a coordinated plan to carry out the legislative intent of this act. The task force shall have the following duties:

1. Devise a plan to recruit the following industry segments to locate in Florida:

a. Digital programmers and producers, including companies involved in the production, marketing, and development of digital content, as well as studios, networks, and television stations.

b. Companies involved in the transmission of digital media, including television broadcasters, cable and satellite companies, television, theater, and film industry members, Internet content providers, web site producers, and other information service providers.

c. Digital television equipment manufacturers, including makers of digital video cameras, audio equipment, transmission equipment, television sets, set-top boxes and related hardware, monitors, displays, tapes, and discs.

d. Companies involved in the research and development of new and innovative digital television equipment, consumer electronics, prototypes, and products.

2. Investigate and recommend strong economic incentives to encourage the digital industry segments described in subparagraph 1. to locate and compete in Florida. Special emphasis should be given to stimulating economic development in both rural areas and urban areas of critical need.

3. Devise a plan to create and maintain higher education opportunities for students wishing to enter the digital television field. At minimum, the plan shall consider and address the following:

a. The extent to which higher education opportunities are currently available to students in the areas of digital production, transmission, manufacturing, and research and development.

b. The workforce needs of the digital television industry segments described in subparagraph 1.

c. Recommendations and an operational plan for creating and maintaining higher education opportunities in digital television production, transmission, manufacturing, and research and development.

d. Any other recommendations to encourage and promote the development of a skilled workforce in digital broadcast communications and high-definition television.

4. Recommend methods to hasten the conversion of existing commercial television studios and soundstages from analog to digital technology.

5. Recommend a means to fund the cost of converting public broadcast stations from analog to digital technology, including a grant program for Florida Public Television.

6. Issue a report to the Legislature no later than February 1, 2000, summarizing its findings, stating its conclusions, and proposing its recommendations.

Section 2. Paragraph (f) of subsection (5) of section 212.08, Florida Statutes, 1998 Supplement, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(f) Motion picture or video equipment used in motion picture or television production activities and sound recording equipment used in the production of master tapes and master records*; certain machinery or equipment purchased or leased to produce, originate, or broadcast digital television signals.*—

1. Motion picture or video equipment and sound recording equipment purchased or leased for use in this state in production activities is exempt from the tax imposed by this chapter upon an affirmative showing by the purchaser or lessee to the satisfaction of the department that the equipment will be used for production activities.

2. There is exempt from the tax imposed by this chapter all machinery or equipment purchased or leased in this state for use by a television studio, television network, television production company, or federally licensed television station in the production, origination, or broadcast of digital television signals.

3. The *exemptions* ~~exemption~~ provided by this paragraph shall inure to the taxpayer only through a refund of previously paid taxes. Notwithstanding the provisions of s. 212.095, such refund shall be made within 30 days of formal application, which application may be made after the completion of production activities or on a quarterly basis *with respect to the refund authorized under subparagraph 1., and on a quarterly basis with respect to the refund authorized under subparagraph 2.* Notwithstanding the provisions of chapter 213, the department shall provide the *Office of Tourism, Trade, and Economic Development* ~~Department of Commerce~~ with a copy of each refund application and the amount of such refund, if any.

4.~~2.~~ For the purpose of the exemption provided in subparagraph 1.:

a. "Motion picture or video equipment" and "sound recording equipment" includes only equipment meeting the definition of "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code that is used by the lessee or purchaser exclusively as an integral part of production activities; however, motion picture or video equipment and sound recording equipment does not include supplies, tape, records, film, or video tape used in productions or other similar items; vehicles or vessels; or general office equipment not specifically suited to production activities. In addition, the term does not include equipment purchased or leased by television or radio broadcasting or cable companies licensed by the Federal Communications Commission.

b. "Production activities" means activities directed toward the preparation of a:

(I) Master tape or master record embodying sound; or

(II) Motion picture or television production which is produced for theatrical, commercial, advertising, or educational purposes and utilizes live or animated actions or a combination of live and animated actions. The motion picture or television production shall be commercially produced for sale or for showing on screens or broadcasting on television and may be on film or video tape.

5. For the purpose of the exemption provided in subparagraph 2., the term "machinery or equipment" means machinery or equipment as described in 47 C.F.R., part 73, or "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, purchased or leased in this state for use by a television studio, television network, television production company, or federally licensed television station in the production, origination, or broadcast of digital television signals.

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 economic development; 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 certain machinery or equipment purchased or leased for use in the production, origination, or broadcast of digital television signals; defining the term "machinery or equipment" for purposes of such exemption; providing an effective date.

On motion by Senator Kirkpatrick, by two-thirds vote **HB 2073** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Diaz-Balart	King	Myers
Bronson	Dyer	Kirkpatrick	Rossin
Brown-Waite	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

Consideration of **CS for SB 2000**, **CS for HB 903**, **CS for SB 202** and **CS for CS for CS for SB 80** was deferred.

CS for CS for SB 2228—A bill to be entitled An act relating to end-of-life care; providing legislative findings; authorizing the Secretary of Health to develop and implement demonstration projects; requiring reports; requesting the Chancellor of the State University System to convene a working group; amending ss. 395.1041, 400.142, 400.4255, 400.487, 400.6095, 400.621, F.S.; authorizing personnel of hospital emergency services, long-term care facilities, assisted living facilities, home health agencies, hospices, and adult family-care homes to withhold or withdraw cardiopulmonary resuscitation pursuant to an order not to resuscitate; providing for rules; providing certain protection from prosecution and liability; amending s. 401.45, F.S.; revising authority of emergency medical technicians and paramedics to withhold or withdraw resuscitation or life-prolonging techniques; directing the Department of

Health to develop a standardized do-not-resuscitate identification system; authorizing a fee; providing for rules; amending ss. 455.604, 458.319, 459.008, F.S.; providing that courses on end-of-life care will fulfill certain education requirements; amending s. 732.912, F.S.; revising provisions relating to who may make anatomical gifts; amending ss. 732.914, 732.917, F.S.; correcting cross-references; amending s. 732.922, F.S.; conforming provisions relating to duty of certain hospital administrators; amending s. 765.101, F.S.; revising definitions; defining the terms "persistent vegetative state" and "end-stage condition"; amending s. 765.102, F.S.; revising legislative intent relating to advance directives; amending s. 765.103, F.S.; providing for effect of existing advance directives; amending s. 765.104, F.S.; providing for amendment of an advance directive or designation of a surrogate; amending s. 765.107, F.S.; providing nonapplicability to certain persons; amending s. 765.110, F.S.; prohibiting certain actions by a health care facility or provider with respect to a patient's advance directive; increasing a penalty; requiring that advance directives become part of patients' medical records; providing for rules; amending s. 765.204, F.S.; revising provisions relating to evaluation of a patient's capacity to make health care decisions; amending s. 765.205, F.S.; revising responsibilities of the surrogate; amending s. 765.301, F.S.; correcting a cross-reference; amending s. 765.302, F.S.; revising procedure for making a living will; amending s. 765.303, F.S.; revising suggested form of a living will; amending s. 765.304, F.S.; revising procedure for implementing a living will; amending s. 765.305, F.S.; revising procedure in the absence of a living will; amending s. 765.306, F.S.; revising provisions relating to determination of the patient's condition; renumbering and amending s. 765.308, F.S.; providing for transfer of a patient under certain circumstances; renumbering and amending s. 765.310, F.S.; providing penalties for falsification, forgery, or willful concealment, cancellation, or destruction of an advance directive, or a revocation or amendment thereof; amending s. 765.401, F.S.; revising provisions relating to decisions by a proxy; creating s. 765.404, F.S.; providing conditions for withholding or withdrawing life-prolonging procedures for certain persons in a persistent vegetative state; directing the Department of Elderly Affairs to convene a workgroup to develop model advance directive forms; repealing s. 3(6) of ch. 98-327, Laws of Florida, relating to repeal of the Panel for the Study of End-of-Life Care; continuing the panel until a specified date; providing an appropriation; providing effective dates.

—was read the second time by title.

The Committee on Fiscal Policy recommended the following amendment which was moved by Senator Klein and adopted:

Amendment 1 (851536)(with title amendment)—On page 32, line 29 through page 33, line 8, delete those lines and redesignate subsequent section.

And the title is amended as follows:

On page 3, delete lines 18-22 and insert: providing effective dates.

Senator Klein moved the following amendment:

Amendment 2 (681744)—On page 24, delete lines 25 and 26 and insert: principal's capacity *and, if the physician concludes that the principal lacks capacity, enter that evaluation in the principal's medical record*. If the physician *has a question as to whether* ~~concludes that~~ the principal lacks ~~such~~ capacity, another physician

Senator Klein moved the following amendment to **Amendment 2** which was adopted:

Amendment 2A (575732)—On page 1, line 18, before "physician" insert: attending

Amendment 2 as amended was adopted.

Senator Klein moved the following amendments which were adopted:

Amendment 3 (062584)—On page 29, delete lines 9 and 10 and insert: physician and at least one other consulting physician must separately examine the patient. The findings of each such

Amendment 4 (050800)—On page 32, line 10, after "*recovery*" insert: *and that withholding or withdrawing life prolonging procedures is in the best interest of the patient*

On motion by Senator Klein, by two-thirds vote **CS for CS for SB 2228** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

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

BILLS ON THIRD READING

Consideration of **CS for SB 1250**, **CS for SB 1148**, **CS for CS for SB 356** and **SB 8** was deferred.

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.

—as amended April 28 was read the third time by title.

The following amendments were offered to **Amendment 1** as amended and adopted on April 28:

Senator Hargrett moved the following amendment to **Amendment 1** as amended which was adopted by two-thirds vote:

Amendment 1 (962556)—On page 15, line 31, after the period (.) insert:

(d) For seaport intermodal access projects that involve the dredging or deepening of channels, turning basins, or harbors; or the rehabilitation of wharves, docks, or similar structures. Funding for such projects shall require a 25 percent match of the funds received pursuant to this subsection. Matching funds shall come from any port funds, federal funds, local funds, or private funds.

Senator Casas moved the following amendment to **Amendment 1** as amended which was adopted by two-thirds vote:

Amendment 2 (560382)—On page 6, line 15; and on page 107, line 27, after the period (.) insert: *The Division of Bond Finance is authorized to consider innovative financing technologies which may include, but are not limited to, innovative bidding and structures of potential financings that may result in negotiated transactions.*

Senator Geller moved the following amendment to **Amendment 1** as amended which was adopted by two-thirds vote:

Amendment 3 (224284)—On page 52, line 30 through page 54, line 7, delete those lines and insert:

(c) Additionally, each MPO shall consider:

1.~~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;~~

2.~~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;~~

3.~~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;~~

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

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

(Redesignate subsequent sections.)

SENATOR BURT PRESIDING

Senator Jones moved the following amendment to **Amendment 1** as amended:

Amendment 4 (090230)(with title amendment)—On page 91, line 5 through page 92, line 3, delete those lines and insert:

Section 55. Paragraph (f) of subsection (2) of section 348.0004, Florida Statutes, is amended, and paragraph (m) is added to that subsection, 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 adopted on or before September 30, 1999, 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.*

(m) To receive and consider unsolicited proposals from private entities and enter into agreements with such proposer for the planning, design, engineering, construction, operation, ownership, or financing of additional expressways. An expressway authority may consider any and all factors it deems important in evaluating such proposals. An expressway authority may adopt rules or policies for the receipt, evaluation, and consideration of such proposals, however, such rules must require substantially similar technical information as is required by s. 14-107.0011(3)(a)-(e), F.A.C. In accepting a proposal and entering into such an agreement, the expressway authority and the private entity shall for all purposes be deemed to have complied with chapters 255 and 287. Similar proposals shall be reviewed and acted on by the authority in the order in which they were received. An additional expressway may not be constructed under this section without the prior express written consent of the board of county commissioners of each county located within the geographical boundaries of the authority. The powers granted by this section are in addition to all other powers of the authority granted by this chapter.

And the title is amended as follows:

On page 161, line 7, after the semicolon (;) insert: authorizing an expressway authority to consider proposals for the construction, operation, ownership, or financing of additional expressways; requiring prior consent of the board of county commissioners of each county within the boundaries of the authority;

On motion by Senator Webster, further consideration of **HB 591** with pending **Amendment 4** was deferred.

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.

—as amended April 28 was read the third time by title.

RECONSIDERATION OF AMENDMENT

On motion by Senator Clary, the Senate reconsidered the vote by which **Amendment 1** by Senator Clary, as amended, was adopted.

Senator Latvala moved the following amendment to **Amendment 1** which was adopted by two-thirds vote:

Amendment 1B (632328)—On page 258, line 17, before "*violation*" insert: *willful*

Amendment 1 as amended was adopted by two-thirds vote.

On motion by Senator Clary, **HB 2125** as amended was passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Gutman

On motion by Senator Bronson, by two-thirds vote **CS for HB 2067** was withdrawn from the Committees on Natural Resources and Fiscal Policy.

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

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.

—a companion measure, was substituted for **CS for SB 1250** as amended and read the second time by title.

Senators Bronson and Campbell offered the following amendment which was moved by Senator Bronson and adopted:

Amendment 1 (390276)(with title amendment)—On page 6, line 28 through page 7, line 6, delete those lines and insert:

(2) The court may award to the prevailing party or parties reasonable attorney's fees for services rendered in actions at law and all appellate proceedings resulting therefrom under the provisions of ch. 373. In addition to the above, the court may award all costs and charges incident to such actions.

(3)~~(2)~~ Any action by a citizen of the state to seek judicial enforcement of any of the provisions of this chapter shall be governed by the Florida Environmental Protection Act, s. 403.412.

Section 9. Paragrah (f) is added to subsection (3) of section 57.111, Florida Statutes, to read:

57.111 Civil actions and administrative proceedings initiated by state agencies; attorneys' fees and costs.—

(3) As used in this section:

(f) The term "state agency" has the meaning described in s. 120.52(1).

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 30, after "costs;" insert: amending s. 57.111, F.S.; defining "state agency";

Senator Laurent moved the following amendment which was adopted:

Amendment 2 (262684)(with title amendment)—On page 23, between lines 9 and 10, insert:

Section 13. Paragraph (b) of subsection (2) of section 372.57, Florida Statutes, 1998 Supplement, is amended to read:

372.57 Licenses and permits; exemptions; fees.—No person, except as provided herein, shall take game, freshwater fish, or fur-bearing animals within this state without having first obtained a license, permit, or authorization and paid the fees hereinafter set forth, unless such license is issued without fee as provided in s. 372.561. Such license, permit, or authorization shall authorize the person to whom it is issued to take game, freshwater fish, or fur-bearing animals in accordance with law and commission rules. Such license, permit, or authorization is not

transferable. Each license or permit must bear on its face in indelible ink the name of the person to whom it is issued and other information requested by the commission. Such license, permit, or authorization issued by the commission or any agent must be in the personal possession of the person to whom issued while taking game, freshwater fish, or fur-bearing animals. The failure of such person to exhibit such license, permit, or authorization to the commission or its wildlife officers, when such person is found taking game, freshwater fish, or fur-bearing animals, is a violation of law. A positive form of identification is required when using an authorization, a lifetime license, a 5-year license, or when otherwise required by the license or permit. The lifetime licenses and 5-year licenses provided herein shall be embossed with the name, date of birth, the date of issuance, and other pertinent information as deemed necessary by the commission. A certified copy of the applicant's birth certificate shall accompany all applications for a lifetime license for residents 12 years of age and younger. Each applicant for a license, permit, or authorization shall provide the applicant's social security number on the application form. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D child support enforcement program and use by the commission, and as otherwise provided by law.

(2) For residents and nonresidents, the license and fees for noncommercial fishing and for hunting and trapping in this state, and the activity authorized thereby, are as follows:

(b)~~1.~~ A fishing license for a nonresident to take freshwater fish in this state for 7 consecutive days is $15.

~~2. A fishing license for a nonresident to take freshwater fish for 3 consecutive days is $5.~~

Section 14. Section 372.5711, Florida Statutes, is created to read:

372.5711 Review of fees for licenses and permits; review of exemptions.—The fees for licenses and permits established under this chapter, and exemptions thereto, shall be reviewed by the Legislature during its regular session every 5 years beginning in 2000.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete line 2 and insert: An act relating to environmental protection; amending s. 372.57, F.S.; deleting a class of nonresident freshwater fishing license; creating s. 372.5711, F.S.; requiring review of fees for fishing and hunting licenses and exemptions to them;

On motion by Senator Bronson, by two-thirds vote **CS for HB 2067** as amended was read the third time by title, 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 1** and **HB 2231** was deferred.

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.

—as amended April 28 was read the third time by title.

On motion by Senator Lee, **CS for HB 121** as amended was passed and certified to the House. The vote on passage was:

Yeas—35

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	Horne	McKay	Webster
Cowin	Jones	Mitchell	

Nays—2

Holzendorf	Meek

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.

—as amended April 28 was read the third time by title.

On motion by Senator Webster, **CS for HB 1** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Bronson	Burt	Carlton	Childers
Brown-Waite	Campbell	Casas	Clary
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
Gutman	Kurth	Rossin	

Nays—None

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.

—as amended April 28 was read the third time by title.

On motion by Senator Sebesta, **CS for HB 1837** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

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	
Dawson-White	Jones	Mitchell	

Nays—None

Consideration of **HB 1061** was deferred.

CS for SB 260—A bill to be entitled 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.; 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 the appointment of liaisons; authorizing the Governor to address barriers to implementation of RECI proposals; providing for the redirection of certain funds; 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; 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; pro-

viding 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; authorizing municipalities to designate satellite enterprise zones; 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; providing an effective date.

—as amended April 28 was read the third time by title.

Senator Kirkpatrick moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (571320)—In title, on page 2, delete lines 2-16 and insert: services; providing an

Senators Silver and Gutman offered the following amendment which was moved by Senator Silver and adopted by two-thirds vote:

Amendment 2 (952068)—On page 31, delete line 1 and insert:

1. No less than 60 percent and no more than 80 percent of the surcharge proceeds

On motion by Senator Kirkpatrick, **CS for SB 260** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

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
Dawson-White	Jones	Mitchell	

Nays—None

THE PRESIDENT PRESIDING

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.

—was read the third time by title.

On motion by Senator Forman, **CS for HB 213** was passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Diaz-Balart	King	Myers
Bronson	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

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.

—was read the third time by title.

On motion by Senator Forman, **CS for HB 219** was passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Diaz-Balart	King	Myers
Bronson	Dyer	Kirkpatrick	Rossin
Brown-Waite	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 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.

—was read the third time by title.

On motion by Senator Diaz-Balart, **HB 2151** was passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Diaz-Balart	King	Myers
Bronson	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 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.

—was read the third time by title.

On motion by Senator Dawson-White, **HB 811** 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 1742** and **SB 1526** was deferred.

SB 1534—A bill to be entitled An act relating to local government; amending s. 125.35, F.S.; clarifying that counties are authorized to negotiate leases with airport and seaport facilities; 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 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; providing an effective date.

—as amended April 28 was read the third time by title.

On motion by Senator Meek, **SB 1534** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Diaz-Balart	King	Myers
Bronson	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 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 record-keeping and retention of records; providing for rulemaking; providing an appropriation; providing effective dates.

—was read the third time by title.

On motion by Senator Meek, **HB 1061** 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

SPECIAL ORDER CALENDAR, continued

The Senate resumed consideration of—

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.

—which was previously considered April 28. Pending **Amendment 1** by Senator Cowin failed.

The Committee on Governmental Oversight and Productivity recommended the following amendments which were moved by Senator Cowin and failed:

Amendment 2 (785844)—On page 2, lines 17 and 18, delete "*judicial office in the state*" and insert: *state judicial office*

Amendment 3 (294224)—On page 3, delete lines 21-24 and insert: *Florida Statutes, is repealed.*

Senators Rossin and Cowin offered the following amendment which was moved by Senator Cowin:

Amendment 4 (112800)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 43.291, Florida Statutes, is created to read:

43.291 Judicial nominating commissions.—

(1) On and after July 1, 1999, each judicial nominating commission shall be composed of the following:

(a) Three members appointed by the Board of Governors of The Florida Bar from among The Florida Bar members who are actively engaged in the practice of law with offices within the territorial jurisdiction of the affected court, the terms of which shall be for 4 years and shall begin following the expiration of terms of members appointed pursuant to s. 43.29(1)(a) or pursuant to this paragraph.

(b) Three electors who reside in the territorial jurisdiction of the affected court, appointed by the Governor, for terms beginning July 1 next following the election of Governor and ending June 30 following the end of the term of office of the appointing Governor.

(c) Three electors who reside in the territorial jurisdiction of the affected court and who are not members of The Florida Bar, selected and appointed after June 30 of the year in which the term begins by a majority vote of the six other members of the commission appointed pursuant to s. 43.29(1)(a) and paragraphs (a) and (b) of this subsection the terms of which shall be for 4 years and shall begin following the expiration of terms of members appointed pursuant to s. 43.29(1)(c) or pursuant to this paragraph.

(d) In addition to the appointments provided in this subsection, the Governor may also appoint an alternate member to a Circuit Court Judicial Nominating Commission who is a resident of a county in which no other member of the commission resides. An alternate member shall be appointed by August 1 of the year following the election of Governor and serve a term ending June 30 following the end of the term of office of the appointing Governor. An alternate member appointed pursuant to this paragraph shall serve in place of one member appointed by the Governor, as the Governor may designate, in any case where the commission is filling a vacancy on the County Court for the county of which such alternate member is a resident. An alternate member shall participate, without voting, in any meeting concerning a vacancy on the Circuit Court.

(2) No justice or judge may be a member of a judicial nominating commission. A member of a judicial nominating commission may hold public office other than judicial office. A member of a judicial nominating commission is not eligible for appointment to any state judicial office either during such term of membership or for a period of 2 years thereafter.

(3) Except as otherwise provided in this section, a member of a judicial nominating commission shall serve a term of 4 years and is not eligible for consecutive reappointment. The office of any member of a judicial nominating commission appointed pursuant to s. 43.29(1)(b) prior to the effective date of this act is abolished upon the effective date of this act and is replaced by those offices created by and appointed pursuant to paragraphs (1)(b) of this section. Any member of a judicial nominating commission who does not complete a 4-year term because of the enactment of this section may be reappointed to serve a new term. For cause, a member of a judicial nominating commission may be suspended by the Governor pursuant to uniform rules of procedure established by the Executive Office of the Governor consistent with s. 7, Art. IV of the State Constitution and thereafter removed by the Senate.

(4) Each appointing authority shall seek to ensure that the existing commission members, together with potential appointees, reflect the racial, ethnic, and gender diversity, as well as the geographic distribution, of the population within the territorial jurisdiction of the court for which the appointing authority is making nominations. The appointing authorities for the judicial nominating commission for each of the judicial circuits shall seek to ensure the adequacy of representation of each county within the judicial circuit.

(5) All acts of a judicial nominating commission shall be made with a concurrence of a majority of its voting members.

Section 2. *There is hereby appropriated $25,000 to the Executive Office of the Governor to provide travel costs for training to members of the judicial nominating commission.*

Section 3. *Each appointing authority described in s. 43.291 shall submit a report to the Governor, the Speaker of the House of Representatives, and the President of the Senate annually by December 1 which discloses the number of appointments made during the preceding year from each minority group and the number of nonminority appointments made, expressed both in numerical terms and as a percentage of the total membership of the judicial nominating commission. In addition, information shall be included in the report detailing the number of physically*

disabled persons appointed to the judicial nominating commission in the previous calendar year. In addition, each appointing authority shall designate a person responsible for retaining all applications for appointment, who shall ensure that information describing each applicant's race, ethnicity, gender, physical disability, if applicable, and qualifications is available for public inspection during reasonable hours. Nothing in this section requires disclosure of an applicant's identity or of any other information made confidential by law.

Section 4. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

Section 5. *Effective July 1, 1999, section 43.29, Florida Statutes, is repealed.*

Section 6. 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 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 for a certain time period; providing for terms; prohibiting reappointment with certain exceptions; abolishing prior offices; providing for suspension or removal; requiring appointing authorities to seek to ensure racial, ethnic, gender, and geographical diversity of membership; requiring consideration of county representation on circuit judicial nominating commissions; requiring concurrence of a majority for commission actions; providing an appropriation; repealing s. 43.29, F.S., relating to judicial nominating commissions; providing for report of diversity of judicial nominating commissions; providing a severability clause; providing an effective date.

On motion by Senator Cowin, further consideration of **CS for SB 2000** with pending **Amendment 4** was deferred.

On motion by Senator Clary, by two-thirds vote **HB 717** was withdrawn from the Committees on Banking and Insurance; and Criminal Justice.

On motion by Senator Clary—

HB 717—A bill to be entitled An act relating to bail bonds; amending s. 648.386, F.S.; revising certain continuing education requirements; amending s. 648.44, F.S.; revising requirement relating to bail bond agents; amending s. 903.21, F.S.; providing a definition; amending s.903.26, F.S,; requiring "amending s. 903.25, F.S.; requiring" amending s.903.26, F.S.; requiring discharge of a forfeiture with a time certain; providing an additional criterion for discharge of a forfeiture; requiring a clerk of court to set aside a forfeiture and discharge a bond under certain circumstances; amending s. 903.27, F.S.; providing for tolling certain forfeiture operations under certain circumstances; amending s. 903.28, F.S.; requiring remissions to be granted under certain circumstances; amending s. 903.31, F.S.; providing for expiration of certain bonds under certain circumstances; specifying nonapplication when a bond is declared forfeited; prohibiting reinstatement of original appearance bonds under certain circumstances; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1516** and read the second time by title. On motion by Senator Clary, by two-thirds vote **HB 717** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

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

Nays—None

CS for SB 202—A bill to be entitled An act relating to the Beverage Law; amending ss. 562.11, 562.111, F.S.; providing an exemption for giving or serving to certain underage students alcoholic beverages that are delivered as part of a required curriculum at certain institutions; providing an exemption for the possession of alcoholic beverages by underage students in specified circumstances; providing an effective date.

—was read the second time by title.

Senator Silver moved the following amendments which were adopted:

Amendment 1 (335490)—On page 1, delete lines 26-30 and insert: *Department of Education and is either licensed or exempt from licensure by the State Board of Independent Colleges and Universities or is a public postsecondary education institution; if the student is enrolled in the college and is required to taste alcoholic beverages that*

Amendment 2 (330216)—On page 2, delete lines 22-26 and insert: *Department of Education and is either licensed or exempt from licensure by the State Board of Independent Colleges and Universities or is a public postsecondary education institution; if the student is enrolled in the college and is tasting the alcoholic beverages only for*

On motion by Senator Silver, by two-thirds vote **CS for SB 202** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Madam President	Dawson-White	Jones	Myers
Bronson	Diaz-Balart	King	Rossin
Brown-Waite	Dyer	Kirkpatrick	Saunders
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—1

Mitchell

CS for CS for CS for SB 80—A bill to be entitled An act relating to information technology resources; creating the "Commerce Protection Act"; defining terms; prescribing exclusive remedies against persons, businesses, and governmental agencies for damages caused by the failure of their information technology resources to function properly with respect to date data; prescribing and limiting damages; providing for mediation; barring certain class actions; requiring that actions be brought within a specified time; providing immunity from personal liability for directors and officers of businesses under specified circumstances; exempting the exchange of certain information among businesses from action under the Florida Antitrust Act of 1980; prescribing alternative dispute-resolution procedures; providing for liability for costs and attorney's fees under specified circumstances; prescribing circumstances under which the maker of a year-2000 statement is not liable under state law with respect to that statement; providing for construction of the act; repealing s. 282.4045, F.S., which grants immunity from liability to governmental entities for certain computer calculation failures; providing for severability; providing an effective date.

—was read the second time by title.

Senator Klein moved the following amendment which was adopted:

Amendment 1 (343302)(with title amendment)—On page 2, line 23 through page 10, line 9, delete those lines and insert: *such a political subdivision. For purposes of this section, the term also includes any*

public or private university school of medicine that is part of a public or private university supported in whole or in part by state funds and that has an affiliation with a local government or state instrumentality under which the medical school's computer systems, or diagnostic or therapeutic equipment dependent upon date logic, are used to provide clinical patient care services to the public.

(5) INFORMATION TECHNOLOGY PRODUCT.—

(a) The term "information technology product" includes software, firmware, microcode, hardware, and equipment containing embedded chips or microprocessors that create, read, write, calculate, compare, sequence, or otherwise operate on date data.

(b) The "information technology products" of a business or governmental agency are those that are owned, leased, or licensed by or under the exclusive control of the business or governmental agency and are used by it in providing its goods or services.

(6) YEAR-2000 COMPLIANT.—An information technology product is "year-2000 compliant" if the product, when used in accordance with its associated documentation or recommended user intervention, is capable of correctly processing, providing, and receiving date data, and will do so for all dates occurring between February 28, 1996, and March 1, 2000, when all other information technology products that are used with the product properly exchange date data with it. An information technology product does not fail to be year-2000 compliant merely because it contains a defect that is unrelated to the manner in which the product processes, provides, or receives date data and that only incidentally causes the product to fail to properly process, provide, or receive date data.

Section 3. *Exclusive remedies for failure to be year-2000 compliant.—The exclusive remedies in this state for recovering from a business or governmental agency damages resulting from the failure of its information technology products to be year-2000 compliant are those available for breach of a contract with or a tariff filed by the business or governmental agency; and all terms of that contract or tariff, including limitations on and exclusions of liability and disclaimers of warranty, remain fully enforceable and are unaffected by the provisions of this act. If there is no contract or tariff, the exclusive remedies in this state for recovering from a business or governmental agency damages resulting from the failure of its information technology products to be year-2000 compliant are those provided in section 4 of this act.*

Section 4. *Damages for failure to be year-2000 compliant; mediation; limitation on class actions; statute of limitations.—*

(1) Unless otherwise provided by a contract or tariff, any business may be liable only for direct economic damages caused by the failure of its information technology products to be year-2000 compliant, as provided in this section.

(2) Unless otherwise provided by a contract or tariff, any governmental agency may be liable only for direct economic damages caused by the failure of its information technology products to be year-2000 compliant, and only within the limits on the waiver of sovereign immunity established in section 768.28, Florida Statutes.

(3) The provisions of section 768.81, Florida Statutes, apply to the award of damages under this section.

(4) Damages awarded under this section shall exclude any damages that the plaintiff:

(a) Could have avoided or mitigated with the exercise of reasonable care; or

(b) Could have reasonably avoided or mitigated as a result of any written or otherwise communicated disclosure actually made by the defendant before December 1, 1999, in a manner consistent with that used in the past to give notifications to the plaintiff or persons similarly situated, concerning whether any of the information technology products of the business or governmental agency was year-2000 compliant.

(5)(a) A business or governmental agency is not liable for direct economic damages if it proves by a preponderance of the evidence that it has:

1. Secured an assessment, by a person who possesses the technical skills, experience, or competence with respect to information technology resources to evaluate information technology products for year-2000 compliance, to determine actions necessary to make the information technology products of the business or governmental agency year-2000 compliant and, based on that assessment, holds before December 1, 1999, a reasonable good-faith belief that those products are year-2000 compliant; or

2. Before December 1, 1999, conducted a date-data test of its information technology products and as a result of such test has a reasonable good-faith belief that they are year-2000 compliant; or

3. If it has five or fewer employees and has a net worth of $100,000 or less, made reasonable efforts to assess whether the entities on whose goods or services it relies and with whom it is in privity have provided information technology products that are year-2000 compliant and, with respect to each such entity, either:

a. Holds before December 1, 1999, a reasonable good-faith belief, based on the response to inquiries or on research, that the entity has provided information technology products that are year-2000 compliant; or

b. Discloses in writing to the other party before December 1, 1999, in a manner consistent with that used in the past to give written notifications to that party, that the entity has provided information technology products that are presumed not to be year-2000 compliant or that, based on the response to inquiries, the entity is making reasonable good-faith efforts to make its information technology products become year-2000 compliant.

(b) All defenses that would otherwise be available to a business or governmental agency in any other action, including an action based on negligence, remain available with respect to an action under this section. Moreover, the failure of a business or governmental agency to comply with paragraph (a) shall not create a presumption of liability and no inference may be drawn from such failure.

(6) Beginning January 1, 2000, upon the filing of any lawsuit or the presentation of a claim for arbitration under section 7 of this act seeking damages under this section, and prior to the filing of an answer or response, the court having jurisdiction shall refer the claim to mediation under section 44.102, Florida Statutes, unless the court determines that the interests of justice would not be served. The time to file the answer or response shall be tolled for up to 60 days after service of process on the defendant or until the conclusion of the mediation, whichever is earlier.

(7) A class action may not be maintained in this state:

(a) Against a governmental agency for damages caused by the failure of its information technology products to be year-2000 compliant.

(b) Against a business for damages caused by the failure of its information technology products to be year-2000 compliant, unless each member of the class has suffered direct economic damages in excess of $50,000.

(8) Any action for damages under this section must be commenced on or before March 1, 2002, but the running of this time is tolled from the date any offer is made to submit the claim to mediation until the conclusion of mediation.

Section 5. *Immunity from liability for directors and officers of businesses.—*

(1) A director or officer of a business has absolute and complete immunity from personal liability for any damages resulting from the failure of the information technology products of the business to be year-2000 compliant if the officer or director has either instructed the business or received written assurance from another officer or director that the business has been instructed to:

(a) Take steps to determine whether those products are year-2000 compliant;

(b) Develop and implement a plan to take actions necessary to make those products year-2000 compliant; and

(c) Inquire whether the information technology products of the entities on whose goods or services the business relies are year-2000 compliant.

(2) A director or officer who does not have absolute and complete immunity from personal liability under subsection (1) nevertheless has immunity from personal liability to the extent provided in chapter 607, Florida Statutes, or chapter 617, Florida Statutes.

Section 6. *Antitrust exemption with respect to exchanges of information.—The exchange of information among businesses concerning measures that have been taken or are to be taken in order for a business to make its information technology products year-2000 compliant does not constitute an activity or conduct in restraint of trade or commerce under chapter 542, Florida Statutes.*

Section 7. *Alternative dispute-resolution procedures.—*

(1) VOLUNTARY BINDING ARBITRATION.—

(a) Any party to a dispute under this act for which there is no prior arbitration agreement may, before a lawsuit has been filed, make an offer to the other party to submit the dispute to voluntary binding arbitration under section 44.104, Florida Statutes. An offer made under this paragraph must set out the maximum amount of damages that may be imposed pursuant to arbitration.

(b) If at trial, the court finds that an offer was made under paragraph (a) and was rejected, the court shall award attorney's fees and costs in accordance with this paragraph.

1. If the offer was made by the plaintiff and rejected by the defendant, and if the defendant is ultimately found to be liable for damages in an amount equal to or exceeding that specified in the plaintiff's highest offer, the defendant must pay the plaintiff's costs and reasonable attorney's fees.

2. If the offer was made by the defendant and rejected by the plaintiff, and if the plaintiff is not ultimately awarded damages in an amount exceeding that specified in the defendant's highest offer, the plaintiff must pay the defendant's costs and reasonable attorney's fees.

(2) MEDIATION.—

(a) The court may submit a claim for damages under this act to mediation pursuant to section 44.102, Florida Statutes.

(b) A party may serve its last best offer made in mediation upon another party as an offer of judgment under section 678.79, Florida Statutes, and may make use of all the rights and remedies provided by this section.

(c) The court shall have discretion to require that the costs of mediation be shared equally by the parties.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete lines 21-24 and insert: circumstances; providing for construction of the

On motion by Senator Grant, by two-thirds vote **CS for CS for CS for SB 80** 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

CS for SB 268—A bill to be entitled An act relating to child support; amending s. 61.30, F.S.; requiring a court under certain circumstances to base a determination of child support amounts under certain shared parental arrangements upon specified criteria; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 268** to **HB 145**.

Pending further consideration of **CS for SB 268** as amended, on motion by Senator Klein, by two-thirds vote **HB 145** was withdrawn from the Committee on Children and Families.

On motion by Senator Klein—

HB 145—A bill to be entitled An act relating to child support; amending s. 61.30, F.S.; requiring a court under certain circumstances to base a determination of child support amounts under certain shared parental arrangements upon specified criteria; providing an effective date.

—a companion measure, was substituted for **CS for SB 268** as amended and read the second time by title. On motion by Senator Klein, by two-thirds vote **HB 145** was read the third time by title, 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 1944—A bill to be entitled An act relating to boating safety; amending s. 327.02, F.S.; redefining "personal watercraft"; amending s. 327.25, F.S.; classifying all personal watercraft as class A-2 vessels; providing requirements for display of antique vessel registration numbers and decals; amending s. 327.28, F.S.; providing for distribution and use of registration fees therefor; amending s. 327.39, F.S.; revising requirements for operation of a personal watercraft relating to authorized flotation devices, times of operation, reckless or careless operation, and minimum age for operation; prohibiting lease, hiring, or rental to certain persons; providing a penalty; amending s. 327.395, F.S.; requiring all vessel operators to have certain photographic identification; providing a penalty; creating s. 327.49, F.S.; authorizing certain testing of vessels and vessel motors on the waters of the state; amending s. 327.54, F.S.; revising requirements for lease, hiring, or rental of vessels by liveries, relating to prerental or preride instruction, minimum age for rental, safety information and instruction, and limitation of liability; requiring liveries to carry certain insurance coverage; providing a penalty; reenacting s. 327.73(1)(p) and (s), F.S., relating to a penalty for violation of vessel laws, to incorporate the amendments to ss. 327.39 and 327.395, F.S., in references; providing effective dates.

—was read the second time by title.

Senator Bronson moved the following amendment which was adopted:

Amendment 1 (080742)(with title amendment)—On page 12, between lines 21 and 22, insert:

Section 11. Effective October 1, 1999, section 380.275, Florida Statutes, is created to read:

380.275 Beaches and coastal areas; posting of rip current warning signs.—

(1) It is the intent of the Legislature that a cooperative effort among state agencies and local governments be developed to plan for and assist in the placement of rip current warning signs along the public beaches and coastal areas of the state. A rip current is a strong surface current

of water flowing out past the surf zone which can pull even the strongest swimmer into deeper water. Rip currents pose a significant danger of drowning to tourists and the public, and it is therefore important to warn the public to be cautious in coastal areas where rip currents can occur.

(2) The Department of Community Affairs, through the Florida Coastal Management Program, shall direct and coordinate the rip current warning sign program, which shall be a program to require the placement of rip current warning signs in areas that pose a significant risk to the public as a result of rip currents. Signs shall be located where the public has established an access way to a beach or coastal area.

(3) The department shall develop a uniform rip current warning sign for use at any public beach or along any coastal area where there may be a significant threat to the public as a result of rip currents, to be placed, insofar as is practicable, wherever the public has established access ways to the beach.

(4) The department shall, within the limits of appropriations available to it for such purposes, establish and operate a program to fund the placement of rip current warning signs in areas where the public has established an access way to a beach or coastal area that may be subject to a significant threat of dangerous rip currents and therefore may pose a hazard to the public. The department shall coordinate efforts to determine the locations that local governments consider appropriate for placement of rip current warning signs. For these locations, the department shall make rip current warning signs available to the governing body of any county or municipality in such quantity as is determined by the department. The department shall also coordinate with the local governing body the distribution and erection of rip current warning signs, whenever there is a request for such assistance.

(5) The department shall adopt such rules and forms as are necessary to carry out the purposes of this section and to ensure that all projects to which assistance is rendered under this section are for the purpose of providing and erecting rip current warning signs.

(6) The state, state agencies, local governments, and local government agencies shall not be held liable for any injury caused by the placement or maintenance of rip current warning signs or the failure to install or maintain rip current signs as provided by this section.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 1, after the semicolon (;) insert: creating s. 380.275, F.S.; providing for a cooperative effort among state agencies and local governments to plan for and assist in the placement of rip current warning signs; providing that the Department of Community Affairs shall direct and coordinate the program; requiring the development of a uniform rip current warning sign; authorizing the department to coordinate the location, distribution, and erection of rip current warning signs; providing for rules; limiting the liability of participating governmental entities;

On motion by Senator Kurth, by two-thirds vote **CS for SB 1944** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

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

Nays—2

Horne	King

CS for SB 672—A bill to be entitled An act relating to deceptive trade practices in print advertisement; creating s. 501.97, F.S.; prohibiting the misrepresentation of the geographic location of a service or product supplier in print advertisement, under certain circumstances; providing certain immunity from liability to a telephone company or other provider of a telephone directory or directory assistance database, or its officers or agents; providing an exception; providing that violation of the prohibition is a deceptive and unfair trade practice; providing for penalties; providing for applicability; providing an effective date.

—was read the second time by title.

Senator Holzendorf moved the following amendments which were adopted:

Amendment 1 (835400)—On page 1, delete lines 27 and 28 and insert:

(a) The name and overall context of the advertisement misrepresent that the supplier maintains an established place of business within the state when in fact the supplier has no such business in the state; and

Amendment 2 (065330)—On page 2, line 8, after "*without*" insert: *actual*

Amendment 3 (705528)(with title amendment)—On page 3, between lines 7 and 8, insert:

Section 2. *This act is not intended to abrogate or modify the Fictitious Name Act, section 865.09, Florida Statutes. Any person who acts in accordance with the requirements of section 865.09, Florida Statutes, is not in violation of section 501.97, Florida Statutes, as created by this act without actual misrepresentation as contemplated under chapter 501, Florida Statutes.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 14, after the semicolon (;) insert: providing intent not to abrogate the Fictitious Name Act;

On motion by Senator Holzendorf, by two-thirds vote **CS for SB 672** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

On motion by Senator Saunders, by two-thirds vote **HB 989** was withdrawn from the Committee on Health, Aging and Long-Term Care.

On motion by Senator Saunders—

HB 989—A bill to be entitled An act relating to physician assistants; amending s. 458.347, F.S.; authorizing certain students of the former Florida College of Physician's Assistants to sit for the examination for licensure as a physician assistant; requiring prior completion of incomplete or additionally required clinical rotations and providing requirements therefor; authorizing temporary licensure; providing for licensure of successful examinees; providing for fees; providing for future repeal; providing an effective date.

—a companion measure, was substituted for **SB 1500** and read the second time by title. On motion by Senator Saunders, by two-thirds vote **HB 989** was read the third time by title, 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 970—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.04, F.S.; providing an exemption for moneys paid for the privilege of joining certain private clubs; providing an exemption for contributions or assessments levied by private clubs for capital expenditures; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 970** to **HB 1119**.

Pending further consideration of **CS for SB 970** as amended, on motion by Senator Myers, by two-thirds vote **HB 1119** was withdrawn from the Committees on Fiscal Resource; and Commerce and Economic Opportunities.

On motion by Senator Myers—

HB 1119—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.08, F.S.; providing an exemption from the taxes imposed by chapter 212 for joining fees paid for memberships and ownership interests in and assessments for capital expenditures levied by not-for-profit membership clubs; providing an effective date.

—a companion measure, was substituted for **CS for SB 970** as amended and read the second time by title. On motion by Senator Myers, by two-thirds vote **HB 1119** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—23

Madam President	Childers	Hargrett	McKay
Bronson	Clary	Horne	Myers
Brown-Waite	Cowin	King	Rossin
Burt	Diaz-Balart	Klein	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Lee	

Nays—12

Campbell	Forman	Jones	Mitchell
Dawson-White	Geller	Kurth	Silver
Dyer	Holzendorf	Meek	Webster

Vote after roll call:

Yea to Nay—Hargrett, Rossin

CS for CS for SB 88—A bill to be entitled An act creating Hialeah County; creating s. 7.275, F.S.; describing the boundaries of the county; amending s. 7.13, F.S.; revising the boundaries of Dade County; providing for Hialeah County to assume certain assets and liabilities of Dade County; providing for an election for officers of Hialeah County; providing for a referendum; providing a declaration of an important state interest; providing an effective date.

—was read the second time by title.

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

Amendment 1 (983726)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *(1) The Proposed Creation of Hialeah County Study Commission is created.*

(2) The commission shall be composed of the following 15 members, who must be appointed within 45 days after the effective date of this act.

(a) Six members selected by the Governor, as follows: one member of the Miami-Dade County Commission; one member of the South Florida Regional Planning Council who does not reside within the boundaries of Miami-Dade County; two representatives of the business community who reside within the boundaries of Miami-Dade County; and two citizen members who reside within the boundaries of Miami-Dade County.

(b) Two members of the Senate, selected by the President of the Senate.

(c) Two members of the House of Representatives, selected by the Speaker of the House of Representatives.

(d) In addition, the commission shall include: the mayor of the City of Hialeah, who shall serve as the chairperson of the commission; the executive director of the Department of Revenue, or his or her designee; the Secretary of Community Affairs, or his or her designee; the Commissioner of Education, or his or her designee; and the Attorney General, or his or her designee.

(3) A technical assistance group is established to assist the commission in its activities and serve as ex officio members of the commission. The technical assistance group shall be composed of one representative from each of the following: the Florida Association of Counties; the Florida League of Cities; the Florida Association of Special Districts; the Florida Association of Court Clerks and Comptrollers; the Florida Tax Collectors, Inc.; the Florida Association of Property Appraisers; the Florida Sheriffs Association; the Florida Supervisors of Election Association; the Florida Government Financial Officers' Association; and the School Board Association of Florida.

(4) Vacancies on the commission shall be filled in the same manner as the original appointments.

(5) Commission members shall not receive remuneration for their services, but are entitled to be reimbursed by the Legislative Committee on Intergovernmental Relations for travel and per diem expenses in accordance with section 112.061, Florida Statutes. Travel and per diem expenses of ex officio members shall be assumed by their respective associations.

(6) The commission shall act as an advisory body to the Governor and the Legislature.

(7) The commission shall convene its initial meeting within 60 days after the effective date of this act. At its initial meeting, the commission shall adopt rules of procedure for conducting its business. Thereafter, the commission shall convene monthly, or more frequently at the call of its chairperson.

(8) The commission shall review the feasibility of creating a new county, including cost estimates and related issues associated with such creation, out of portions of Miami-Dade County in the area commonly known as Hialeah. Towards that end, the commission shall:

(a) Identify problems with the existing structure of local governments and consider the manner in which a new government may address such problems;

(b) Identify and analyze the legal issues associated with the creation of the new county;

(c) Describe all procedures and processes for establishing a new county, subject to general law and the Florida Constitution;

(d) Identify the estimated fiscal impacts to Miami-Dade County, the newly created county, and all affected existing general-purpose and limited-purpose local governments;

(e) Identify the costs associated with establishing the offices of the constitutional officers of the new county and the costs associated with the transfer of all relevant records;

(f) Estimate the expenditures and revenue sources for the new county; and

(g) Establish a 5-year projection of revenue sources and a 5-year proposed budget of expenditures.

(9) The commission is encouraged to consider other issues that relate to the creation of the new county, including:

(a) The extent that a new county may negatively affect the existing county's ability to equitably finance and provide county services to its remaining residents;

(b) The extent that the demographic characteristics of the new county should be similar to the remaining county with respect to income, race, ethnicity, and age;

(c) The extent that the general tax base of the new county should be similar to the tax base of the remaining county; and

(d) The extent that the new county should be an area separate and distinct from the existing county.

(10) State and local governmental entities shall cooperate in providing information and assistance requested by the commission which is necessary to conduct its review.

(11) The commission shall report its findings to the Governor and the Legislature by January 31, 2000.

(12) The commission shall expire June 1, 2000.

Section 2. *(1) The Legislative Committee on Intergovernmental Relations may employ staff or enter into contracts to provide technical support for the Proposed Creation of Hialeah County Study Commission, and may expend funds appropriated to the committee for carrying out the official duties of the commission.*

(2) The sum of $150,000 is appropriated to the Legislative Committee on Intergovernmental Relations from the General Revenue Fund to be used to carry out the duties of the Proposed Creation of Hialeah County Study Commission.

Section 3. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to the proposed creation of Hialeah County; creating the Proposed Creation of Hialeah County Study Commission; providing for the appointment of members to the commission; providing for the appointment of a technical assistance group to serve as ex officio members of the commission; providing for filling vacancies on the commission; authorizing commission members to be reimbursed for travel and per diem expenses; providing for meetings of the commission; requiring the commission to review the feasibility of creating a new county in the area known as Hialeah; requiring that the commission make certain estimates and projections; requiring the commission to report to the Governor and Legislature; providing for expiration of the commission; requiring the Legislative Committee on Intergovernmental Relations to provide technical support to the commission; providing an appropriation; providing an effective date.

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

Amendment 1A (514562)—On page 3, line 23, following "*governments*" insert: *and the state*

Amendment 1 as amended was adopted.

On motion by Senator Casas, by two-thirds vote **CS for CS for SB 88** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

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

Nays—1

Forman

On motion by Senator Saunders, by two-thirds vote **HB 1081** was withdrawn from the Committees on Health, Aging and Long-Term Care; and Rules and Calendar.

On motion by Senator Saunders—

HB 1081—A bill to be entitled An act relating to public records; amending s. 395.3025, F.S.; providing an exemption from public records requirements for specified identifying information relating to active or current employees of a licensed facility and their spouses and children; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—a companion measure, was substituted for **CS for SB 1498** and read the second time by title.

Senator Saunders moved the following amendment which was adopted:

Amendment 1 (370876)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsections (10) and (11) are added to section 395.3025, Florida Statutes, 1998 Supplement, to read:

395.3025 Patient and personnel records; copies; examination.—

(10) The home addresses, telephone numbers, social security numbers, and photographs of employees of any licensed facility who provide direct patient care or security services; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, any state or federal agency that is authorized to have access to such information by any provision of law shall be granted such access in the furtherance of its statutory duties, notwithstanding the provisions of this subsection. This subsection is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2004, unless reviewed and saved from repeal through reenactment by the Legislature.

(11) The home addresses, telephone numbers, social security numbers, and photographs of employees of any licensed facility who have a reasonable belief that release of the information may be used to threaten, intimidate, harass, inflict violence upon, or defraud the employee or any member of the employee's family; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, any state or federal agency that is authorized to have access to such information by any provision of law shall be granted such access in the furtherance of its statutory duties, notwithstanding the provisions of this subsection. The licensed facility shall maintain the confidentiality of the personal information only if the employee submits a written request for confidentiality to the licensed facility. This subsection is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2004, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. *The Legislature finds that it is a public necessity that personal information about employees of hospitals and ambulatory surgical centers be confidential and exempt from the public records laws of this state under the following circumstances:*

(1) Employees in such facilities who provide direct patient care or security services encounter a wide spectrum of individuals including, among others, prisoners, criminal suspects brought for treatment by local law enforcement officers prior to incarceration, patients under the influence of drugs or alcohol at the time of treatment, and patients who have been admitted for treatment of mental illnesses, including involuntary admissions under the Baker Act. In addition, patients or family members of patients may at times become angry or upset with the nature of the treatment or the circumstances under which it has been provided. If any of these individuals gain access to the personal information specified in this act, they could use that information to threaten, intimidate, harass, or cause physical harm or other injury to the employees who provide direct patient care or security services or to their families. This concern is not mere speculation. Incidents have occurred in which patients have inflicted injuries upon health care providers which have resulted in the death of the provider. Therefore, the Legislature finds that it is a public necessity that the personal information of employees who provide direct patient care or security services be confidential and exempt from disclosure pursuant to the open records laws of this state in order to protect the health, safety, and welfare of these employees and their families.

(2) The Legislature further finds that incidents have occurred in which the personnel records of other employees of hospitals and ambulatory surgical centers have been requested under circumstances that could have threatened the safety or welfare of these employees or their families, whether or not actual harm resulted. While these employees may not provide direct patient care or security services, they may yet face circumstances under which release of this information could be used to threaten, intimidate, harass, inflict violence upon, or defraud them or their families. Because release of this personal information under these circumstances would not benefit the public or aid it in monitoring the effective and efficient operation of government, but could result in harm to these employees or their families, the Legislature finds that it is public necessity that the personal information specified in this act be confidential and exempt from disclosure pursuant to the public records laws of this state when such protection is requested by a hospital or ambulatory surgical center employee in accordance with the provisions of this act.

These exemptions are consistent with the long-standing policy of the state under section 119.07(3)(i), Florida Statutes.

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 public records; amending s. 395.3025, F.S.; providing exemptions from public records requirements for specified personal information relating to employees of licensed hospitals or ambulatory surgical centers who provide direct patient care or security services and their spouses and children, and for specified personal information relating to other employees of such facilities and their spouses and children upon their request; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

On motion by Senator Saunders, by two-thirds vote **HB 1081** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

On motion by Senator Silver, by two-thirds vote **HB 735** was withdrawn from the Committee on Health, Aging and Long-Term Care.

On motion by Senator Silver—

HB 735—A bill to be entitled An act relating to the Health Facilities Authorities Law; amending s. 154.209, F.S.; revising language with respect to the power of the authority concerning an accounts receivable program; providing an effective date.

—a companion measure, was substituted for **SB 1108** and read the second time by title. On motion by Senator Silver, by two-thirds vote **HB 735** was read the third time by title, 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 2414—A bill to be entitled An act relating to ad valorem tax exemptions; amending s. 196.012, F.S.; amending the definition of the term "new business," as used in ch. 196, F.S.; amending s. 196.1995, F.S.; providing an ad valorem tax exemption for new businesses comprising artistic and cultural improvements to real estate which are used for specified purposes; providing for certain economic development ad valorem tax exemptions; providing for extension of such exemptions; providing an effective date.

—was read the second time by title.

Senator Clary moved the following amendment which was adopted:

Amendment 1 (872302)(with title amendment)—On page 3, between lines 2 and 3, insert:

Section 3. Subsection (1) of section 196.2001, Florida Statutes, is amended to read:

196.2001 Not-for-profit sewer and water company property exemption.—

(1) Property of any sewer and water company owned or operated by a Florida corporation not for profit, the income from which has been exempt, as of January 1 of the year for which the exemption from ad valorem property taxes is requested, from federal income taxation by having qualified under s. 115(a) *or s. 501(c)(12)* of the Internal Revenue Code of 1954 or of a corresponding section of a subsequently enacted federal revenue act, shall be exempt from ad valorem taxation, provided the following criteria for exemption are met by the not-for-profit sewer and water company:

(a) Net income derived by the company does not inure to any private shareholder or individual.

(b) Gross receipts do not constitute gross income for federal income tax purposes.

(c) Members of the company's governing board serve without compensation.

(d) Rates for services rendered by the company are established by the governing board of the county or counties within which the company provides service; by the Public Service Commission, in those counties in which rates are regulated by the commission; or by the Farmers Home Administration.

~~(c) Ownership of the company reverts to the county in which the company conducts its business upon retirement of all outstanding indebtedness of the company.~~

Notwithstanding anything above, no exemption shall be granted until the property appraiser has considered the proposed exemption and has made a specific finding that the water and sewer company in question performs a public purpose in the absence of which the expenditure of public funds would be required.

(2) This section shall take effect upon this act becoming a law and shall apply retroactively to January 1, 1998.

Section 4. *(1) Notwithstanding any provision of chapter 196, Florida Statutes, to the contrary, any exemption which would be authorized by the amendment to s. 196.2001(1), Florida Statutes, by this act, and which was applied for and granted in good faith to any not-for-profit sewer or water company after December 31, 1997, shall not be subject to any assessment, penalty, or interest otherwise allowed by law.*

(2) This section shall take effect upon this act becoming a law.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 11, after the semicolon (;) insert: amending s. 212.06, F.S.; revising the application of provisions which exempt from use tax a person who secures rock, fill dirt, or similar materials from a location he or she owns for use on his or her own property, to include affiliated groups; amending s. 196.2001, F.S.; revising the conditions for qualification for the ad valorem tax exemption for property of a not-for-profit sewer and water company; providing for retroactive application; providing that certain exemptions that conform to such revision that were previously granted shall not be subject to any assessment, penalty, or interest;

On motion by Senator Dyer, by two-thirds vote **CS for SB 2414** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

CS for SB 1496—A bill to be entitled An act relating to sentencing; amending s. 775.021, F.S., relating to rules of construction; removing exceptions to a construction rule regarding sentencing for criminal offenses; amending s. 874.04, F.S.; providing for enhanced penalties for commission of a felony or misdemeanor, or a delinquent act or violation of law that would be a felony or misdemeanor if committed by an adult, under specified circumstances when the defendant committed the charged offense for the purpose of furthering, benefiting, or promoting a criminal street gang; amending s. 921.0022, F.S., relating to the offense severity ranking chart of the Criminal Punishment Code; ranking the offense of knowingly transmitting or disseminating by computer any notice or advertisement for the purpose of facilitating, encouraging, offering, or soliciting sexual conduct of or with a minor, or visually depicting such conduct; amending s. 921.0024, F.S., relating to the Criminal Punishment Code worksheet computations and scoresheets; revising guidelines for application of a specified sentence multiplier for offenses related to criminal street gangs; conforming terminology; providing an effective date.

—was read the second time by title.

Senator Saunders moved the following amendment which was adopted:

Amendment 1 (931100)(with title amendment)—On page 14, between lines 24 and 25, insert:

Section 5. Section 921.141, Florida Statutes, is amended to read:

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

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

(2) ADVISORY SENTENCE BY THE JURY.—After hearing all the evidence, the jury shall deliberate and render an advisory sentence to the court, based upon the following matters:

(a) Whether sufficient aggravating circumstances exist as enumerated in subsection (5);

(b) Whether sufficient mitigating circumstances exist which outweigh the aggravating circumstances found to exist; and

(c) Based on these considerations, whether the defendant should be sentenced to life imprisonment or death.

(3) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—Notwithstanding the recommendation of a majority of the jury, the court, after weighing the aggravating and mitigating circumstances, shall enter a sentence of life imprisonment or death, but if the court imposes a sentence of death, it shall set forth in writing its findings upon which the sentence of death is based as to the facts:

(a) That sufficient aggravating circumstances exist as enumerated in subsection (5), and

(b) That there are insufficient mitigating circumstances to outweigh the aggravating circumstances.

In each case in which the court imposes the death sentence, the determination of the court shall be supported by specific written findings of fact based upon the circumstances in subsections (5) and (6) and upon the records of the trial and the sentencing proceedings. If the court does not make the findings requiring the death sentence within 30 days after the rendition of the judgment and sentence, the court shall impose sentence of life imprisonment in accordance with s. 775.082.

(4) REVIEW OF JUDGMENT AND SENTENCE.—The judgment of conviction and sentence of death shall be subject to automatic review by the Supreme Court of Florida and disposition rendered within 2 years after the filing of a notice of appeal. Such review by the Supreme Court shall have priority over all other cases and shall be heard in accordance with rules promulgated by the Supreme Court.

(5) AGGRAVATING CIRCUMSTANCES.—Aggravating circumstances shall be limited to the following:

(a) The capital felony was committed by a person previously convicted of a felony and under sentence of imprisonment or placed on community control or on felony probation.

(b) The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person.

(c) The defendant knowingly created a great risk of death to many persons.

(d) The capital felony was committed while the defendant was engaged, or was an accomplice, in the commission of, or an attempt to commit, or flight after committing or attempting to commit, any: robbery; sexual battery; aggravated child abuse; abuse of an elderly person or disabled adult resulting in great bodily harm, permanent disability, or permanent disfigurement; arson; burglary; kidnapping; aircraft piracy; or unlawful throwing, placing, or discharging of a destructive device or bomb.

(e) The capital felony was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.

(f) The capital felony was committed for pecuniary gain.

(g) The capital felony was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.

(h) The capital felony was especially heinous, atrocious, or cruel.

(i) The capital felony was a homicide and was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification.

(j) The victim of the capital felony was a law enforcement officer engaged in the performance of his or her official duties.

(k) The victim of the capital felony was an elected or appointed public official engaged in the performance of his or her official duties if the motive for the capital felony was related, in whole or in part, to the victim's official capacity.

(l) The victim of the capital felony was a person less than 12 years of age.

(m) The victim of the capital felony was particularly vulnerable due to advanced age or disability, or because the defendant stood in a position of familial or custodial authority over the victim.

(n) The capital felony was committed by a criminal street gang member, as defined in s. 874.03.

(o) The capital felony was committed while the defendant was engaged in willfully violating an injunction for protection against domestic violence issued pursuant to s. 741.30, a foreign protection order accorded full faith and credit pursuant to s. 741.315, an injunction for protection against repeat violence pursuant to s. 784.046, or after any other court-imposed prohibition of conduct toward the victim.

(6) MITIGATING CIRCUMSTANCES.—Mitigating circumstances shall be the following:

(a) The defendant has no significant history of prior criminal activity.

(b) The capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance.

(c) The victim was a participant in the defendant's conduct or consented to the act.

(d) The defendant was an accomplice in the capital felony committed by another person and his or her participation was relatively minor.

(e) The defendant acted under extreme duress or under the substantial domination of another person.

(f) The capacity of the defendant to appreciate the criminality of his or her conduct or to conform his or her conduct to the requirements of law was substantially impaired.

(g) The age of the defendant at the time of the crime.

(h) The existence of any other factors in the defendant's background that would mitigate against imposition of the death penalty.

(7) VICTIM IMPACT EVIDENCE.—Once the prosecution has provided evidence of the existence of one or more aggravating circumstances as described in subsection (5), the prosecution may introduce, and subsequently argue, victim impact evidence. Such evidence shall be designed to demonstrate the victim's uniqueness as an individual human being and the resultant loss to the community's members by the victim's death. Characterizations and opinions about the crime, the defendant, and the appropriate sentence shall not be permitted as a part of victim impact evidence.

(8) APPLICABILITY.—This section does not apply to a person convicted or adjudicated guilty of a capital drug trafficking felony under s. 893.135.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 28, after the semicolon (;) insert: amending s. 921.141, F.S.; providing as an additional aggravating circumstance for purposes of sentencing that the capital felony was committed while the defendant was violating an injunction for protection against domestic violence or repeat violence, a foreign protection order, or any other court-imposed prohibition of conduct toward the victim;

On motion by Senator Saunders, by two-thirds vote **CS for SB 1496** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

On motion by Senator Latvala, the rules were waived and the Senate reverted to—

BILLS ON THIRD READING

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.

—as amended April 28 was read the third time by title.

RECONSIDERATION OF AMENDMENT

On motion by Senator Latvala, the Senate reconsidered the vote by which **Amendment 1** as amended was adopted.

Senator Latvala moved the following amendment to **Amendment 1** which was adopted by two-thirds vote:

Amendment 1C (641414)—On page 17, line 8, before "*violation*" insert: *willful*

Senator Hargrett moved the following amendment to **Amendment 1** which was adopted by two-thirds vote:

Amendment 1D (980188)(with title amendment)—On page 19, between lines 23 and 24, insert:

Section 10. Section 381.100, Florida Statutes, is created to read:

381.100 Short title.—Sections 381.100-381.103 may be cited as the "Florida Community Health Protection Act."

Section 11. Section 381.102, Florida Statutes, is created to read:

381.102 Community Health pilot projects.—

(1) The Legislature has determined that:

(a) The state is committed to the economic, environmental, and public health revitalization of its communities;

(b) Measures to address the public health needs of low-income communities in urban and rural areas must be implemented in order to ensure the sustainability of these communities;

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

(d) It would be beneficial to provide resources in this state to undertake a series of pilot projects that demonstrate techniques and approaches to ensure health care for disease prevention and health promotion for low-income persons who are living in urban and rural communities.

(2) Community Health pilot projects are hereby established to promote disease prevention and health promotion among low-income persons living in urban and rural communities.

(3) The pilot projects may form partnerships with existing health care providers and units, contribute to a health care needs assessment, provide research capacity to improve health status, and serve as the basis for health care capacity in urban and rural communities.

(4) The following pilot projects are created:

(a) In Pinellas County, for the Greenwood Community Health Center in Clearwater.

(b) In Escambia County, for the low-income communities within the Palafox Redevelopment Area.

(c) In Hillsborough, Pasco, Pinellas, and Manatee counties for the Urban League of Pinellas County, to operate its mobile health screening unit to provide public health care to persons living in low-income urban and rural communities.

(d) In Palm Beach County, for the low-income communities within the City of Riviera Beach.

(e) In the City of St. Petersburg, for the low-income communities within the Challenge 2001 Area.

(f) In Broward County, the communities immediately surrounding the Miles Health Center in Ft. Lauderdale.

Section 12. Section 381.103, Florida Statutes, is created to read:

381.103 Community Health Pilot Projects; duties of department.—To the extent feasible, the department may:

(1) Assist the pilot projects in development and implementation of their community programs by acting as the granting agency and contracting with the pilot projects.

(2) Facilitate the integration of the pilot projects with ongoing departmental programs, so that duplication of services is avoided and synergy between the programs enhanced.

(3) Develop educational and outreach programs for health care providers and communities that increase awareness of health care needs for low-income persons living in urban and rural communities.

(4) Assist the pilot projects in obtaining low-cost health care services designed to prevent disease and promote health in low-income communities.

(5) Prepare a report to be submitted to the President of the Senate, the Speaker of the House of Representatives, and the Governor on the findings, accomplishments, and recommendations of the Community Health pilot projects by or on January 1, 2001.

(6) Facilitate cooperation between affected communities, appropriate agencies, and ongoing initiatives, such as Front Porch Florida.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 21, line 23, after the semicolon (;) insert: creating s. 381.100, F.S.; creating the "Florida Community Health Protection Act"; creating s. 381.102, F.S.; providing for Community Health Program pilot projects; establishing pilot projects in designated counties; creating s. 381.103, F.S.; providing duties of the Department of Health; requiring a report;

Senator Brown-Waite moved the following amendment to **Amendment 1** which was adopted by two-thirds vote:

Amendment 1E (164668)(with title amendment)—On page 19, delete line 24 and insert:

Section 10. Subsection (18) is added to section 627.6472, Florida Statutes, 1998 Supplement, to read:

627.6472 Exclusive provider organizations.—

(18) Each organization shall allow, without prior authorization, a female subscriber to visit a contracted obstetrician/gynecologist for one annual visit and medically necessary follow-up care detected at that visit. Nothing in this subsection shall prevent an organization from requiring that an obstetrician/gynecologist treating a covered patient coordinate the medical care through the patient's primary care physician, if applicable.

Section 11. Subsection (11) is added to section 641.51, Florida Statutes, to read:

641.51 Quality assurance program; second medical opinion requirement.—

(11) Each organization shall allow, without prior authorization, a female subscriber, to visit a contracted obstetrician/gynecologist for one annual visit and for medically necessary follow-up care detected at that visit. Nothing in this subsection shall prevent an organization from requiring that an obstetrician/gynecologist treating a covered patient coordinate the medical care through the patient's primary care physician, if applicable.

Section 12. This act shall take effect July 1, 1999, except that sections 10 and 11 of this act shall take effect October 1, 1999, and shall apply to contracts issued or renewed on or after that date.

And the title is amended as follows:

On page 21, delete lines 23 and 24 and insert: retroactive application; amending s. 627.6472, F.S.; requiring exclusive provider organizations to provide, without prior authorization, female subscribers one annual visit to an obstetrician/gynecologist; requiring coordination of medical care; amending s. 641.51, F.S.; requiring a health maintenance organization to provide, without prior authorization, female subscribers one annual visit to an obstetrician/gynecologist; requiring coordination of medical care; providing for application; providing effective dates.

Amendment 1 as amended was adopted by two-thirds vote.

On motion by Senator Latvala, **HB 2231** 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 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; 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; providing for preparation of a reviser's bill to change the term "superintendent" to "warden"; amending s. 944.09, F.S.; authorizing the department to take digitized photographs of inmates or offenders under its supervision; amending s. 944.09, F.S.; providing the department authority to make rules relating to community corrections; 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; 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; 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; providing an effective date.

—as amended April 28 was read the third time by title.

Senator Rossin moved the following amendment which failed to receive the required two-thirds vote:

Amendment 1 (915486)(with title amendment)—On page 19, delete lines 20-29 and insert: *lease.*

Section 7. Section 944.116, Florida Statutes, is created to read:

944.116 Payments in lieu of taxes by the Correctional Privatization Commission.—

(1) The Correctional Privatization Commission created in s. 957.03 shall include any payments in lieu of taxes for facilities in the total costs of running private facilities, and such payments shall be factored into any equation to determine if state mandated cost savings have been met.

(2) Buildings and other improvements to real property of existing facilities, including future additions to existing facilities, which are financed under chapter 957 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 leases, the buildings, and other improvements will become the property of the state at the expiration of the leases. 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 are 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 leases 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 2, delete lines 1 and 2 and insert: creating s. 944.116, F.S.; requiring specified payments to be included in the costs of running private correctional facilities and to be factored in when calculating cost savings; providing for payments in lieu of taxes for correctional facilities bid and built between specified dates; providing for preparation

On motion by Senator Brown-Waite, **CS for SB 1742** as amended was passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

The Senate resumed consideration of—

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.

—which was previously considered this day. Pending **Amendment 4** by Senator Jones was withdrawn.

Senator Jones moved the following amendment to **Amendment 1**, as amended and adopted on April 28, which was adopted by two-thirds vote:

Amendment 5 (870564)(with title amendment)—On page 91, line 5 through page 92, line 3, delete those lines and insert:

Section 55. Paragraph (f) of subsection (2) of section 348.0004, Florida Statutes, is amended, and paragraph (m) is added to that subsection, 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 adopted on or before September 30, 1999, 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.*

(m) An expressway authority in any county as defined in s. 125.011(1) may consider any unsolicited proposals from private entities and all factors it deems important in evaluating such proposals. Such an expressway authority shall adopt rules or policies in compliance with s. 334.30 for the receipt, evaluation, and consideration of such proposals in order to enter into agreements for the planning design, engineering, construction, operation, ownership, or financing of additional expressways in that county. Such rules must require substantially similar technical information as is required by s. 14-107.0011(3)(a)-(e), F.A.C. In accepting a proposal and entering into such an agreement, the expressway authority and the private entity shall for all purposes be deemed to have complied with chapters 255 and 287. Similar proposals shall be reviewed and acted on by the authority in the order in which they were received. An additional expressway may not be constructed under this section without the prior express written consent of the board of county commissioners of each county located within the geographical boundaries of the authority. The powers granted by this section are in addition to all other powers of the authority granted by this chapter.

And the title is amended as follows:

On page 161, line 7, after the semicolon (;) insert: authorizing an expressway authority to consider proposals for the construction, operation, ownership, or financing of additional expressways; requiring prior consent of the board of county commissioners of each county within the boundaries of the authority;

Amendment 1 as amended was adopted by two-thirds vote.

On motion by Senator Webster, **HB 591** 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	Thomas
Clary	Holzendorf	McKay	Webster
Cowin	Horne	Meek	

Nays—None

RECONSIDERATION OF BILL

On motion by Senator Clary, the Senate reconsidered the vote by which—

CS for CS for SB's 834, 1140 and 1612—A bill to be entitled An act relating to nursing home facilities; creating s. 400.0078, F.S.; requiring the Office of State Long-Term Care Ombudsman to establish a statewide toll-free telephone number; amending s. 400.022, F.S.; providing immediate access to residents for representatives of the Office of the Attorney General; creating s. 400.0225, F.S.; directing the Agency for Health Care Administration to contract for consumer satisfaction surveys for nursing home residents; providing procedures and requirements for use of such surveys; amending s. 400.0255, F.S.; defining terms relating to facility decisions to transfer or discharge a resident; providing procedures, requirements, and limitations; requiring notice to the agency under certain circumstances; providing for review of a notice of discharge or transfer by the district long-term care ombudsman, upon request; specifying timeframes; amending s. 400.071, F.S.; providing additional requirements for licensure and renewal; providing a certificate-of-need preference for Gold Seal licensees; creating s. 400.118, F.S.; directing the agency to establish a quality assurance early warning system; providing for quality-of-care monitoring; providing duties of monitors; excluding certain information from discovery or introduction in evidence in civil or administrative actions; providing for rapid response teams; amending s. 400.121, F.S.; authorizing the agency to require certain facilities to increase staffing; authorizing such facilities to request an expedited interim rate increase; providing a penalty; amending s. 400.141, F.S.; providing requirements for appointment of a medical director; providing for resident use of a community pharmacy and for certain repackaging of prescription medication; providing for immunity from liability in the administration of repackaged medication; revising conditions for encouraging facilities to provide other needed services; requiring public display of certain assistance information; authorizing Gold Seal facilities to develop programs to provide certified nursing assistant training; amending s. 400.162, F.S.; revising procedures and policies regarding the safekeeping of residents' property; amending s. 400.19, F.S., relating to the agency's right of entry and inspection; providing a time period for investigation of certain complaints; amending s. 400.191, F.S.; revising requirements for provision of information to the public by the agency; amending s. 400.215, F.S.; providing for nursing home employees to work on a probationary basis upon meeting certain minimal screening requirements; authorizing certain employers direct access to databases for employment screening; requiring notification within a specified time of approval or denial of a request for an exemption from employment disqualification; amending s. 400.23, F.S.; abolishing the Nursing Home Advisory Committee; revising the system for evaluating facility compliance with licensure requirements; eliminating ratings and providing for standard or conditional licensure status; directing the agency to adopt rules to provide minimum staffing requirements for nursing homes and to allow certain staff to assist residents with eating; increasing the maximum penalty for all classes of deficiencies; creating s. 400.235, F.S.; providing for development of a Gold Seal Program for recognition of facilities demonstrating excellence in long-term care; establishing a Panel on Excellence in Long-Term Care under the Executive Office of the Governor; providing membership; providing program criteria; providing for duties of the panel and the Governor; providing for agency rules; providing for biennial relicensure of Gold Seal Program facilities, under certain conditions; amending s. 400.241, F.S.; making it unlawful to warn a nursing home of an unannounced inspection; amending s. 408.035, F.S.; providing certificate-of-need review criteria for Gold Seal facilities; creating s. 408.909, F.S.; requiring that the Agency for Health Care Administration implement a pilot project for establishing teaching nursing homes; specifying requirements for a nursing home facility to be designated as a teaching nursing home; requiring that the agency develop additional criteria; authorizing a teaching nursing home to be affiliated with a medical school within the State University System; providing for annual appropriations to a teaching nursing home; providing certain limitations on the expenditure of funds by a teaching nursing home; amending s. 468.1755, F.S.; providing for disciplinary action against a nursing home administrator who authorizes discharge or transfer of a resident for a reason other than provided by law; amending ss. 394.4625, 400.063, and 468.1756, F.S.; conforming cross-references; reenacting ss. 468.1695(3) and 468.1735, F.S.; incorporating the amendment to s. 468.1755, F.S., in references thereto; providing for funding for recruitment of qualified nursing facility staff; creating a panel on Medicaid reimbursement; providing membership and duties; requiring reports; providing for expiration; requiring a study of factors affecting recruitment, training, employment, and retention of qualified certified nursing assistants; requiring a report; repealing s. 400.29, F.S., relating to an agency annual report of nursing home facilities; amending s. 430.502, F.S.; establishing an additional Alzheimer's disease memory disorder clinic; providing an appropriation; requiring the act to comply with ss. 112.3189, 48.102, F.S.; providing effective dates.

—as amended passed April 23.

Amendments were considered and adopted to conform **CS for CS for SB's 834, 1140 and 1612** to **HB 1971**.

Pending further consideration of **CS for CS for SB's 834, 1140 and 1612** as amended, on motion by Senator Clary, by two-thirds vote **HB 1971** was withdrawn from the Committees on Health, Aging and Long-Term Care; and Fiscal Policy.

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

HB 1971—A bill to be entitled An act relating to nursing home facilities; amending s. 430.502, F.S.; establishing an additional memory disorder clinic; authorizing the Department of Elder Affairs and the Department of Children and Families to initiate certain projects; creating s. 400.0078, F.S.; requiring the Office of State Long-Term Care Ombudsman to establish a statewide toll-free telephone number; amending s. 400.022, F.S.; providing immediate access to residents for representatives of the Office of the Attorney General; creating s. 400.0225, F.S.; directing the Agency for Health Care Administration to contract for consumer satisfaction surveys for nursing home residents; providing procedures and requirements for use of such surveys; amending s. 400.0255, F.S.; defining terms relating to facility decisions to transfer or discharge a resident; providing procedures, requirements, and limitations; requiring notice to the agency under certain circumstances; providing for review of a notice of discharge or transfer by the district long-term care ombudsman, upon request; specifying timeframes; amending s. 400.071, F.S.; providing additional requirements for licensure and renewal; providing a certificate-of-need preference for Gold Seal licensees; creating s. 400.118, F.S.; directing the agency to establish a quality assurance early warning system; providing for quality-of-care monitoring; providing duties of monitors; excluding certain information from discovery or introduction in evidence in civil or administrative actions; providing for rapid response teams; amending s. 400.121, F.S.; authorizing the agency to require certain facilities to increase staffing; authorizing such facilities to request an expedited interim rate increase; providing a penalty; amending s. 400.141, F.S.; providing requirements for appointment of a medical director; providing for resident use of a community pharmacy and for certain repackaging of prescription medication; providing for immunity from liability in the administration of repackaged medication; revising conditions for encouraging facilities to provide other needed services; requiring public display of certain assistance information; authorizing Gold Seal facilities to develop programs to provide certified nursing assistant training; amending s. 400.162, F.S.; revising procedures and policies regarding the safekeeping of residents' property; amending s. 400.19, F.S., relating to the agency's right of entry and inspection; providing a time period for investigation of certain complaints; amending s. 400.191, F.S.; revising requirements for provision of information to the public by the agency; amending s. 400.215, F.S.; specifying conditions for probationary employment of applicants, pending results of an abuse registry screening; requiring the agency to provide a direct-access screening system; amending s. 400.23, F.S.; abolishing the Nursing Home Advisory Committee; revising the system for evaluating facility compliance with licensure requirements; eliminating ratings and providing for standard or conditional licensure status; directing the agency to adopt rules to provide minimum staffing requirements for nursing homes and to allow certain staff to assist residents with eating; increasing the maximum penalties for deficiencies in facility operations; creating s. 400.235, F.S.; providing for development of a Gold Seal Program for recognition of facilities demonstrating excellence in long-term care; establishing a Panel on Excellence in Long-Term Care under the Executive Office of the Governor; providing membership; providing program criteria; providing for duties of the panel and the Governor; providing for agency rules; providing for biennial relicensure of Gold Seal Program facilities, under certain conditions; amending s. 400.241, F.S.; prohibiting willful interference with an unannounced inspection; providing a penalty; amending s. 408.035, F.S.; providing certificate-of-need review criteria for Gold Seal facilities; creating s. 430.80, F.S.; requiring that the Agency for Health Care Administration implement a pilot project for establishing teaching nursing homes; specifying requirements for a nursing home facility to be designated as a teaching nursing home; requiring that the agency develop additional criteria; authorizing a teaching nursing home to be affiliated with a medical school within the State University System; providing for annual appropriations to a teaching nursing home; providing certain limitations on the expenditure of funds by a teaching nursing home; amending s. 468.1755, F.S.; providing for disciplinary action against a nursing home administrator who authorizes discharge or transfer of a resident for a reason other than provided by law; amending ss. 394.4625, 400.063, and 468.1756, F.S.; correcting cross references; reenacting ss. 468.1695(3) and 468.1735, F.S.; incorporating the amendment to s. 468.1755, F.S., in references thereto; providing for funding for recruitment of qualified nursing facility staff; creating a panel on Medicaid reimbursement; providing membership and duties; requiring reports; providing for expiration; requiring a study of factors affecting recruitment, training, employment, and retention of qualified certified nursing assistants; requiring a report; repealing s. 400.29, F.S., relating to an agency annual report of nursing home facilities; providing appropriations; providing effective dates.

—a companion measure, was substituted for **CS for CS for SB's 834, 1140 and 1612** as amended and by two-thirds vote read the second time by title.

On motion by Senator Clary, further consideration of **HB 1971** was deferred.

RECESS

The President declared the Senate in recess at 12:34 p.m. to reconvene at 1:30 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 1:40 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

SPECIAL STAFF RECOGNITION

At the request of President Jennings, the staff members of the President, the Secretary, the Sergeant at Arms, Senate Committees, district offices and the Majority and Minority Offices were present in the chamber and seated in the gallery. The President, on behalf of the entire Senate, thanked the staff members for their support and hard work in making the 1999 session a success.

The Secretary read a Proclamation recognizing Belle Warren for her years of service to the Senate.

SPECIAL ORDER CALENDAR, continued

SENATOR DYER PRESIDING

CS for SB 1504—A bill to be entitled An act relating to education; providing intent for certain high schools designated New Millennium High Schools; requiring certain components of a vocational program called the Florida Tech Prep Pathway; requiring certain activities of staff identified by schools and local business enterprises; providing requirements for students to enroll in certain programs; requiring procedures and certification of tech prep pathway programs; providing for documentation by the Department of Education; creating the Sunshine Technical Skills Certificate; providing requirements; requiring certain schools to be selected as pilot projects; providing duties of the Department of Education and the schools; requiring certain programs and career-development activities to assist counselors at certain high schools; amending ss. 228.041, 229.601, 229.602, 231.121, F.S.; changing a personnel classification title; amending s. 231.1725, F.S.; imposing certain requirements for initial certification and recertification of certain personnel; amending s. 236.081, F.S.; providing for funding of certain programs; prohibiting for certain courses and programs from being reported for funding or from being substituted for other courses or programs; amending s. 239.121, F.S.; changing a personnel classification title; providing for certain professional-development activities; amending s. 239.229, F.S.; providing certain responsibilities for school boards and superintendents; repealing s. 233.068, F.S., which relates to job-related vocational instruction; providing an effective date.

—was read the second time by title.

Senator Horne moved the following amendments which were adopted:

Amendment 1 (741230)—On page 7, line 29 through page 8, line 16, delete those lines.

Amendment 2 (425836)—On page 10, delete lines 4-12 and redesignate subsections.

Amendment 3 (164236)(with title amendment)—On page 16, line 18 through page 23, line 3, delete those lines and redesignate subsequent sections.

And the title is amended as follows:

On page 1, delete lines 26-30 and insert: s. 239.121, F.S.;

Amendment 4 (760812)(with title amendment)—On page 25, between lines 5 and 6, insert:

Section 16. *(1) The Task Force on Public School Funding is created to examine and make recommendations to the Governor and the Legislature on the funding of the state system of public schools. The task force is assigned to the Office of Legislative Services, created by section 11.147, Florida Statutes, for administrative and fiscal accountability purposes.*

(2) The task force shall consist of 15 members selected from among business and community leaders and the Lieutenant Governor and Commissioner of Education, who shall serve as voting ex officio members. By June 30, 1999, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall each appoint 5 members to serve for the duration of the task force. If a vacancy occurs, the official who had appointment jurisdiction for the vacated position shall appoint a member to fill the vacancy. Each appointing authority may remove his or her appointee for cause, and shall remove an appointee who, without cause, fails to attend three consecutive meetings. Members of the task force 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 section 112.061, Florida Statutes.

(3) The task force shall hold its organizational meeting by September 1, 1999; and, thereafter, shall meet at the call of the chair, but shall meet at least monthly before submitting its final recommendations. The task force shall be chaired by a member designated by the Governor. The task force shall elect a vice chair to serve in the absence of the chair. The task force shall adopt procedures or bylaws necessary for its efficient operation and may appoint subcommittees from its membership.

(4) The task force shall examine the funding of state system of public schools as provided by the Florida Education Finance Program created by section 236.081, Florida Statutes, and implemented by the general appropriations acts. The task force shall consider at least the following:

(a) The funding of public schools based on their performance in educating students as evidenced by the achieving of equitable outcomes that meet the state academic achievement standards for all students.

(b) The relationship between state funding and local funding for public schools.

(c) The maintenance of funding equity in the allocation of dollars among school districts and schools.

(d) The acquisition and support of technology to assist in the instructional process.

(e) The funding support for parental choice in the selection of educational services for children.

(f) The results and recommendations of public school funding studies conducted by nationally recognized experts, groups, and other states.

(5) The task force:

(a) May appoint an executive director, who shall serve under its direction, supervision, and control. The Commissioner of Education shall designate personnel of the Department of Education to assist the task force until its staff is employed.

(b) May enter into contracts or agreements with nationally recognized school-finance experts to serve in a consulting and advisory capacity.

(c) May apply for and accept funds, grants, donations, expenses, in-kind services, and other valued goods or services from the government of the United States or any of its agencies or any other public or private sources. Funds or services acquired or accepted under this paragraph must be used to carry out the task force's duties and responsibilities.

(d) Shall keep full, detailed, and accurate records pursuant to chapter 119, Florida Statutes.

(e) By September 1, 2000, shall submit draft recommendations and, by February 1, 2002, shall submit final recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Before adopting final recommendations, the task force shall conduct at least one public hearing in each of the five service regions of the Department of Education between September 1 and December 31, 2001.

(6) This section expires June 30, 2002.

Section 17. *Section 236.081, Florida Statutes, 1998 Supplement, is repealed effective June 30, 2003, subject to prior review by the Task Force on Public School Funding.*

(Redesignate subsequent section.)

And the title is amended as follows:

On page 2, line 6, after the semicolon (;) insert: creating the Task Force on Public School Funding; providing for the appointment and organization of the task force; specifying powers and duties; specifying duties of the Department of Education; requiring certain reports and public hearings; repealing s. 236.081, F.S., relating to the Florida Education Finance Program;

The vote was:

Yeas—17

Bronson	Cowin	Latvala	Sullivan
Carlton	Grant	Laurent	Thomas
Casas	Holzendorf	McKay	
Childers	Horne	Mitchell	
Clary	Kirkpatrick	Sebesta	

Nays—12

Burt	Dyer	Hargrett	Kurth
Campbell	Forman	Jones	Meek
Dawson-White	Geller	Klein	Silver

On motion by Senator Horne, by two-thirds vote **CS for SB 1504** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30

Bronson	Dyer	Kirkpatrick	Myers
Carlton	Geller	Klein	Saunders
Casas	Grant	Latvala	Sebesta
Childers	Gutman	Laurent	Silver
Clary	Hargrett	Lee	Sullivan
Cowin	Holzendorf	McKay	Thomas
Dawson-White	Horne	Meek	
Diaz-Balart	Jones	Mitchell	

Nays—4

Burt	Campbell	Kurth	Rossin

CS for SB 2360—A bill to be entitled An act relating to home health agencies; amending s. 400.462, F.S.; providing definitions; amending s. 400.464, F.S.; establishing licensure and exemptions from licensure requirements for home health agencies; amending s. 400.471, F.S.; providing insurance coverage requirements; amending s. 400.474, F.S.; providing grounds for disciplinary action, penalties for operating without a license, and grounds for revocation or suspension of license; amending s. 400.484, F.S.; establishing administrative fines for various classes of deficiencies; amending s. 400.487, F.S.; providing for patient assessment and establishment and review of plan of care; creating s. 400.488, F.S.; providing for assistance with self-administration of medication; amending s. 400.491, F.S.; providing for maintenance of service provision plan; amending s. 400.497, F.S.; providing for establishment of rules; amending s. 400.506, F.S.; providing for licensure of nurse registries; amending s. 400.509, F.S.; providing for registration of particular service providers; amending s. 400.512, F.S.; providing for screening of home health

agency personnel; establishing a Task Force on Home Health Services Licensure Provisions; providing an effective date.

—was read the second time by title.

Senator Thomas moved the following amendment which was adopted:

Amendment 1 (234178)—On page 10, between lines 27 and 28, insert:

4. Companion and sitter organizations that were registered under s. 440.509(1) on January 1, 1999, and were authorized to provide personal services under s. 393.063(35) under a developmental services provider certificate on January 1, 1999, may continue to provide such services to past, present, and future clients of the organization who need such services, notwithstanding the provisions of this act.

Senator Forman moved the following amendment which was adopted:

Amendment 2 (663504)—On page 10, between lines 27 and 28, insert:

4. The Department of Children and Family Services.

Senator Clary moved the following amendment which was adopted:

Amendment 3 (712252)—On page 10, line 29, after "*chapter*" insert: *457, chapter*

Senator Thomas moved the following amendments which were adopted:

Amendment 4 (504366)—On page 10, line 30, after "*chapter 464,*" insert: *chapter 467,*

Amendment 5 (542768)—On page 40, line 25 through page 41, line 8, delete those lines and insert:

Section 13. *Task Force on Home Health Services Licensure Provisions.—There is created a task force composed of representatives of the Agency for Health Care Administration, the Department of Elderly Affairs, the Department of Health, Private Care Association of Florida, and Associated Home Health Industries and a representative of the homemaker companion services industry to review the provisions of part IV of chapter 400, Florida Statutes, and recommend additional legislative revisions to that part. The review must encompass, at a minimum, the following issues: adult abuse registry screening; exemptions for individuals who provide home health services; registration for organizations that provide companion and homemaker services; and adjustments in the fee schedule for Medicaid home health services. The task force shall submit a report must be submitted to the appropriate legislative committees by December 31, 1999.*

Senator Campbell moved the following amendment which was adopted:

Amendment 6 (101070)(with title amendment)—On page 41, between lines 8 and 9, insert:

Section 14. Paragraph (a) of subsection (2) of section 400.23, Florida Statutes, 1998 Supplement, is amended to read:

400.23 Rules; criteria; Nursing Home Advisory Committee; evaluation and rating system; fee for review of plans.—

(2) Pursuant to the intention of the Legislature, the agency, in consultation with the Department of Health and Rehabilitative Services and the Department of Elderly Affairs, shall adopt and enforce rules to implement this part, which shall include reasonable and fair criteria in relation to:

(a) The location and construction of the facility; including fire and life safety, plumbing, heating, *cooling,* lighting, ventilation, and other housing conditions which will ensure the health, safety, and comfort of residents, including an adequate call system. The agency shall establish standards for facilities and equipment to increase the extent to which new facilities and a new wing or floor added to an existing facility after July 1, 1999, are structurally capable of serving as shelters only for residents, staff, and families of residents and staff, and equipped to be self-supporting during and immediately following disasters. The Agency for Health Care Administration shall work with facilities licensed under this part and report to the Governor and Legislature by April 1, 1999, its recommendations for cost-effective renovation standards to be applied to existing facilities. In making such rules, the agency shall be guided by criteria recommended by nationally recognized reputable professional groups and associations with knowledge of such subject matters. The agency shall update or revise such criteria as the need arises. All nursing homes must comply with those lifesafety code requirements and building code standards applicable at the time of approval of their construction plans. The agency may require alterations to a building if it determines that an existing condition constitutes a distinct hazard to life, health, or safety. The agency shall adopt fair and reasonable rules setting forth conditions under which existing facilities undergoing additions, alterations, conversions, renovations, or repairs shall be required to comply with the most recent updated or revised standards.

Section 15. Paragraph (a) of subsection (1) of section 400.441, Florida Statutes, 1998 Supplement, is amended to read:

400.441 Rules establishing standards.—

(1) It is the intent of the Legislature that rules published and enforced pursuant to this section shall include criteria by which a reasonable and consistent quality of resident care and quality of life may be ensured and the results of such resident care may be demonstrated. Such rules shall also ensure a safe and sanitary environment that is residential and noninstitutional in design or nature. It is further intended that reasonable efforts be made to accommodate the needs and preferences of residents to enhance the quality of life in a facility. In order to provide safe and sanitary facilities and the highest quality of resident care accommodating the needs and preferences of residents, the department, in consultation with the agency, the Department of Children and Family Services, and the Department of Health, shall adopt rules, policies, and procedures to administer this part, which must include reasonable and fair minimum standards in relation to:

(a) The requirements for and maintenance of facilities, not in conflict with the provisions of chapter 553, relating to plumbing, heating, *cooling,* lighting, ventilation, living space, and other housing conditions, which will ensure the health, safety, and comfort of residents and protection from fire hazard, including adequate provisions for fire alarm and other fire protection suitable to the size of the structure. Uniform firesafety standards shall be established and enforced by the State Fire Marshal in cooperation with the agency, the department, and the Department of Health.

1. Evacuation capability determination.—

a. The provisions of the National Fire Protection Association, NFPA 101A, Chapter 5, 1995 edition, shall be used for determining the ability of the residents, with or without staff assistance, to relocate from or within a licensed facility to a point of safety as provided in the fire codes adopted herein. An evacuation capability evaluation for initial licensure shall be conducted within 6 months after the date of licensure. For existing licensed facilities that are not equipped with an automatic fire sprinkler system, the administrator shall evaluate the evacuation capability of residents at least annually. The evacuation capability evaluation for each facility not equipped with an automatic fire sprinkler system shall be validated, without liability, by the State Fire Marshal, by the local fire marshal, or by the local authority having jurisdiction over firesafety, before the license renewal date. If the State Fire Marshal, local fire marshal, or local authority having jurisdiction over firesafety has reason to believe that the evacuation capability of a facility as reported by the administrator may have changed, it may, with assistance from the facility administrator, reevaluate the evacuation capability through timed exiting drills. Translation of timed fire exiting drills to evacuation capability may be determined:

(I) Three minutes or less: prompt.

(II) More than 3 minutes, but not more than 13 minutes: slow.

(III) More than 13 minutes: impractical.

b. The Office of the State Fire Marshal shall provide or cause the provision of training and education on the proper application of Chapter 5, NFPA 101A, 1995 edition, to its employees, to staff of the Agency for Health Care Administration who are responsible for regulating facilities under this part, and to local governmental inspectors. The Office of the

State Fire Marshal shall provide or cause the provision of this training within its existing budget, but may charge a fee for this training to offset its costs. The initial training must be delivered within 6 months after July 1, 1995, and as needed thereafter.

c. The Office of the State Fire Marshal, in cooperation with provider associations, shall provide or cause the provision of a training program designed to inform facility operators on how to properly review bid documents relating to the installation of automatic fire sprinklers. The Office of the State Fire Marshal shall provide or cause the provision of this training within its existing budget, but may charge a fee for this training to offset its costs. The initial training must be delivered within 6 months after July 1, 1995, and as needed thereafter.

d. The administrator of a licensed facility shall sign an affidavit verifying the number of residents occupying the facility at the time of the evacuation capability evaluation.

2. Firesafety requirements.—

a. Except for the special applications provided herein, effective January 1, 1996, the provisions of the National Fire Protection Association, Life Safety Code, NFPA 101, 1994 edition, Chapter 22 for new facilities and Chapter 23 for existing facilities shall be the uniform fire code applied by the State Fire Marshal for assisted living facilities, pursuant to s. 633.022.

b. Any new facility, regardless of size, that applies for a license on or after January 1, 1996, must be equipped with an automatic fire sprinkler system. The exceptions as provided in section 22-2.3.5.1, NFPA 101, 1994 edition, as adopted herein, apply to any new facility housing eight or fewer residents. On July 1, 1995, local governmental entities responsible for the issuance of permits for construction shall inform, without liability, any facility whose permit for construction is obtained prior to January 1, 1996, of this automatic fire sprinkler requirement. As used in this part, the term "a new facility" does not mean an existing facility that has undergone change of ownership.

c. Notwithstanding any provision of s. 633.022 or of the National Fire Protection Association, NFPA 101A, Chapter 5, 1995 edition, to the contrary, any existing facility housing eight or fewer residents is not required to install an automatic fire sprinkler system, nor to comply with any other requirement in Chapter 23 of NFPA 101, 1994 edition, that exceeds the firesafety requirements of NFPA 101, 1988 edition, that applies to this size facility, unless the facility has been classified as impractical to evacuate. Any existing facility housing eight or fewer residents that is classified as impractical to evacuate must install an automatic fire sprinkler system within the timeframes granted in this section.

d. Any existing facility that is required to install an automatic fire sprinkler system under this paragraph need not meet other firesafety requirements of Chapter 23, NFPA 101, 1994 edition, which exceed the provisions of NFPA 101, 1988 edition. The mandate contained in this paragraph which requires certain facilities to install an automatic fire sprinkler system supersedes any other requirement.

e. This paragraph does not supersede the exceptions granted in NFPA 101, 1988 edition or 1994 edition.

f. This paragraph does not exempt facilities from other firesafety provisions adopted under s. 633.022 and local building code requirements in effect before July 1, 1995.

g. A local government may charge fees only in an amount not to exceed the actual expenses incurred by local government relating to the installation and maintenance of an automatic fire sprinkler system in an existing and properly licensed assisted living facility structure as of January 1, 1996.

h. If a licensed facility undergoes major reconstruction or addition to an existing building on or after January 1, 1996, the entire building must be equipped with an automatic fire sprinkler system. Major reconstruction of a building means repair or restoration that costs in excess of 50 percent of the value of the building as reported on the tax rolls, excluding land, before reconstruction. Multiple reconstruction projects within a 5-year period the total costs of which exceed 50 percent of the initial value of the building at the time the first reconstruction project was permitted are to be considered as major reconstruction. Application for a permit for an automatic fire sprinkler system is required upon application for a permit for a reconstruction project that creates costs that go over the 50-percent threshold.

i. Any facility licensed before January 1, 1996, that is required to install an automatic fire sprinkler system shall ensure that the installation is completed within the following timeframes based upon evacuation capability of the facility as determined under subparagraph 1.:

(I) Impractical evacuation capability, 24 months.

(II) Slow evacuation capability, 48 months.

(III) Prompt evacuation capability, 60 months.

The beginning date from which the deadline for the automatic fire sprinkler installation requirement must be calculated is upon receipt of written notice from the local fire official that an automatic fire sprinkler system must be installed. The local fire official shall send a copy of the document indicating the requirement of a fire sprinkler system to the Agency for Health Care Administration.

j. It is recognized that the installation of an automatic fire sprinkler system may create financial hardship for some facilities. The appropriate local fire official shall, without liability, grant two 1-year extensions to the timeframes for installation established herein, if an automatic fire sprinkler installation cost estimate and proof of denial from two financial institutions for a construction loan to install the automatic fire sprinkler system are submitted. However, for any facility with a class I or class II, or a history of uncorrected class III, firesafety deficiencies, an extension must not be granted. The local fire official shall send a copy of the document granting the time extension to the Agency for Health Care Administration.

k. A facility owner whose facility is required to be equipped with an automatic fire sprinkler system under Chapter 23, NFPA 101, 1994 edition, as adopted herein, must disclose to any potential buyer of the facility that an installation of an automatic fire sprinkler requirement exists. The sale of the facility does not alter the timeframe for the installation of the automatic fire sprinkler system.

l. Existing facilities required to install an automatic fire sprinkler system as a result of construction-type restrictions in Chapter 23, NFPA 101, 1994 edition, as adopted herein, or evacuation capability requirements shall be notified by the local fire official in writing of the automatic fire sprinkler requirement, as well as the appropriate date for final compliance as provided in this subparagraph. The local fire official shall send a copy of the document to the Agency for Health Care Administration.

m. Except in cases of life-threatening fire hazards, if an existing facility experiences a change in the evacuation capability, or if the local authority having jurisdiction identifies a construction-type restriction, such that an automatic fire sprinkler system is required, it shall be afforded time for installation as provided in this subparagraph.

Facilities that are fully sprinkled and in compliance with other firesafety standards are not required to conduct more than one of the required fire drills between the hours of 11 p.m. and 7 a.m., per year. In lieu of the remaining drills, staff responsible for residents during such hours may be required to participate in a mock drill that includes a review of evacuation procedures. Such standards must be included or referenced in the rules adopted by the State Fire Marshal. Pursuant to s. 633.022(1)(b), the State Fire Marshal is the final administrative authority for firesafety standards established and enforced pursuant to this section. All licensed facilities must have an annual fire inspection conducted by the local fire marshal or authority having jurisdiction.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 29, after the semicolon (;) insert: amending ss. 400.23, 400.441, F.S.; requiring that rules adopted by the Agency for Health Care Administration and the Department of Elderly Affairs include provisions governing the cooling of facilities; providing an effective date.

Senator Gutman moved the following amendment which was adopted:

Amendment 7 (325790)(with title amendment)—On page 41, between lines 8 and 9, insert:

Section 14. 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 15. 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 16. 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.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 29, following the semicolon (;) insert: 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;

On motion by Senator Thomas, by two-thirds vote **CS for SB 2360** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

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	
Dawson-White	Jones	Mitchell	

Nays—None

THE PRESIDENT PRESIDING

CS for SB 2300—A bill to be entitled An act relating to platted lands; amending s. 177.041, F.S.; revising provisions with respect to certain boundaries for a replat; amending s. 177.091, F.S.; revising provisions with respect to certain monuments; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 2300** to **CS for HB 587**.

Pending further consideration of **CS for SB 2300** as amended, on motion by Senator Sebesta, by two-thirds vote **CS for HB 587** was withdrawn from the Committee on Regulated Industries.

On motion by Senator Sebesta, the rules were waived and—

CS for HB 587—A bill to be entitled An act relating to platted lands; amending s. 177.041, F.S.; revising language with respect to certain boundaries for a replat; removing a requirement that the boundary survey and plat be prepared by a professional surveyor and mapper under the same legal entity; amending s. 177.081, F.S.; revising language with respect to dedication and approval; amending s. 177.091, F.S.; revising language with respect to certain monuments; providing an effective date.

—a companion measure, was substituted for **CS for SB 2300** as amended and read the second time by title. On motion by Senator Sebesta, by two-thirds vote **CS for HB 587** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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 Silver Sullivan
Scott

Nays—None

SB 966—A bill to be entitled An act relating to local governments; amending s. 893.138, F.S.; authorizing local governments to take local administrative action to declare certain buildings and premises a public nuisance when the building or premises is used on more than two occasions in a certain time period to deal in stolen property; providing an effective date.

—was read the second time by title.

Amendments were considered and failed and amendments were considered and adopted to conform **SB 966** to **CS for HB 363**.

Pending further consideration of **SB 966** as amended, on motion by Senator Campbell, by two-thirds vote **CS for HB 363** was withdrawn from the Committee on Comprehensive Planning, Local and Military Affairs.

On motion by Senator Campbell, the rules were waived and—

CS for HB 363—A bill to be entitled An act relating to local governments; amending s. 893.138, F.S.; authorizing local governments to take local administrative action to declare certain buildings and premises a public nuisance when the building or premises is used on more than two occasions in a certain time period to deal in stolen property; providing an effective date.

—a companion measure, was substituted for **SB 966** as amended and read the second time by title.

Senator Geller moved the following amendment which was adopted:

Amendment 1 (485224)(with title amendment)—On page 2, between lines 9 and 10, insert:

Section 2. Subsections (2) and (3) of section 162.09, Florida Statutes, are amended to read:

162.09 Administrative fines; costs of repair; liens.—

(2)(a) A fine imposed pursuant to this section shall not exceed $250 per day for a first violation and shall not exceed $500 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to subsection (1). However, if a code enforcement board finds the violation to be irreparable or irreversible in nature, it may impose a fine not to exceed $5,000 per violation.

(b) In determining the amount of the fine, if any, the enforcement board shall consider the following factors:

1. The gravity of the violation;

2. Any actions taken by the violator to correct the violation; and

3. Any previous violations committed by the violator.

(c) An enforcement board may reduce a fine imposed pursuant to this section.

(d) A county or a municipality having a population equal to or greater than 50,000 may adopt, by a vote of at least a majority plus one of the entire governing body of the county or municipality, an ordinance that gives code enforcement boards or special masters, or both, authority to impose fines in excess of the limits set forth in paragraph (a). Such fines shall not exceed $1,000 per day per violation for a first violation, $5,000 per day per violation for a repeat violation, and up to $15,000 per violation if the code enforcement board or special master finds the violation to be irreparable or irreversible in nature. In addition to such fines, a code enforcement board or special master may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs pursuant to subsection (1). Any ordinance imposing such fines shall include criteria to be considered by the code enforcement board or special master in determining the amount of the fines, including, but not limited to, those factors set forth in paragraph (b).

(3) A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the local governing body, and the local governing body may execute a satisfaction or release of lien entered pursuant to this section. After 3 months from the filing of any such lien which remains unpaid, the enforcement board may authorize the local governing body attorney to foreclose on the lien *or to sue to recover a money judgment for the amount of the lien plus accrued interest*. No lien created pursuant to the provisions of this part may be foreclosed on real property which is a homestead under s. 4, Art. X of the State Constitution.

Section 3. Section 162.10, Florida Statutes, is amended to read:

162.10 Duration of lien.—No lien provided under the Local Government Code Enforcement Boards Act shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien *or for a money judgment*, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the foreclosure. The local governing body shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

Section 4. Paragraph (b) of subsection (2) of section 162.12, Florida Statutes, is amended to read:

162.12 Notices.—

(2) In addition to providing notice as set forth in subsection (1), at the option of the code enforcement board, notice may also be served by publication or posting, as follows:

(b)1. In lieu of publication as described in paragraph (a), such notice may be posted for at least 10 days in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be, in the case of municipalities, at the primary municipal government office, and in the case of counties, at the front door of the courthouse *or the main county governmental center* in *the* ~~said~~ county.

2. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (1), together with proof of publication or posting as provided in subsection (2), shall be sufficient to show that the notice requirements of this part have been met, without regard to whether or not the alleged violator actually received such notice.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 8, after the semicolon (;) insert: amending ss. 162.09, 162.10, F.S.; 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; authorizing suits to recover money judgments and costs; amending s. 162.12, F.S.; authorizing posting of notices at county governmental centers;

On motion by Senator Campbell, by two-thirds vote **CS for HB 363** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—1

Hargrett

CS for SB 1200—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.031, F.S.; providing that the tax on the lease or rental of or license in real property does not apply when the property is a public or private street or right-of-way or certain improvements located on such property used by a utility or franchised cable television company for utility, television, or communication purposes; defining the term "utility"; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 1200** to **HB 317**.

Pending further consideration of **CS for SB 1200** as amended, on motion by Senator Sullivan, by two-thirds vote **HB 317** was withdrawn from the Committees on Fiscal Resource and Regulated Industries.

On motion by Senator Sullivan, the rules were waived and—

HB 317—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.031, F.S.; providing that the tax on the lease or rental of or license in real property does not apply when the property is a public or private street or right-of-way used by a utility or franchised cable television company for utility, television, or communication purposes; providing a definition for the term "utility"; amending s. 212.05, F.S.; providing that the sales tax on prepaid calling cards will be assessed at the point of sale of the card; providing an effective date.

—a companion measure, was substituted for **CS for SB 1200** as amended and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 317** was read the third time by title, 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	Grant	Laurent	Silver
Casas	Gutman	Lee	Sullivan
Childers	Hargrett	McKay	Thomas
Clary	Horne	Meek	Webster
Cowin	Jones	Mitchell	

Nays—None

CS for SB 1352—A bill to be entitled An act relating to the Public Service Commission; amending s. 367.081, F.S.; prohibiting the commission from imputing prospective future contributions-in-aid-of-construction against certain utility investments in certain rate proceedings; providing construction; requiring the commission to approve rates for certain services under certain circumstances; providing construction; deleting a requirement that the commission consider a utility's investments in certain lands or facilities in setting final rates; providing an effective date.

—was read the second time by title.

Senator Cowin moved the following amendments which failed:

Amendment 1 (082326)—On page 2, line 23, delete "*5*" and insert: *2*

Amendment 2 (294934)—On page 2, line 23, delete "*per year*"

Senator Klein moved the following amendment which was adopted:

Amendment 3 (161130)(with title amendment)—On page 3, delete lines 17 and 18 and insert:

Section 2. *Section 1 of this act does not apply to rate cases that are pending on March 11, 1999.*

Section 3. Subsection (7) of section 367.021, Florida Statutes, is amended to read:

367.021 Definitions.—As used in this chapter, the following words or terms shall have the meanings indicated:

(7) "Governmental authority" means a political subdivision, as defined by s. 1.01(8), ~~or~~ a regional water supply authority created pursuant to s. 373.1962, *or a nonprofit corporation formed for the purpose of acting on behalf of a political subdivision with respect to a water or wastewater facility*.

Section 4. Section 367.022, Florida Statutes, is amended to read:

367.022 Exemptions.—The following are not subject to regulation by the commission as a utility nor are they subject to the provisions of this chapter, except as expressly provided:

(1) The sale, distribution, or furnishing of bottled water.~~;~~

(2) Systems owned, operated, managed, or controlled by governmental authorities, including *water or* wastewater facilities operated by private firms under *water or* wastewater facility privatization contracts as defined in s. 153.91, *and nonprofit corporations formed for the purpose of acting on behalf of a political subdivision with respect to a water or wastewater facility.*~~;~~

(3) Manufacturers providing service solely in connection with their operations.~~;~~

(4) Public lodging establishments providing service solely in connection with service to their guests.~~;~~

(5) Landlords providing service to their tenants without specific compensation for the service.~~;~~

(6) Systems with the capacity or proposed capacity to serve 100 or fewer persons.~~;~~

(7) Nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives.~~; and~~

(8) Any person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price *of the water or wastewater* ~~thereof, if such person files at least annually with the commission a list of charges and rates for all water service sold, the source and actual purchase price thereof, and any other information required by the commission to justify the exemption; but such person is subject to the provisions of s. 367.122~~.

(9) Wastewater treatment plants operated exclusively for disposing of industrial wastewater.

(10) The sale of bulk supplies of desalinated water to a governmental authority.

(11) Any person providing only nonpotable water for irrigation purposes in a geographic area where potable water service is available from a governmentally or privately owned utility or a private well.

(12) The sale for resale of bulk supplies of water *or the sale or resale of wastewater services* to a governmental authority or to a utility regulated pursuant to this chapter either by the commission or the county.

Section 5. Subsection (1) of section 367.071, Florida Statutes, is amended to read:

367.071 Sale, assignment, or transfer of certificate of authorization, facilities, or control.—

(1) No utility shall sell, assign, or transfer its certificate of authorization, facilities or any portion thereof, or majority organizational control without determination and approval of the commission that the proposed sale, assignment, or transfer is in the public interest and that the buyer, assignee, or transferee will fulfill the commitments, obligations, and representations of the utility. *However, a sale, assignment, or transfer of its certificate of authorization, facilities or any portion thereof, or majority organizational control may occur prior to commission approval if the contract for sale, assignment, or transfer is made contingent upon commission approval.*

Section 6. Section 367.0816, Florida Statutes, is amended to read:

367.0816 Recovery of rate case expenses.—The amount of rate case expense determined by the commission pursuant to the provisions of this chapter to be recovered through a public utilities rate shall be apportioned for recovery over a period of 4 years. ~~At the conclusion of the recovery period, the rate of the public utility shall be reduced immediately by the amount of rate case expense previously included in rates.~~

Section 7. Section 367.0814, Florida Statutes, is amended to read:

367.0814 Rates and charges; requests for staff assistance in changing.—

(1) The commission may establish rules by which a water or wastewater utility whose gross annual revenues are $150,000 or less may request and obtain staff assistance for the purpose of changing its rates and charges. A utility may request staff assistance by filing an application with the commission.

(2) The official date of filing is established as 30 days after official acceptance by the commission of the application. If a utility does not remit a fee, as provided by s. 367.145, within 30 days after acceptance, the commission may deny the application. The commission has 15 months after the official date of filing within which to issue a final order.

(3) The provisions of s. 367.081(1), (2)(a), and (3) shall apply in determining the utility's rates and charges.

(4) The commission may, upon its own motion, or upon petition from the regulated utility, authorize the collection of interim rates until the effective date of the final order. Such interim rates may be based upon a test period different from the test period used in the request for permanent rate relief. To establish interim relief, there must be a demonstration that the operation and maintenance expenses exceed the revenues of the regulated utility, and interim rates shall not exceed the level necessary to cover operation and maintenance expenses as defined by the Uniform System of Accounts for Class C Water and Wastewater Utilities (1996) of the National Association of Regulatory Utility Commissioners.

(5) The commission may require that the difference between the interim rates and the previously authorized rates be collected under bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by the commission.

(6)~~(4)~~ The utility, in requesting staff assistance, shall agree to accept the final rates and charges approved by the commission unless the final rates and charges produce less revenue than the existing rates and charges.

(7)~~(5)~~ In the event of a protest or appeal by a party other than the utility, the commission may provide for temporary rates subject to refund with interest.

(8)~~(6)~~ If a utility becomes exempt from commission regulation or jurisdiction during the pendency of a staff-assisted rate case, the request for rate relief is deemed to have been withdrawn. *Interim rates, if previously approved, shall become final.* Temporary rates, if previously approved, must be discontinued, and any money collected pursuant to the temporary rates, *or the difference between temporary and interim rates, if previously approved,* must be refunded to the customers of the utility with interest.

(9)~~(7)~~ The commission may by rule establish standards and procedures whereby rates and charges of small utilities may be set using criteria other than those set forth in s. 367.081(1), (2)(a), and (3).

Section 8. Subsection (7) of section 367.082, Florida Statutes, is amended to read:

367.082 Interim rates; procedure.—

(7) If a utility becomes exempt from commission regulation ~~or jurisdiction~~ during the pendency of a rate case, the request for rate relief pending before the commission is deemed to have been withdrawn. Interim rates, if previously approved, must be discontinued, and any money collected pursuant to interim rate relief must be refunded to the customers of the utility with interest.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 14, after the semicolon (;) insert: amending s. 367.021, F.S.; redefining the term "governmental authority"; amending s. 367.022, F.S.; eliminating the annual report requirement for exempt resellers; providing for an additional exemption; amending s. 367.071, F.S.; authorizing specified transactions before Public Service Commission approval; amending s. 367.0816, F.S.; removing provisions requiring rate-case expense reductions at the conclusion of the recovery period; amending 367.0814, F.S.; authorizing the commission to authorize the collection of interim rates under certain circumstances; providing criteria; authorizing the commission to require collection of certain rate differentials; providing for finalization of interim rates under certain circumstances; providing for refund of certain rate differentials under certain circumstances; amending s. 367.082, F.S.; clarifying a procedure relating to a withdrawal of a request for rate relief during the pendency of a rate case;

Senators Cowin, Kurth, Brown-Waite and Mitchell offered the following amendment which was moved by Senator Cowin and adopted:

Amendment 4 (135232)(with title amendment)—On page 3, between lines 19 and 20, insert:

Section 3. Present subsections (2), (3), (4), and (5) of section 367.091, Florida Statutes, are redesignated as subsections (3), (4), (5), and (6), respectively, and a new subsection (2) is added to that section, to read:

367.091 Rates, tariffs; new class of service.—

(2) Upon filing an application for new rates, the utility shall mail a copy of the application to the chief executive officer of the governing body of each county within the service areas included in the rate request. The governing body may petition the commission for leave to intervene in the rate change proceeding and the commission shall grant intervenor status to any governing body that files a petition.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 14, after the semicolon (;) insert: amending s. 367.091, F.S.; requiring utilities to notify local governing bodies of the filing of an application for rate change; requiring the Florida Public Service Commission to grant petitions to intervene which are filed by local governing bodies;

Senators Cowin, Kurth, Brown-Waite and Mitchell offered the following amendment which was moved by Senator Kurth and adopted:

Amendment 5 (361218)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *(1) In recognition of the fact that a portion of the state's population is served by investor-owned water and wastewater utilities, the Legislature finds that the need to encourage economic and prudent water resource planning by such utilities in a manner that is consistent with the state's environmental laws and in the long-term best interest of consumers should be subjected to a fact finding and review process. Therefore, the investor-owned water and wastewater utility study panel is established to analyze and determine the facts pertaining to:*

(a) The regulatory treatment of investor-owned water and wastewater utilities in the provision of utility infrastructure, including margin reserve.

(b) The cost and consistency of environmental law and policy with regulatory treatment of these utilities.

(c) The estimated potential rate impact of any recommended changes.

(2) The study panel shall be composed of 13 members as follows: one member of the Senate and one member of the House of Representatives, appointed by each respective house; one member of the Public Service Commission to be appointed by the Chair of the Public Service Commission; the Public Counsel or his or her designee; two representatives of the investor-owned water and wastewater utilities to be appointed by the Florida Waterworks Association; one representative of the American Association of Retired Persons to be appointed by the Governor; one representative from an investor-owned water and wastewater utility staff to be appointed by the Florida Waterworks Association; one representative from a Water Management District to be appointed by the Governor; one assistant Attorney General from The Special Projects Office who is familiar with water and wastewater issues to be appointed by the Attorney General; one representative from the Department of Environmental Protection to be appointed by the Secretary of that agency; one representative from a county that has assumed responsibility for regulating water and wastewater utilities under section 367.081, Florida Statutes, to be appointed by the President of the Senate; and one representative from a governmentally owned water and wastewater utility to be appointed by the Speaker of the House of Representatives.

(3) The study panel shall hold at least three public hearings, two of which shall be outside Tallahassee, and shall seek public comment and input. The members of the study panel are entitled to reimbursement for travel and per diem expenses incurred in the performance of their duties, as provided under section 112.061, Florida Statutes. The panel shall obtain staff assistance from the Policy and Industry Structure Bureau of the Public Service Commission. All costs of the panel, including expense reimbursement, shall be paid from the budget of the Public Service Commission.

(4) The study panel shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on its findings and any recommendations for proposed legislation no later than December 31, 1999.

Section 2. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to the Public Service Commission; providing for a study commission to review the need for rate adjustment legislation, to analyze the infrastructure and future growth needs of water and wastewater utilities, to review the economic impact to consumers of possible policy changes, and to recommend legislation; providing an effective date.

The vote was:

Yeas—21

Brown-Waite	Geller	Latvala	Sebesta
Campbell	Gutman	Meek	Silver
Cowin	Hargrett	Mitchell	Thomas
Dawson-White	Jones	Rossin	
Diaz-Balart	King	Saunders	
Forman	Kurth	Scott	

Nays—15

Madam President	Childers	Kirkpatrick	McKay
Bronson	Dyer	Klein	Myers
Burt	Grant	Laurent	Sullivan
Carlton	Horne	Lee	

On motion by Senator Bronson, further consideration of **CS for SB 1352** as amended was deferred.

CS for SB 90—A bill to be entitled An act relating to the Florida Safety Belt Law; amending s. 316.614, F.S.; providing restrictions on authority to search a motor vehicle, its contents, the driver, or a passenger based on a safety belt violation; deleting a provision that requires enforcement of the act only as a secondary action; providing an effective date.

—was read the second time by title.

Senator Grant moved that the rules be waived and **CS for SB 90** be read the third time by title. The motion failed to receive the required two-thirds vote. The vote was:

Yeas—21

Madam President	Dyer	Jones	Saunders
Brown-Waite	Forman	Klein	Sebesta
Burt	Geller	Kurth	Sullivan
Campbell	Grant	Meek	
Carlton	Gutman	Mitchell	
Dawson-White	Horne	Rossin	

Nays—18

Bronson	Diaz-Balart	Latvala	Silver
Casas	Hargrett	Laurent	Thomas
Childers	Holzendorf	Lee	Webster
Clary	King	Myers	
Cowin	Kirkpatrick	Scott	

Pursuant to Rule 4.19, **CS for SB 90** was placed on the calendar of Bills on Third Reading.

CS for SB 2296—A bill to be entitled An act relating to telecommunications services; amending s. 364.0252, F.S.; directing the Florida Public Service Commission to inform consumers about specific matters in the telecommunications services market; amending s. 364.24 F.S.; providing for telephonic customer account information; amending s. 364.508, F.S.; deleting certain definitions; amending s. 364.509, F.S.; specifying duties of the Department of Education relating to distance learning; amending s. 364.510, F.S.; creating the Florida Distance Learning Network Advisory Council in the Department of Education; providing for membership; specifying representation; providing for organization, procedures, and compensation of the council; providing responsibilities of the council; requiring the department to provide administrative and support services for the council; amending s. 364.514, F.S., to conform; repealing s. 364.506, F.S., relating to the short title to part II, ch. 364, F.S.; repealing s. 364.507, F.S., relating to legislative intent; repealing 364.511, F.S., relating to the powers of the board of directors of the Florida Distance Learning Network; repealing s. 364.512, F.S., relating to the executive director of the network; repealing s. 364.513, F.S., relating to the annual report and audits of the network; providing an appropriation; providing an effective date.

—was read the second time by title.

Senator Lee moved the following amendments which were adopted:

Amendment 1 (864386)(with title amendment)—On page 9, after line 31, insert:

Section 9. Section 364.025, Florida Statutes, 1998 Supplement, is amended to read:

364.025 Universal service.—

(1) For the purposes of this section, the term "universal service" means an evolving level of access to telecommunications services that, taking into account advances in technologies, services, and market demand for essential services, the commission determines should be provided at just, reasonable, and affordable rates to customers, including those in rural, economically disadvantaged, and high-cost areas. It is the intent of the Legislature that universal service objectives be maintained after the local exchange market is opened to competitively provided services. It is also the intent of the Legislature that during this transition period the ubiquitous nature of the local exchange telecommunications companies be used to satisfy these objectives. For a period of *6* **4** years after January 1, 1996, each local exchange telecommunications

company shall be required to furnish basic local exchange telecommunications service within a reasonable time period to any person requesting such service within the company's service territory.

(2) The Legislature finds that each telecommunications company should contribute its fair share to the support of the universal service objectives and carrier-of-last-resort obligations. For a transitional period not to exceed January 1, *2002* ~~2000~~, an interim mechanism for maintaining universal service objectives and funding carrier-of-last-resort obligations shall be established by the commission, pending the implementation of a permanent mechanism. The interim mechanism shall be applied in a manner that ensures that each alternative local exchange telecommunications company contributes its fair share to the support of universal service and carrier-of-last-resort obligations. The interim mechanism applied to each alternative local exchange telecommunications company shall reflect a fair share of the local exchange telecommunications company's recovery of investments made in fulfilling its carrier-of-last-resort obligations, and the maintenance of universal service objectives. The commission shall ensure that the interim mechanism does not impede the development of residential consumer choice or create an unreasonable barrier to competition. In reaching its determination, the commission shall not inquire into or consider any factor that is inconsistent with s. 364.051(1)(c). The costs and expenses of any government program or project required in part II of this chapter shall not be recovered under this section.

(3) In the event any party, prior to January 1, *2002* ~~2000~~, believes that circumstances have changed substantially to warrant a change in the interim mechanism, that party may petition the commission for a change, but the commission shall grant such petition only after an opportunity for a hearing and a compelling showing of changed circumstances, including that the provider's customer population includes as many residential as business customers. The commission shall act on any such petition within 120 days.

(4)(a) Prior to *January 1, 2002* ~~the expiration of this 4-year period~~, the Legislature shall establish a permanent universal service mechanism upon the effective date of which any interim recovery mechanism for universal service objectives or carrier-of-last-resort obligations imposed on alternative local exchange telecommunications companies shall terminate.

(b) To assist the Legislature in establishing a permanent universal service mechanism, the commission, by February 15, 1999, shall determine and report to the President of the Senate and the Speaker of the House of Representatives the total forward-looking cost, based upon the most recent commercially available technology and equipment and generally accepted design and placement principles, of providing basic local telecommunications service on a basis no greater than a wire center basis using a cost proxy model to be selected by the commission after notice and opportunity for hearing.

(c) In determining the cost of providing basic local telecommunications service for small local exchange telecommunications companies, which serve less than 100,000 access lines, the commission shall not be required to use the cost proxy model selected pursuant to paragraph (b) until a mechanism is implemented by the Federal Government for small companies, but no sooner than January 1, 2001. The commission shall calculate a small local exchange telecommunications company's cost of providing basic local telecommunications services based on one of the following options:

1. A different proxy model; or

2. A fully distributed allocation of embedded costs, identifying high-cost areas within the local exchange area the company serves and including all embedded investments and expenses incurred by the company in the provision of universal service. Such calculations may be made using fully distributed costs consistent with 47 C.F.R. ss. 32, 36, and 64. The geographic basis for the calculations shall be no smaller than a census block group.

(d) The commission, by February 15, 1999, shall determine and report to the President of the Senate and the Speaker of the House of Representatives the amount of support necessary to provide residential basic local telecommunications service to low-income customers. For purposes of this section, low-income customers are customers who qualify for Lifeline service as defined in s. 364.10(2).

(5) After January 1, *2002* ~~2000~~, an alternative local exchange telecommunications company may petition the commission to become the universal service provider and carrier of last resort in areas requested to be served by that alternative local exchange telecommunications company. Upon petition of an alternative local exchange telecommunications company, the commission shall have 120 days to vote on granting in whole or in part or denying the petition of the alternative local exchange company. The commission may establish the alternative local exchange telecommunications company as the universal service provider and carrier of last resort, provided that the commission first determines that the alternative local exchange telecommunications company will provide high-quality, reliable service. In the order establishing the alternative local exchange telecommunications company as the universal service provider and carrier of last resort, the commission shall set the period of time in which such company must meet those objectives and obligations and shall set up any mechanism needed to aid such company in carrying out these duties.

Section 10. Subsection (5) of section 364.052, Florida Statutes, is amended to read:

364.052 Regulatory methods for small local exchange telecommunications companies.—

(5) Any company subject to this section shall continue to function as the universal service provider and carrier of last resort in the territory in which such company was certificated to provide service on July 1, 1995; provided, however, that after January 1, *2002* ~~2001~~, such company shall only be required to act as the universal service provider and carrier of last resort if the commission finds that it is economically feasible for such company to remain the universal service provider and carrier of last resort. If the commission finds that it is not economically feasible for a small local exchange telecommunications company to remain the carrier of last resort, the commission shall establish a funding mechanism to permit such company to fulfill its obligations as the carrier of last resort.

Section 11. Subsections (2), (4), and (6) of section 364.051, Florida Statutes, 1998 Supplement, are amended to read:

364.051 Price regulation.—

(2) BASIC LOCAL TELECOMMUNICATIONS SERVICE.—Price regulation of basic local telecommunications service shall consist of the following:

(a) Effective January 1, 1996, the rates for basic local telecommunications service of each company subject to this section shall be capped at the rates in effect on July 1, 1995, and such rates shall not be increased prior to *the effective date of a permanent universal service funding mechanism established pursuant to s. 364.025* ~~January 1, 2000. However, the basic local telecommunications service rates of a local exchange telecommunications company with more than 3 million basic local telecommunications service access lines in service on July 1, 1995, shall not be increased prior to January 1, 2001~~.

(b) Upon the date of filing its election with the commission, the rates for basic local telecommunications service of a company that elects to become subject to this section shall be capped at the rates in effect on that date and shall remain capped as stated in paragraph (a).

(c) There shall be a flat-rate pricing option for basic local telecommunications services, and mandatory measured service for basic local telecommunications services shall not be imposed.

(4) In the event that it is determined that the level of competition justifies the elimination of price caps in an exchange served by a local exchange telecommunications company with less than 3 million basic local telecommunications service access lines in service, or *after the effective date of a permanent universal service funding mechanism established pursuant to s. 364.025* ~~at the end of 5 years~~ for any local exchange telecommunications company, the local exchange telecommunications company may thereafter on 30 days' notice adjust its basic service prices once in any 12-month period in an amount not to exceed the change in inflation less 1 percent. Inflation shall be measured by the changes in the Gross Domestic Product Fixed 1987 Weights Price Index, or successor fixed weight price index, published in the Survey of Current Business or a publication, by the United States Department of Commerce. In

the event any local exchange telecommunications company, after January 1, 2001, believes that the level of competition justifies the elimination of any form of price regulation the company may petition the Legislature.

(6) NONBASIC SERVICES.—Price regulation of nonbasic services shall consist of the following:

(a) Each company subject to this section shall maintain tariffs with the commission containing the terms, conditions, and rates for each of its nonbasic services, and may set or change, on 15 days' notice, the rate for each of its nonbasic services, except that a price increase for any nonbasic service category shall not exceed 6 percent within a 12-month period until there is another provider providing local telecommunications service in an exchange area at which time the price for any nonbasic service category may be increased in an amount not to exceed 20 percent within a 12-month period, and the rate shall be presumptively valid. However, for purposes of this subsection, the prices of:

1. A voice-grade, flat-rate, multi-line business local exchange service, including multiple individual lines, centrex lines, private branch exchange trunks, and any associated hunting services, that provides dial tone and local usage necessary to place a call within a local exchange calling area; and

2. Telecommunications services provided under contract service arrangements to the SUNCOM Network, as defined in chapter 282,

shall be capped at the rates in effect on July 1, 1995, and such rates shall not be increased prior to *the effective date of a permanent universal service funding mechanism established pursuant to s. 364.025* ~~January 1, 2000~~; provided, however, that a petition to increase such rates may be filed pursuant to subsection (5) utilizing the standards set forth therein. There shall be a flat-rate pricing option for multi-line business local exchange service, and mandatory measured service for multi-line business local exchange service shall not be imposed. Nothing contained in this section shall prevent the local exchange telecommunications company from meeting offerings by any competitive provider of the same, or functionally equivalent, nonbasic services in a specific geographic market or to a specific customer by deaveraging the price of any nonbasic service, packaging nonbasic services together or with basic services, using volume discounts and term discounts, and offering individual contracts. However, the local exchange telecommunications company shall not engage in any anticompetitive act or practice, nor unreasonably discriminate among similarly situated customers.

(b) The commission shall have continuing regulatory oversight of nonbasic services for purposes of ensuring resolution of service complaints, preventing cross-subsidization of nonbasic services with revenues from basic services, and ensuring that all providers are treated fairly in the telecommunications market. The cost standard for determining cross-subsidization is whether the total revenue from a nonbasic service is less than the total long-run incremental cost of the service. Total long-run incremental cost means service-specific volume and non-volume-sensitive costs.

(c) The price charged to a consumer for a nonbasic service shall cover the direct costs of providing the service and shall, to the extent a cost is not included in the direct cost, include as an imputed cost the price charged by the company to competitors for any monopoly component used by a competitor in the provision of its same or functionally equivalent service.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 1, after the semicolon (;) insert: amending s. 364.025, F.S.; extending the interim mechanism for maintaining universal service objectives and funding carrier-of-last-resort obligations until a specified date; amending s. 364.052, F.S.; extending carrier-of-last-resort obligations for small local exchange telecommunications companies until a specified date; amending s. 364.051, F.S.; extending price caps on certain telecommunications services;

Amendment 2 (310446)(with title amendment)—On page 9, after line 31, insert:

Section 9. *(1) There is created the Information Service Technology Development Task Force which shall be located within the Department of Management Services for the purpose of developing policies that will benefit residents of this state by fostering the free-market development and beneficial use of advanced communications networks and information technologies within this state. The task force shall be composed of 34 members as follows:*

(a) The Attorney General, the executive director of the Florida Department of Law Enforcement, the Chancellor of the State University System, the Commissioner of Education, the executive director of the State Board of Community Colleges, the director of the Office of Tourism, Trade, and Economic Development, the executive director of the Department of Revenue, a representative of the Florida Council of American Electronics Association, a representative of the Florida Internet Providers Association, a representative of the United States Internet Council, the chair of the State Technology Council, and the secretary of the Department of Management Services.

(b) The President of the Senate shall appoint one member from each of the following categories: a facilities-based interexchange telecommunications company, a wireless telecommunications company, an alternative local exchange telecommunications company, an internet service provider with more than one million customers, the entertainment industry, a computer or telecommunications manufacturing company, and one member of the Florida Senate.

(c) The Speaker of the House of Representatives shall appoint one member from each of the following categories: a cable television provider, a computer software company, the banking industry, an internet search engine company, a local exchange telecommunications company, the tourist industry, and one member of the House of Representatives.

(d) The Governor shall name the chair, and appoint members as follows: one college student who relies on the Internet for personal or academic use, a representative of a local government that is an alternative local exchange telecommunications company or an Internet service provider, and four members as determined by the Governor to appropriately represent technology providers, manufacturers, retailers, and users.

(e) The minority leader of the House of Representatives shall appoint one member of the House of Representatives.

(f) The minority leader of the Senate shall appoint one member of the Senate.

(2) The task force shall exist for 2 years and shall meet at least four times per year. Failure of a member to participate in three consecutive meetings shall result in the member's replacement by the Governor. The task force is encouraged to implement electronic bulletin boards and other means for the exchange of ideas throughout the year.

(3) The task force shall develop overarching principles to guide state policy decisions with respect to the free-market development and beneficial use of advanced communications networks and information technologies, identify factors that will affect whether these technologies will flourish in Florida, and develop policy recommendations for each factor.

(4) By February 14 of calendar years 2000 and 2001, the task force shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives outlining principles, policy recommendations, and any suggested legislation. The task force may develop and publish other documents throughout the year.

(5) The State Technology Office within the Department of Management Services shall provide support staff for the task force and promote public awareness of the development of principles and policy recommendations by the task force. The State University System shall assist the task force as necessary.

(6) The task force shall dissolve effective July 1, 2001.

Section 10. *Effective July 1, 1999, the sum of $375,100 is appropriated from the General Revenue Fund to the State Technology Office in the Department of Management Services and four positions are created in the department for the purpose of carrying out section 12 of this act.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 1, after the semicolon (;) insert: establishing a task force in the Department of Management Services; providing for repre-

sentation; providing responsibilities; providing for meetings of the task force; providing for support staff for the task force; requiring reports; providing for the dissolution of the task force; providing an appropriation;

Amendment 3 (601216)(with title amendment)—On page 9, after line 31, insert:

Section 9. Subsection (10) is added to section 337.401, Florida Statutes, 1998 Supplement, to read:

337.401 Use of right-of-way for utilities subject to regulation; permit; fees.—

(10) This section, except subsections (1), (2), and (6), does not apply to the provision of pay telephone service on public or municipal roads or rights-of-way.

And the title is amended as follows:

On page 2, line 1, after the semicolon (;) insert: amending s. 337.401, F.S.; specifying that specified provisions do not apply to the provision of pay telephone service on public or municipal roads or rights-of-way;

On motion by Senator Lee, by two-thirds vote **CS for SB 2296** as amended was read the third time by title, 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	Lee	Thomas
Casas	Gutman	Meek	Webster
Childers	Hargrett	Mitchell	
Clary	Holzendorf	Myers	

Nays—None

LOCAL BILL CALENDAR

MOTION

On motion by Senator Myers, by two-thirds vote **HB 2251** was withdrawn from the Committee on Rules and Calendar and by two-thirds vote placed on the Local Bill Calendar.

HB 1017—A bill to be entitled An act relating to Bay County; creating the City of Southport; fixing boundaries; providing for a city commission, qualifications and terms of office, vacancies, compensation, charter officers, mayor and vice mayor, a city manager, a city attorney, and a city clerk; providing for elections; providing for municipal services; providing for charter amendment, review, and referendum; providing for severability; providing for transition; providing an effective date.

—was read the second time by title. On motion by Senator Childers, by two-thirds vote **HB 1017** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 1029—A bill to be entitled An act relating to the City of Jacksonville Beach, Duval County; amending chapter 27643, Laws of Florida, 1951, as amended, relating to the employees' retirement system of the City of Jacksonville Beach; providing authority for the municipality to amend the retirement system by local ordinance; providing an effective date.

—was read the second time by title. On motion by Senator King, by two-thirds vote **HB 1029** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

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.

—was read the second time by title. On motion by Senator King, by two-thirds vote **HB 1103** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 1105—A bill to be entitled An act relating to the Anastasia Mosquito Control District, St. Johns County; codifying the District's charter; eliminating obsolete provisions pertaining to the appointment and election of the initial board of commissioners; providing for formation of District; providing District boundaries; eliminating the requirement that members of the board be freeholders; eliminating the requirement for petitions by candidates for the office of commissioner; providing that the terms of office of the commissioners shall be staggered; amending the voting requirements for the board of commissioners; providing for the election of commissioners and operation of the district in accordance with chapter 388, Florida Statutes (1997), as the same may be amended from time to time; amending the provisions on expense reimbursement for commissioners; requiring an election for a change in boundaries of the district; repealing chapter 61-2745, Laws of Florida, chapter 73-609, Laws of Florida, chapter 73-611, Laws of Florida, and chapter 80-597, Laws of Florida; providing an effective date.

—was read the second time by title. On motion by Senator King, by two-thirds vote **HB 1105** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 1115—A bill to be entitled An act relating to the North Naples Fire Control and Rescue District, Collier County; providing for codification of special laws regarding special districts; providing that the district is an independent special district; providing legislative intent; codifying and reenacting provisions of chapter 84-416, Laws of Florida, as amended; providing for applicability of chapters 191 and 189, F.S., and other general laws; providing a district charter; providing that this act shall take precedence over any conflicting law to the extent of such conflict; providing severability; repealing all prior special acts related to the North Naples Fire Control and Rescue District; providing an effective date.

—was read the second time by title. On motion by Senator Saunders, by two-thirds vote **HB 1115** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 1139—A bill to be entitled An act relating to Pinellas County; amending Article VI of the Home Rule Charter for Pinellas County, as created by chapter 80-590, Laws of Florida; adding s. 6.04 to provide that any charter amendment proposed by the Pinellas County Commission pursuant to s. 6.01, by citizens' initiative under s. 6.02, or by a Charter Review Commission pursuant to s. 6.03 shall be placed on the ballot for voter approval or rejection in accordance with the requirements of the Charter and without necessity of prior reference to or approval by the Legislature; providing for a special referendum; providing a ballot question; providing an effective date.

—was read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 1139** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 1421—A bill to be entitled An act relating to Orange County; providing for codification of special laws regarding special districts pursuant to chapter 97-255, Laws of Florida, relating to the Ranger Drainage District, a special tax district in Orange County; providing legislative intent; codifying and reenacting chapter 97-355, Laws of Florida; providing district status and boundaries; ratifying, restating and approving district formation; providing additional powers; providing for applicability of chapters 298 and 189, Florida Statutes, and other general laws; providing a district charter; providing for liberal construction; providing a saving clause in the event any provision of the act is deemed invalid; repealing chapters; providing an effective date.

—was read the second time by title. On motion by Senator Webster, by two-thirds vote **HB 1421** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 1423—A bill to be entitled An act relating to the Lake Apopka Natural Gas District as created in portions of Orange and Lake Counties; codifying the district's charter, chapter 59-556, Laws of Florida, 1959, as amended; providing that chapter 59-556, Laws of Florida, 1959, and chapter 74-553, Laws of Florida, 1974, be codified, reenacted, amended, and repealed by this act; providing for a codified charter consolidating all special acts pertaining to Lake Apopka Natural Gas District into a single act and the re-creation of Lake Apopka Natural Gas District, an independent special district, for the purposes of acquiring,

constructing, owning, operating, managing, maintaining, extending, improving, and financing one or more gas distribution systems, or one or more gas transmission systems, or gas transmission and distribution systems, for the use and benefit of its member municipalities of Apopka, Winter Garden, and Clermont, and for the benefit of the public and other users of gas in the district including such other municipalities to which the district may sell gas; authorizing counties, municipalities, and districts to enter into franchise agreements with the district; providing for a board of commissioners, and the governing body of the district to exercise the powers of the district and direct its affairs; providing officers for the district, authorizing the district to issue and sell revenue bonds payable solely from the revenues of its gas system or systems; authorizing and providing for the judicial validation of such bonds; providing for the adoption of resolutions or the execution and delivery by the district of other instruments of security for the benefit of the holders of such bonds; providing for the remedies and rights available to the holders of the bonds or certificates; prohibiting the district from any exercise of the power of taxation; providing that the bonds of the district and the interest thereon shall be tax exempt; providing that the resolutions, deeds, trust indentures and other instruments of, by, or to the district shall be tax exempt; providing for the use and utilization and distribution of the revenues of the gas systems of the district, regulating the use of the proceeds from the sale of any such bonds or proceeds from the sale of any such bonds or certificates, making such bonds or certificates legal investments for banks, trust companies, fiduciaries and public agencies and bodies; providing for the use of the public roads by the district; providing a covenant by the State of Florida not to alter the provisions of the act to the detriment of the holders of bonds or certificates of the district and making provisions with respect to the acquisition, construction, maintenance, operation, financing and refinancing of the gas system or systems by the district; authorizing the district to issue and sell refunding bonds, and providing for the collection of the fees, rentals or other charges for the services of the gas system; authorizing the district to require customers, as a condition of receiving goods and services from the district, to make a cash deposit to assure payment for charges made by the district for such goods and services and to accept surety bonds, letters of credit, and other forms of financial guaranty in lieu of such cash deposits; to provide that the contracts and obligations heretofore entered into or incurred and the actions heretofore taken by Lake Apopka Natural Gas District shall not be impaired or otherwise affected by this re-enactment and codification of its enabling legislation; providing an effective date.

—was read the second time by title. On motion by Senator Webster, by two-thirds vote **HB 1423** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 1425—A bill to be entitled An act relating to the Greater Orlando Aviation Authority; amending sections 3 and 11 of chapter 98-492, Laws of Florida, as amended, the Greater Orlando Aviation Authority charter; revising a reference to the Greater Orlando Aviation Authority as an independent special district; revising a reference to the issuance of revenue bonds by the authority, to correct a scrivener's error; providing an effective date.

—was read the second time by title. On motion by Senator Webster, by two-thirds vote **HB 1425** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

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.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote **HB 1471** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 1499—A bill to be entitled An act relating to the Jacksonville Electric Authority; amending chapter 92-341, Laws of Florida, being the Charter of the City of Jacksonville; authorizing the JEA to assess civil penalties of at least $2,000 per violation for violations of the Industrial Pretreatment Program under the Clean Water Act that each day of an ongoing or continuing violation shall be deemed to be a separate violation; providing for a hearing; providing an effective date.

—was read the second time by title. On motion by Senator Holzendorf, by two-thirds vote **HB 1499** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Clary	Gutman	Kurth
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	Kirkpatrick	Myers
Childers	Grant	Klein	Rossin

Saunders	Sebesta	Sullivan	Webster
Scott	Silver	Thomas	

Nays—None

Vote after roll call:

Yea—Latvala

HB 1511—A bill to be entitled An act relating to Joshua Water Control District, a special tax district in DeSoto County, Florida; providing for codification of special acts relating to Joshua Water Control District; providing legislative intent, and codifying and reenacting provisions of chapter 69-1010, Laws of Florida; chapter 79-448, Laws of Florida; chapter 82-287, Laws of Florida; and chapter 90-497, Laws of Florida; providing for applicability of chapter 298, Florida Statutes, and other general laws; providing a district charter; providing for repeal of prior special acts related to the Joshua Water Control District; providing for an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 1511** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 1543—A bill to be entitled An act relating to the City of Pensacola; repealing chapter 18777, Laws of Florida, 1937; chapter 21485, Laws of Florida, 1941; chapter 24804, Laws of Florida, 1947; chapter 27815, Laws of Florida, 1951; chapter 67-1899, Laws of Florida; and chapter 70-890, Laws of Florida, relating to the authority of said city to levy a tax for publicity purposes and providing the manner in which the proceeds for such tax should be expended; providing for repeal of conflicting laws; providing an effective date.

—was read the second time by title. On motion by Senator Childers, by two-thirds vote **HB 1543** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 1551—A bill to be entitled An act relating to the City of Pensacola; repealing chapter 69-1469, Laws of Florida, as amended by chapters 70-886, 83-499, 90-471, and 91-367, Laws of Florida, relating to the authority of the Boards of Trustees of the Firemen's Relief and Pension Fund, the General Pension and Retirement Fund, and the Police Officers' Retirement Fund to invest and reinvest assets of said funds; providing for repeal of conflicting laws; providing an effective date.

—was read the second time by title. On motion by Senator Childers, by two-thirds vote **HB 1551** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 1555—A bill to be entitled An act relating to the Firemen's Relief and Pension Fund of the City of Pensacola, Escambia County, Florida; amending chapter 21483, Laws of Florida, 1941, as amended; amending provisions describing sources of revenue; revising provisions relating to retirement benefits; providing for optional participation in a deferred retirement option program; coordinating retirement benefits with workers' compensation benefits; amending chapter 74-576, Laws of Florida, as amended, relating to cost-of-living benefits; providing for repeal of conflicting laws; providing an effective date.

—was read the second time by title. On motion by Senator Childers, by two-thirds vote **HB 1555** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 1583—A bill to be entitled An act relating to Indian Trail Improvement District, Palm Beach County; amending chapter 57-646, Laws of Florida, as amended; providing for alternate methods of amending water control plans in addition to the provisions of chapter 298, Florida Statutes; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote **HB 1583** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Brown-Waite	Campbell	Casas
Bronson	Burt	Carlton	Childers

Clary	Gutman	Kurth	Saunders
Cowin	Hargrett	Laurent	Scott
Dawson-White	Holzendorf	Lee	Sebesta
Diaz-Balart	Horne	McKay	Silver
Dyer	Jones	Meek	Sullivan
Forman	King	Mitchell	Thomas
Geller	Kirkpatrick	Myers	Webster
Grant	Klein	Rossin	

Nays—None

Vote after roll call:

Yea—Latvala

HB 1589—A bill to be entitled An act relating to the General Pension and Retirement Fund of the City of Pensacola, Escambia County; repealing and replacing chapter 61-2655, Laws of Florida, as amended; creating, establishing, and reinstating a pension fund providing for retirement, disability, death, and survivor benefits for the general employees of the City of Pensacola; providing definitions; providing for contributions to the fund by employees of the City of Pensacola; providing for investment of funds held in such retirement fund; providing that this act shall not affect present pensioners; providing for severability; repealing chapter 20061, Laws of Florida, 1939; chapter 27816, Laws of Florida, 1951; chapter 29409, Laws of Florida, 1953; chapter 29410, Laws of Florida, 1953; chapter 61-2655, Laws of Florida, and laws or parts of laws in conflict; providing an effective date.

—was read the second time by title. On motion by Senator Childers, by two-thirds vote **HB 1589** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 1599—A bill to be entitled An act relating to Union County; amending chapter 63-1499, Laws of Florida, as amended, relating to the charter of the City of Lake Butler; replacing the city council with a city commission; revising terminology to conform; deleting obsolete language regarding annexation, revising provisions relating to the authority of the city to regulate the speed of vehicles, to fix and revise refuse disposal fees to control nuisances, to license, control, tax, and regulate traffic and use of streets, to direct the clearing and filling of lands, and to regulate railroads; deleting obsolete language regarding the taxation of municipally owned facilities and the authority of the city to prohibit or license and regulate liquor, causes of action against the city and notice of intention to sue; revising provisions relating to the suspension and discharge of city officers and the establishment and appointment of officers of the city; authorizing the provision of services through interlocal agreements or contracts; revising the powers and duties of the city commission; revising the powers and duties of the mayor; replacing the term "mayor pro tem" with "vice mayor"; revising provisions relating to voting by commissioners at a commission meeting; revising provisions relating to qualifications of candidates for the office of city commissioner; deleting the form of oath; removing a cross reference from provisions relating to absentee voting; revising qualifications of electors; deleting language regarding working upon the street as penalty; revising provisions relating to the adoption of ordinances; clarifying that the city clerk serves under the city commission; eliminating specific requirements relating to law enforcement; authorizing law enforcement activities as determined by ordinance; revising requirements relating to deposits and expenditures of city funds; repealing section 16, relating to notice of intention to sue the city, section 39, relating to recall elections, section 40, relating to sufficiency of petition, section 41, relating to calling election, section 42, relating to election, section 43, relating to ballots, section 44, relating to filling of vacancies, section 45, relating to candidates in recall election, section 46, relating to effect of resignation, section 47, relating to preservation of records and provisions supplemental to general law, section 48, relating to offenses relating to petitions, section 57, relating to the creation and jurisdiction of the municipal court, section 58, relating to the seal of the municipal court, section 59, relating to procedure in municipal court, section 60, relating to powers of the municipal court, section 61, relating to the clerk and deputy clerk of the municipal court, section 62, relating to the duties of the clerk of the municipal court, section 63, relating to powers of the clerk of the municipal court, section 64, relating to the certification of court records, section 65, relating to the chief of police, section 66, relating to the authority of a judge to issue search warrants, section 67, relating to affidavits for search warrants, section 68, relating to issuance and execution of search warrants, section 69, relating to return of search warrants, section 70, relating to information required to be included on search warrants, section 71, relating to appeals, section 73, relating to the duties and authority of the chief of police, section 74, relating to powers and authority of the chief of police and deputies, section 77, relating to the regulation of food and all other commodities, section 80, relating to the segregation of races, section 81, relating to refusal of service to certain persons, section 82, relating to posting of notices regarding refusal of service, section 83, relating to annual estimates of expenditures and revenues, section 84, relating to the city budget, section 86, relating to the assessment of property for taxation, section 87, relating to the assessment of taxable property, section 88, relating to the assessment of property of public service corporations, section 89, relating to omitted lands, section 90, relating to equalization of assessments by the city council, section 91, relating to notice to owners regarding increases or corrections, section 92, relating to the rate of taxation, section 93, relating to the assessment roll and the form of warrants, section 94, relating to the collection of taxes, section 95, relating to taxes on property constituting a lien on such property, section 96, relating to the collection of personal property taxes, section 97, relating to the collection of delinquent taxes, section 98, relating to installment payments of taxes and assessments, section 99, relating to the sale of property for delinquent taxes, section 100, relating to the report of tax sales and the issuance of tax deeds, section 101, relating to city purchase of property at tax sales, section 102, relating to the title of lands purchased by the city at any tax sale, section 103, relating to the validity of assessments, section 104, relating to the maximum tax levy on property, and section 140, relating to changes and amendments to zoning regulations and districts; providing an effective date.

—was read the second time by title. On motion by Senator Mitchell, by two-thirds vote **HB 1599** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 1601—A bill to be entitled An act relating to the Okaloosa County Ocean City-Wright Fire Control District; repealing chapter 78-570, Laws of Florida, as amended; providing for the creation and boundaries of the Ocean City-Wright Fire Control District; providing for the election of district board of commissioners; providing for terms of office; providing for officers and meetings of such boards; providing for commissioners' compensation and expenses; requiring a bond; providing general and special powers of districts; exempting district assets and property from taxation; providing requirements and procedures for the levy of ad valorem taxes, non-ad valorem taxes, assessments, user charges, and impact fees; providing for referenda; providing for enforcement; providing for requirements and procedures for issuance of bonds; providing for referenda; providing for creation, expansion, and merger of the district boundaries; providing for use of funds; providing for severability; providing for an effective date.

—was read the second time by title. On motion by Senator Clary, by two-thirds vote **HB 1601** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 1603—A bill to be entitled An act relating to the Florosa Fire Control District, Okaloosa County; repealing chapter 74-543, Laws of Florida, as amended; providing for the creation and boundaries of the Florosa Fire Control District; providing the intent and purposes of this act; providing definitions; providing for the election of a district board of commissioners; providing for terms of office; providing for officers and meetings of the board; providing for commissioners' compensation and expenses; requiring a bond; providing general and special powers of the district; exempting district assets and property from taxation; providing requirements and procedures for the levy of ad valorem taxes, non-ad valorem taxes, assessments, user charges, and impact fees; providing for referenda; providing for enforcement; providing for requirements and procedures for issuance of bonds; providing for referenda; providing for expansion and merger of the district boundaries; providing for severability; providing an effective date.

—was read the second time by title.

Senator Clary moved the following amendment which was adopted:

Amendment 1 (693610)—On page 24, line 28, delete "*84-448*" and insert: *84-488*

On motion by Senator Clary, by two-thirds vote **HB 1603** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Clary	Gutman	Kurth
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	Kirkpatrick	Myers
Childers	Grant	Klein	Rossin
Saunders	Sebesta	Sullivan	Webster
Scott	Silver	Thomas	

Nays—None

Vote after roll call:

Yea—Latvala

HB 1609—A bill to be entitled An act relating to the Zellwood Drainage and Water Control District; providing definitions; providing for dissolution of said district upon the acquisition of lands by the St. Johns River Water Management District; providing for allocation of assets and liabilities of the Zellwood Drainage and Water Control District if dissolution occurs; ratifying any existing interlocal agreement between the St. Johns River Water Management District and the Zellwood Drainage and Water Control District; providing resolution in the event of statutory conflict; providing an effective date.

—was read the second time by title. On motion by Senator Webster, by two-thirds vote **HB 1609** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 1611—A bill to be entitled An act relating to the Orange County School District; requiring the School Board of Orange County to submit to the electors of the county school district at a specified referendum the question of whether the district school board shall consist of seven members, each to be elected from a single-member residence area by electors residing in that residence area only; requiring the district school board to provide for the orderly transition to such election of district school board members, if approved, as the terms of incumbent district school board members expire, beginning with a specified general election; providing an effective date.

—was read the second time by title. On motion by Senator Dyer, by two-thirds vote **HB 1611** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 1613—A bill to be entitled An act relating to Orange County; creating and establishing an independent special district in said county to be known as the West Orange Airport Authority; providing definitions; providing boundaries of said district; providing for the governmental body of said district and membership thereof, conferring upon said district the authority to acquire, finance, and operate an airport or airports, an industrial park and commercial park, and such industry, commerce, and business necessary and incidental thereto, within the boundaries of said district; authorizing said district to issue revenue bonds or other obligations to finance the various projects that the district is authorized to undertake; providing for the payment of the expenses of the district out of the revenues generated by the operations of authority projects and such other revenues as may be made available by law; authorizing said district to contract with governmental agencies; providing that the district shall have power to enter into contracts, leases, mortgages, and other agreements and to exercise all incidental powers necessary to carry out the purposes of this act, including the creation of certain special districts; providing for financial reports and budget procedure; providing said district shall not be required to pay taxes or assessments on its property except as may be required by the Florida Constitution; authorizing the creation of such development districts as may be appropriate and authorized by law to support the commercial development of the airport and the service area to the authority; providing for severability; providing an effective date.

—was read the second time by title.

Senator Dyer moved the following amendments which were adopted:

Amendment 1 (102418)—On page 4, delete lines 18-27 and insert: *Garden, and three (3) by the Governor. Four members shall be appointed for an intial term of 2 years and five members shall be appointed for an initial term of 4 years. Thereafter, all successive appointments shall be made for 4-year terms. The cities' initial appointments shall be for 2-year terms; the Orange County Board of County Commissioners' initial appointments shall be for 4-year terms, and one of the Governor's initial appointments shall be for a 2-year term and two of the Governor's intial appointments shall be for 4-year terms. All terms of*

Amendment 2 (215862)(with title amendment)—On page 15, delete lines 9-20 and insert: *will constitute the performance of essential public functions.*

And the title is amended as follows:

On page 1, line 30 through page 2, line 2, delete those lines and insert: procedure; authorizing the creation

On motion by Senator Dyer, by two-thirds vote **HB 1613** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 1623—A bill to be entitled An act relating to the City of West Palm Beach, Palm Beach County; amending chapter 24981, Laws of Florida, as amended, relating to the West Palm Beach Police Pension Fund; revising the definition of actuarial equivalent value, actuarial equivalence, and single sum value; amending provisions for supplemental pension distributions; revising provisions of the deferred retirement option plan; providing additional exclusion from disability pensions; revising provisions for fund investments; revising provisions of lump-sum payment of small retirement income; providing for rollovers from qualified plans; providing for retroactive effect; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote **HB 1623** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 1695—A bill to be entitled An act relating to Orange County; providing for codification of special laws regarding special districts pursuant to chapter 97-255, Laws of Florida, relating to the Orange County Library District, an independent special tax district in Orange County; codifying and reenacting chapter 80-555, Laws of Florida, as amended by chapters 81-450 and 91-372, Laws of Florida; providing legislative findings and intent; ratifying and confirming the creation and establishment of the Orange County Library District; clarifying powers regarding debt secured by non-ad valorem revenues; ratifying the appointments and terms of existing members of the Orange County Library Board of Trustees; deleting obsolete provisions; repealing chapter 80-555, Laws of Florida, and chapters 81-450 and 91-372, Laws of Florida; providing an effective date.

—was read the second time by title. On motion by Senator Dyer, by two-thirds vote **HB 1695** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 2167—A bill to be entitled An act relating to Collier County; amending s. 3, chapter 89-449, Laws of Florida; providing an exception to specified offenses committed within the boundaries of any county park, county operated parking facilities, public beaches, beach access areas adjacent to any county park, and public areas immediately adjacent to county parks; prohibiting the carrying, possession, or consumption of alcoholic beverages in any park building or other structure; providing an exception; providing an effective date.

—was read the second time by title.

Senator Saunders moved the following amendment which was adopted:

Amendment 1 (462444)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsection (2) of section 3 of chapter 89-449, Laws of Florida, as amended by chapters 97-347 and 98-483, Laws of Florida, is amended to read:

Section 3. Powers and duties.—

(2) It shall be the duty of any person designated as a county park enforcement officer (park ranger) to issue citations for any offenses which occur within a county park boundary, public beaches, county operated parking facilities, and public areas immediately adjacent to county parks, and which are either prohibited by ordinance enacted by the Board of County Commissioners of Collier County or are specifically prohibited by this section. *Except at such times and in such manner as then not prohibited by law and to the extent expressly authorized in advance and in writing by permit issued by the director of the department in strict adherence with policy rules of the department approved by resolution of the Board of County Commissioners,* it shall be such an offense to:

(a) Willfully mark, deface, disfigure, injure, tamper with, or displace or remove any building, bridge, table, bench, fireplace, railing, paving, or paving material, water line or other public utility or parts appurtenant thereof, signs, notices or placard whether temporary or permanent, monuments, stakes, posts, or other boundary markers or other structures or equipment, facilities, or *any other county* ~~park~~ property or any appurtenances whatsoever, either real or personal.

(b) Cut, break, mutilate, injure, disturb, sever from the ground or remove any growing thing, including, but not limited to, any plant, flower, flower bed, shrub, tree, growth or any branch, item, fruit or leaf thereof; or bring into or have in his possession in any county park any tool or instrument which could be used for the cutting thereof, or any garden or agricultural implements or tools which could be used for the removal thereof; or pile or maintain any material or debris of any kind against or upon the same or attach any rope, cable or other contrivance thereto; or set fire to any trees, shrubs, plants, flowers, grass, plant growth or living timber, or suffer any fire upon land to extend into park lands; or go upon any prohibited lawn, grass plot or planted area~~, except at such times and in such manner as the director of the parks and recreation department may designate~~.

(c) Throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay, or other body of water in or adjacent to any county park or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.

(d) Carry, possess, or drink any alcoholic *beverage* ~~liquor~~ in any park *or in any park building or other park structure except as authorized for wedding receptions and other special events.*

(e) Enter or exit any park facility except at established entrance ways or exits, or at established times.

(f) Attach any posters, ~~or directional~~ signs, *or advertisements* to trees *or any other tangible property except bulletin boards and other displays designed for such postings.*

(g) Cause or permit a dog or other domestic animal to enter any park facility except ~~for~~ animal shows and other substantially similar special events ~~as then authorized by rules of the department that have been approved by the board of county commissioners~~.

(h) Build fires except in specified areas in county parks on cooking grills provided therein, except bonfires directly related to special events ~~may be authorized by the director of the department on a case-by-case basis as then authorized by rules of the department approved by the board of county commissioners~~.

(i) Drive any unauthorized vehicle on any area within the park except the paved park roads or parking areas; or park *any* ~~an authorized~~ vehicle in other than an established or designated parking area; or park any unauthorized vehicle in the county park area overnight.

(j) Ride a bicycle on other than a paved vehicular road or path designated for that purpose; leave a bicycle in a place other than a bicycle rack when such is provided, or leave a bicycle lying on the ground or paving or any place or position so as to present any obstruction to pedestrian or vehicular traffic.

(k) Violate any rule for the use of the park which has been posted on any park sign in a particular park pursuant to approval by the board of county commissioners including rules and regulations posted on the grounds or buildings in said parks.

(l) Possess, carry, or transport ~~on or about their person~~ any glass *bottle or* container *out of doors* in any county park.

~~(m) Injure, kill, molest, collect, possess, or cause direct or indirect injury to any species of sea turtle, gopher tortoises, live sand dollars, shorebirds, birds of prey, live shells, and live sea stars or to interfere, destroy, or tamper in any way with the nesting of the sea turtle, birds of prey, gopher tortoises, or shorebirds.~~

(m)~~(n)~~ Operate or cause to be operated a hand, animal, motor, or engine driven wheel, track or other vehicle or implement on, over or across any part of the sand dune, hill or ridge nearest the Gulf of Mexico, or the vegetation growing thereon or seaward thereof, or to operate or drive such a vehicle on the area seaward thereof, commonly referred to as the beach.

(n) Injure, kill, molest, interfere or tamper with, destroy, collect, carry, transport, possess, or otherwise cause any physical harm to any living turtle, tortoise, shorebird, bird of prey, sand dollar, shellfish, sea star, or any nesting of any such living thing except to the extent expressly authorized by permit issued by the State of Florida or an agency thereof.

Section 2. 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 Collier County; amending s. 3, chapter 89-449, Laws of Florida, as amended; prohibiting specified conduct on park property; authorizing the Director of the Collier County Parks and Recreation Department to grant written permit exceptions to specific prohibitions, which may include consumption of alcoholic beverages for wedding receptions and other special events; providing that the authority delegated to the director must be exercised in strict adherence to park policy rules approved by resolution of the board of county commissioners; providing an effective date.

On motion by Senator Saunders, by two-thirds vote **HB 2167** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

HB 2251—A bill to be entitled An act relating to Bradford County; repealing, pursuant to s. 189.4044, F.S., chapter 73-408, Laws of Florida, as amended, which creates the Bradford County Historical Board of Trustees; providing an effective date.

—was read the second time by title. On motion by Senator Mitchell, by two-thirds vote **HB 2251** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Latvala

On motion by Senator Saunders, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed SB 756, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 756—A bill to be entitled An act relating to elections; amending s. 230.10, F.S.; providing for the election of school board members in a nonpartisan election; amending s. 105.031, F.S.; providing for qualifying for nonpartisan office; directing filing fees for nonpartisan candidates to the Elections Commission Trust Fund; amending s. 105.035, F.S.; providing an alternative method of qualifying for nonpartisan candidates; eliminating the requirement for an undue burden oath; amending s. 105.041, F.S.; revising ballots for nonpartisan candidates; amending s. 105.051, F.S.; providing for determination of election for nonpartisan candidates; amending s. 105.061, F.S.; providing for the electors that are eligible to vote for nonpartisan candidates; amending s. 105.08, F.S.; providing for reporting of contributions and expenditures for nonpartisan candidates; amending ss. 99.061, 101.141, 101.151, 101.251, 230.061, 230.105, F.S.; conforming provisions; repealing s. 230.08, F.S., relating to nomination of candidates for school board; amending s. 228.053, F.S.; correcting a cross-reference; providing an effective date.

House Amendment 1 (901935)(with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Section 230.10, Florida Statutes, is amended to read:

230.10 Election of board by districtwide vote.—The election of members of the school board shall be by vote of the qualified electors of the entire district *in a nonpartisan election*. Each candidate for school board member shall, at the time she or he qualifies, be a resident of the school board member residence area from which the candidate seeks election. Each candidate who qualifies to have her or his name placed on the ballot ~~of the general election~~ shall be listed according to the school board member residence area in which she or he resides. Each qualified elector of the district shall be entitled to vote for one candidate from each school board member residence area. The candidate from each school board member residence area who receives the highest number of votes in the general election shall be elected to the school board.

Section 2. Section 105.031, Florida Statutes, is amended to read:

105.031 Qualification; filing fee; candidate's oath; items required to be filed.—

(1) TIME OF QUALIFYING.—*Except for candidates for judicial office, nonpartisan candidates for multicounty office shall qualify with the Division of Elections of the Department of State and nonpartisan candidates for countywide or less than countywide office shall qualify with the supervisor of elections.* Candidates for judicial office other than the office of county court judge shall qualify with the Division of Elections of the Department of State, and candidates for the office of county court judge shall qualify with the supervisor of elections of the county.~~,~~ *Candidates shall qualify* no earlier than noon of the 50th day, and no later than noon of the 46th day, before the first primary election. Filing shall be on forms provided for that purpose by the Division of Elections and furnished by the appropriate qualifying officer. Any person seeking to qualify ~~as a candidate for circuit judge or county court judge~~ by the alternative method, *as set forth in s. 105.035,* if the person has submitted the necessary petitions by the required deadline and is notified after the fifth day prior to the last day for qualifying that the required number of signatures has been obtained, shall be entitled to subscribe to the candidate's oath and file the qualifying papers at any time within 5 days from the date he or she is notified that the necessary number of signatures has been obtained. Any person other than a write-in candidate who qualifies within the time prescribed in this subsection shall be entitled to have his or her name printed on the ballot.

(2) FILING IN GROUPS *OR DISTRICTS*.—Candidates shall qualify in groups *or districts* where multiple ~~judicial~~ offices are to be filled.

(3) QUALIFYING FEE.—Each candidate qualifying for election to *a* judicial office *or the office of school board member,* except write-in judicial candidates, shall, during the time for qualifying, pay to the officer with whom he or she qualifies a qualifying fee, which shall consist of a filing fee and an election assessment, or qualify by the alternative method. The amount of the filing fee is 3 percent of the annual salary of the office sought. The amount of the election assessment is 1 percent of the annual salary of the office sought. The *Department of State* ~~qualifying officer~~ shall forward all filing fees to the Department of Revenue for deposit in the *Elections Commission Trust* ~~General Revenue~~ Fund. *The supervisor of elections shall forward all filing fees to the Elections Commission Trust Fund.* The election assessment shall be deposited into the Elections Commission Trust Fund. The annual salary of the office for purposes of computing the qualifying fee shall be computed by multiplying 12 times the monthly salary authorized for such office as of July 1 immediately preceding the first day of qualifying. This subsection shall not apply to candidates qualifying for retention to judicial office.

(4) CANDIDATE'S OATH.—

(a) All candidates for the office of school board member shall subscribe to the oath as prescribed in s. 99.021.

(b) All candidates for judicial office shall subscribe to an oath or affirmation in writing to be filed with the appropriate qualifying officer upon qualifying. A printed copy of the oath or affirmation shall be furnished to the candidate by the qualifying officer and shall be in substantially the following form:

State of Florida
County of . . . .

Before me, an officer authorized to administer oaths, personally appeared (please print name as you wish it to appear on the ballot), to me well known, who, being sworn, says he or she: is a candidate for the judicial office of . . . .; that his or her legal residence is . . . . County, Florida; that he or she is a qualified elector of the state and of the territorial jurisdiction of the court to which he or she seeks election; that he or she is qualified under the constitution and laws of Florida to hold the judicial office to which he or she desires to be elected or in which he or she desires to be retained; that he or she has taken the oath required by ss. 876.05-876.10, Florida Statutes; that he or she has qualified for no other public office in the state, the term of which office or any part thereof runs concurrent to the office he or she seeks; and that he or she has resigned from any office which he or she is required to resign pursuant to s. 99.012, Florida Statutes.

(Signature of candidate)
(Address)

Sworn to and subscribed before me this . . . . day of . . . . , 19. . . . , at . . . . County, Florida.

(Signature and title of officer administering oath)

(5) ITEMS REQUIRED TO BE FILED.—

(a) In order for a candidate for judicial office *or the office of school board member* to be qualified, the following items must be received by the filing officer by the end of the qualifying period:

1. *Except for candidates for retention to judicial office* ~~For each candidate qualifying for the office of circuit judge or county court judge~~, a properly executed check drawn upon the candidate's campaign account in an amount not less than the fee required by subsection (3) or, in lieu thereof, the copy of the notice of obtaining ballot position pursuant to s. 105.035. If a candidate's check is returned by the bank for any reason, the filing officer shall immediately notify the candidate and the candidate shall, the end of qualifying notwithstanding, have 48 hours from the time such notification is received, excluding Saturdays, Sundays, and legal holidays, to pay the fee with a cashier's check purchased from funds of the campaign account. Failure to pay the fee as provided in this subparagraph shall disqualify the candidate.

2. The candidate's oath required by subsection (4), which must contain the name of the candidate as it is to appear on the ballot; the office sought, including the district or group number if applicable; and the signature of the candidate, duly acknowledged.

3. The loyalty oath required by s. 876.05, signed by the candidate and duly acknowledged.

4. The completed form for the appointment of campaign treasurer and designation of campaign depository, as required by s. 106.021. *In addition, each candidate for judicial office, including an incumbent judge, shall file a statement with the qualifying officer, within 10 days after filing the appointment of campaign treasurer and designation of campaign depository, stating that the candidate has read and understands the requirements of the Florida Code of Judicial Conduct. Such statement shall be in substantially the following form:*

Statement of Candidate for Judicial Office

I, ___(name of candidate)___ *, a judicial candidate, have received, read, and understand the requirements of the Florida Code of Judicial Conduct.*

___(Signature of candidate)___

___(Date)___

5. The full and public disclosure of financial interests required by s. 8, Art. II of the State Constitution *or the statement of financial interests required by s. 112.3145, whichever is applicable.*

(b) If the filing officer receives qualifying papers that do not include all items as required by paragraph (a) prior to the last day of qualifying, the filing officer shall make a reasonable effort to notify the candidate of the missing or incomplete items and shall inform the candidate that all required items must be received by the close of qualifying. A candidate's name as it is to appear on the ballot may not be changed after the end of qualifying.

Section 3. Section 105.035, Florida Statutes, is amended to read:

105.035 Alternative method of qualifying for certain judicial offices *and the office of school board member*.—

(1) A person seeking to qualify for election to the office of circuit judge or county court judge *or the office of school board member* ~~who is unable to pay the qualifying fee without imposing an undue burden on his or her personal resources or on resources otherwise available to him or her~~ may qualify for election to such office by means of the petitioning process prescribed in this section. *A person qualifying by this alternative method shall not be required to pay the qualifying fee required by this chapter.* A person using this petitioning process shall file an oath with the officer before whom the candidate would qualify for the office stating that he or she intends to qualify *by this alternative method* for the office sought ~~and stating that he or she is unable to pay the qualifying fee for the office without imposing an undue burden on his or her resources or on resources otherwise available to him or her~~. Such oath shall be filed at any time after the first Tuesday after the first Monday in January of the year in which the election is held, but prior to the 21st day preceding the first day of the qualifying period for the office sought. The form of such oath shall be prescribed by the Division of Elections. No signatures shall be obtained until the person has filed the oath prescribed in this subsection.

(2) Upon receipt of a written oath from a candidate, the qualifying officer shall provide the candidate with *a* petition *format* ~~forms in sufficient numbers to facilitate the gathering of signatures pursuant to this section. No signature shall be counted toward the number of signatures required unless it is on a petition form prescribed pursuant to this subsection. Such forms shall be~~ prescribed by the Division of Elections *to be used by the candidate to reproduce petitions for circulation*. If the candidate is running for an office which will be grouped on the ballot with two or more similar offices to be filled at the same election, the candidate's petition must indicate, prior to the obtaining of registered electors' signatures, for which group *or district office* the candidate is running.

(3) *Each* ~~A~~ candidate for *election to a judicial office or the office of school board member* ~~the office of circuit judge~~ shall obtain the signature of a number of qualified electors equal to at least 3 percent of the total number of registered electors of the *district, circuit, county, or other geographic entity represented by the office sought* ~~judicial circuit~~ as shown by the compilation by the Department of State for the last preceding general election. ~~A candidate for the office of county court judge shall obtain the signatures of a number of qualified electors equal to at least 3 percent of the total number of registered electors of the county, as shown by the compilation by the Department of State for the last preceding general election.~~ A separate petition shall be circulated for each candidate availing himself or herself of the provisions of this section.

(4)(a) Each candidate seeking to qualify for election to the office of circuit judge *or the office of school board member from a multicounty school district* pursuant to this section shall file a separate petition from each county from which signatures are sought. Each petition shall be submitted, prior to noon of the 21st day preceding the first day of the qualifying period for the office sought, to the supervisor of elections of the county for which such petition was circulated. Each supervisor of elections to whom a petition is submitted shall check the signatures on the petition to verify their status as electors of that county *and of the geographic area represented by the office sought* ~~within the judicial circuit~~. Prior to the first date for qualifying, the supervisor shall certify the number shown as registered electors ~~of that county within the circuit~~ and submit such certification to the Division of Elections. The division shall determine whether the required number of signatures has been obtained for the name of the candidate to be placed on the ballot and shall notify the candidate. If the required number of signatures has been obtained, the candidate shall, during the time prescribed for qualifying for office, submit a copy of such notice and file his or her qualifying papers and oath prescribed in s. 105.031 with the Division of Elections. Upon receipt of the copy of such notice and qualifying papers, the division shall certify the name of the candidate to the appropriate supervisor or supervisors of elections as having qualified for the office sought.

(b) Each candidate seeking to qualify for election to the office of county court judge *or the office of school board member from a single county school district* pursuant to this section shall submit his or her petition, prior to noon of the 21st day preceding the first day of the qualifying period for the office sought, to the supervisor of elections of the county for which such petition was circulated. The supervisor shall check the signatures on the petition to verify their status as electors of the county *and of the geographic area represented by the office sought*. Prior to the first date for qualifying, the supervisor shall determine whether the required number of signatures has been obtained for the name of the candidate to be placed on the ballot and shall notify the candidate. If the required number of signatures has been obtained, the candidate shall, during the time prescribed for qualifying for office, submit a copy of such notice and file his or her qualifying papers and oath prescribed in s. 105.031 with the *qualifying officer* ~~supervisor of elections~~. Upon receipt of the copy of such notice and qualifying papers ~~by the supervisor of elections~~, such candidate shall be entitled to have his or her name printed on the ballot.

Section 4. Section 105.041, Florida Statutes, is amended to read:

105.041 Form of ballot.—

(1) BALLOTS.—The names of candidates for judicial office *and candidates for the office of school board member* which appear on the ballot at the first primary election shall either be grouped together on a separate portion of the ballot or on a separate ballot. The names of candidates for judicial office *and candidates for the office of school board member* which appear on the ballot at the general election and the names of justices and judges seeking retention to office shall be grouped together on a separate portion of the general election ballot.

(2) LISTING OF CANDIDATES.—*The order of nonpartisan offices appearing on the ballot shall be determined by the Department of State.* The names of ~~all~~ candidates for *each nonpartisan* ~~the~~ office ~~of circuit~~

~~judge or the office of county court judge~~ shall be listed in alphabetical order. With respect to justices and judges of district courts of appeal, the question "Shall Justice (or Judge) (name of justice or judge) of the (name of the court) be retained in office?" shall appear on the ballot and thereafter the words "Yes" and "No."

(3) REFERENCE TO PARTY AFFILIATION PROHIBITED.—No reference to political party affiliation shall appear on any ballot with respect to any nonpartisan ~~judicial~~ office or candidate.

(4) WRITE-IN CANDIDATES.—Space shall be made available on the general election ballot for an elector to write in the name of a write-in candidate for judge of a circuit court or county court *or member of a school board* if a candidate has qualified as a write-in candidate for such office pursuant to s. 105.031. *This subsection shall not apply to the offices of justices and judges seeking retention.*

Section 5. Section 105.051, Florida Statutes, is amended to read:

105.051 Determination of election to *judicial* office.—

(1)(a) The name of an unopposed candidate for the office of circuit judge or county court judge shall not appear on any ballot, and such candidate shall be deemed to have voted for himself or herself at the general election.

(b) If two or more candidates, neither of whom is a write-in candidate, qualify for such an office, the names of those candidates shall be placed on the ballot at the first primary election. If any candidate for such office receives a majority of the votes cast for such office in the first primary election, the name of the candidate who receives such majority shall not appear on any other ballot unless a write-in candidate has qualified for such office. An unopposed candidate shall be deemed to have voted for himself or herself at the general election. If no candidate for such office receives a majority of the votes cast for such office in the first primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot. If more than two candidates receive an equal and highest number of votes, the name of each candidate receiving an equal and highest number of votes shall be placed on the general election ballot. In any contest in which there is a tie for second place and the candidate placing first did not receive a majority of the votes cast for such office, the name of the candidate placing first and the name of each candidate tying for second shall be placed on the general election ballot.

(c) The candidate who receives the highest number of votes cast for the office in the general election shall be elected to such office. If the vote at the general election results in a tie, the outcome shall be determined by lot.

(2) With respect to any justice of the Supreme Court or judge of a district court of appeal who qualifies to run for retention in office, the question prescribed in s. 105.041(2) shall be placed on the ballot at the general election. If a majority of the qualified electors voting on such question within the territorial jurisdiction of the court vote for retention, the justice or judge shall be retained for a term of 6 years commencing on the first Tuesday after the first Monday in January following the general election. If less than a majority of the qualified electors voting on such question within the territorial jurisdiction of the court vote for retention, a vacancy shall exist in such office upon the expiration of the term being served by the justice or judge.

Section 6. Section 105.055, Florida Statutes, is created to read:

105.055 Determination of election to the office of school board member.—

(1) The name of an unopposed candidate for the office of school board member shall not appear on any ballot, and such candidate shall be deemed to have voted for himself or herself at the general election.

(2) If only two candidates, neither of whom is a write-in candidate, qualify for such an office, the names of those candidates shall be placed on the general election ballot.

(3) If more than two candidates, none of whom is a write-in candidate, qualify for such an office, the names of those candidates shall be placed on the ballot at the first primary election. The names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot. If more than two candidates receive an equal and highest number of votes, the name of each candidate receiving an equal and highest number of votes shall be placed on the ballot at the second primary election. The names of the two candidates receiving the highest number of votes for such office at the second primary election shall be placed on the general election ballot. In any contest in which there is a tie for second place, the name of the candidate placing first shall be placed on the general election ballot and the name of each candidate tying for second place shall be placed on the ballot at the second primary election, and the candidate who receives the highest number of votes cast for such office at the second primary election shall have his or her name placed on the general election ballot.

(4) The candidate who receives the highest number of votes cast for the office in the general election shall be elected to such office. If the vote at the general election results in a tie, the outcome shall be determined by lot.

Section 7. Section 105.061, Florida Statutes, is amended to read:

105.061 Electors qualified to vote.—

(1) Each qualified elector of the territorial jurisdiction of a court shall be eligible to vote for a candidate for each judicial office of such court or, in the case of a justice of the Supreme Court or a judge of a district court of appeal, for or against retention of such justice or judge.

(2) The election of members of a school board shall be by vote of the qualified electors as prescribed in chapter 230.

Section 8. Section 105.071, Florida Statutes, is amended to read:

105.071 Candidates for judicial office; limitations on political activity.—A candidate for judicial office shall not:

(1) Participate in any partisan political party activities, except that such candidate may register to vote as a member of any political party and may vote in any party primary for candidates for nomination of the party in which she or he is registered to vote.

(2) Campaign as a member of any political party.

(3) Publicly represent or advertise herself or himself as a member of any political party.

(4) Endorse any candidate.

(5) Make political speeches other than in the candidate's own behalf.

(6) Make contributions to political party funds.

(7) Accept contributions from any political party.

(8) Solicit contributions for any political party.

(9) Accept or retain a place on any political party committee.

(10) Make any contribution to any person, group, or organization for its endorsement to judicial office.

(11) Agree to pay all or any part of any advertisement sponsored by any person, group, or organization wherein the candidate may be endorsed for judicial office by any such person, group, or organization.

A candidate for judicial office or retention therein who violates the provisions of this section is *liable for a civil fine of up to $1,000 to be determined by the Florida Elections Commission* ~~guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083~~.

Section 9. Section 105.08, Florida Statutes, is amended to read:

105.08 Campaign contribution and expense; reporting.—

(1) A candidate for judicial office *or the office of school board member* may accept contributions and may incur only such expenses as are authorized by law. Each such candidate shall keep an accurate record of his or her contributions and expenses, and shall file reports *pursuant to chapter 106* ~~thereof on the same basis as is required of a candidate for a nonjudicial state office~~.

(2) Notwithstanding any other provision of this chapter or chapter 106, a candidate for retention as a justice of the Supreme Court or a judge of a district court of appeal who has not received any contribution or made any expenditure may file a sworn statement at the time of qualifying that he or she does not anticipate receiving contributions or making expenditures in connection with the candidacy for retention to office. Such candidate shall file a final report pursuant to s. 106.141, within 90 days following the general election for which the candidate's name appeared on the ballot for retention. Any such candidate for retention to judicial office who, after filing a statement pursuant to this subsection, receives any contribution or makes any expenditure in connection with the candidacy for retention shall immediately file a statement to that effect with the qualifying officer and shall begin filing reports as an opposed candidate pursuant to s. 106.07.

Section 10. Subsection (1) of section 99.061, Florida Statutes, is amended to read:

99.061 Method of qualifying for nomination or election to federal, state, county, or district office.—

(1) The provisions of any special act to the contrary notwithstanding, each person seeking to qualify for nomination or election to a federal, state, or multicounty district office, other than *election to* a judicial office as defined in chapter 105 *or the office of school board member*, shall file his or her qualification papers with, and pay the qualifying fee, which shall consist of the filing fee and election assessment, and party assessment, if any has been levied, to, the Department of State, or qualify by the alternative method with the Department of State, at any time after noon of the 1st day for qualifying, which shall be as follows: the 120th day prior to the first primary, but not later than noon of the 116th day prior to the date of the first primary, for persons seeking to qualify for nomination or election to federal office; and noon of the 50th day prior to the first primary, but not later than noon of the 46th day prior to the date of the first primary, for persons seeking to qualify for nomination or election to a state or multicounty district office. However, the qualifying fee, if any, paid by an independent candidate or a minor party candidate shall be refunded to such candidate by the qualifying officer within 10 days from the date that the determination is made that such candidate or minor party failed to obtain the required number of signatures.

Section 11. Subsection (4) of section 101.141, Florida Statutes, is amended to read:

101.141 Specifications for primary election ballot.—In counties in which voting machines are not used, and in other counties for use as absentee ballots not designed for tabulation by an electronic or electromechanical voting system, the primary election ballot shall conform to the following specifications:

(4) The ballot shall have the headings, under which appear the names of the offices and the candidates for the respective offices alphabetically arranged as to surnames, in the following order: the heading "Congressional" and thereunder the offices of United States Senator and Representative in Congress; the heading "State" and thereunder the offices of Governor and Lieutenant Governor, Secretary of State, Attorney General, Comptroller, Treasurer, Commissioner of Education, Commissioner of Agriculture, state attorney, and public defender; the heading "Legislative" and thereunder the offices of state senator and state representative; the heading "County" and thereunder clerk of the circuit court, clerk of the county court (when authorized by law), sheriff, property appraiser, tax collector, district superintendent of schools, and supervisor of elections. Thereafter follows: members of the board of county commissioners, ~~members of the district school board,~~ and such other county and district offices as are involved in the primary election, in the order fixed by the Department of State, followed, in the years of their election, by "Party offices," and thereunder the offices of state and county party executive committee members. Immediately following the name of each office on the ballot shall be printed, "Vote for One." When more than one candidate is to be nominated for office, the candidates for such office shall qualify and run in a group or district. The group or district number shall be printed beneath the name of the office. The names of candidates in the respective group or district shall be arranged thereunder in alphabetical order as to surnames, and following the group or district number there shall be printed the words, "Vote for One." The name of the office shall be printed over each numbered group or district and each numbered group or district shall be clearly separated from the next numbered group or district, the same as in the case of single offices. When two or more candidates running for the same office have the same or similar surname and one candidate is currently holding that office, the word "Incumbent" shall be printed next to the incumbent's name. If in any primary election all the offices as above set forth are not involved, those offices to be filled shall be arranged on the ballot in the order named.

Section 12. Paragraph (a) of subsection (3) of section 101.151, Florida Statutes, is amended to read:

101.151 Specifications for general election ballot.—In counties in which voting machines are not used, and in other counties for use as absentee ballots not designed for tabulation by an electronic or electromechanical voting system, the general election ballot shall conform to the following specifications:

(3)(a) Beneath the caption and preceding the names of candidates shall be the following words: "To vote for a candidate whose name is printed on the ballot, place a cross (X) mark in the blank space at the right of the name of the candidate for whom you desire to vote. To vote for a write-in candidate, write the name of the candidate in the blank space provided for that purpose." The ballot shall have headings under which shall appear the names of the offices and names of duly nominated candidates for the respective offices in the following order: the heading "Electors for President and Vice President" and thereunder the names of the candidates for President and Vice President of the United States nominated by the political party which received the highest vote for Governor in the last general election of the Governor in this state, above which shall appear the name of said party. Then shall appear the names of other candidates for President and Vice President of the United States who have been properly nominated. Votes cast for write-in candidates for President and Vice President shall be counted as votes cast for the presidential electors supporting such candidates. Then shall follow the heading "Congressional" and thereunder the offices of United States Senator and Representative in Congress; then the heading "State" and thereunder the offices of Governor and Lieutenant Governor, Secretary of State, Attorney General, Comptroller, Treasurer, Commissioner of Education, Commissioner of Agriculture, state attorney, and public defender, together with the names of the candidates for each office and the title of the office which they seek; then the heading "Legislative" and thereunder the offices of state senator and state representative; then the heading "County" and thereunder clerk of the circuit court, clerk of the county court (when authorized by law), sheriff, property appraiser, tax collector, district superintendent of schools, and supervisor of elections. Thereafter follows: members of the board of county commissioners, ~~members of the district school board,~~ and such other county offices as are involved in the general election, in the order fixed by the Department of State. When a write-in candidate has qualified for any office, a subheading "Write-in Candidate for __(name of office)__ " shall be provided followed by a blank space in which to write the name of the candidate. With respect to write-in candidates, if two or more candidates are seeking election to one office, only one blank space shall be provided.

Section 13. Subsection (2) of section 101.251, Florida Statutes, is amended to read

101.251 Information which supervisor of elections must print on ballots.—

(2) In addition to the names printed on the ballot as provided in subsection (1), the supervisor of elections of each county shall have printed on the general election ballot to be used in the county the names of the *nonpartisan candidates* ~~judicial officers, as defined in chapter 105,~~ who are entitled to have their names printed on the ballot, and minor party and independent candidates who have obtained a position on the general election ballot in compliance with the requirements of this code.

Section 14. Subsection (1) of section 230.061, Florida Statutes, is amended to read:

230.061 School board member residence areas.—

(1) For the purpose of ~~nominating and~~ electing school board members, each district shall be divided into at least five district school board member residence areas, which shall be numbered one to five, inclusive, and which shall, as nearly as practicable, be equal in population.

(a) For those school districts, which have seven school board members, the district may be divided into five district school board member

residence areas, with two school board members elected at large, or the district may be divided into seven district school board member residence areas. In the latter case, the residence areas shall be numbered one to seven inclusive and shall be equal in population as nearly as practicable.

(b) For those school districts which have seven school board members, the number of district school board member residence areas shall be determined by resolution passed by a majority vote of the district school board. No district school board shall be required to change the boundaries of the district school board member residence areas in accordance with the provisions of this act prior to July 1, 1981.

Section 15. Subsection (2) of section 230.105, Florida Statutes, is amended to read:

230.105 Alternate procedure for the election of district school board members to provide for single-member representation.—

(2) District school board members shall be ~~nominated and~~ elected to office in accordance with the provisions of ss. 230.061 and 230.10, or as otherwise provided by law, unless a proposition calling for single-member representation within the residence areas of the district is submitted to and approved by a majority of the qualified electors voting on such proposition in the manner provided in subsection (3).

(a) If the school board is composed of five members, such proposition shall provide that the five members shall reside one in each of five residence areas, the areas together covering the entire district and as nearly equal in population as practicable, pursuant to s. 230.061, each of whom shall be ~~nominated and~~ elected only by the qualified electors who reside in the same residence area as the member.

(b) If the school board is composed of seven members, at the option of the school board, such proposition shall provide that:

1. Five of the seven members shall reside one in each of five residence areas, the areas together covering the entire district and as nearly equal in population as practicable, pursuant to s. 230.061, each of whom shall be ~~nominated and~~ elected only by the qualified electors who reside in the same residence area as the member, and two of the seven members shall be ~~nominated and~~ elected at large; or

2. All seven members shall reside one in each of seven residence areas, the areas together covering the entire district and as nearly equal in population as practicable, pursuant to s. 230.061, each of whom shall be ~~nominated and~~ elected only by the qualified electors who reside in the same residence area as the member.

(c) All members shall be elected for 4-year terms, but such terms shall be staggered so that, alternately, one more or one less than half of the members elected from residence areas and, if applicable, one of the members elected at large from the entire district are elected every 2 years. Any member may be elected to an initial term of less than 4 years if necessary to achieve or maintain such system of staggered terms.

Section 16. *Section 230.08, Florida Statutes, is repealed.*

Section 17. Paragraph (a) of subsection (12) of section 228.053, Florida Statutes, is amended to read:

228.053 Developmental research schools.—

(12) EXCEPTIONS TO LAW.—To encourage innovative practices and facilitate the mission of the developmental research schools, in addition to the exceptions to law specified in s. 229.592(6), the following exceptions shall be permitted for developmental research schools:

(a) The methods and requirements of the following statutes shall be held in abeyance: ss. 230.01; 230.02; 230.03; 230.04; 230.05; 230.061; ~~230.08;~~ 230.10; 230.105; 230.11; 230.12; 230.15; 230.16; 230.17; 230.173; 230.18; 230.19; 230.201; 230.202; 230.21; 230.22; 230.2215; 230.2318; 230.232; 230.24; 230.241; 230.26; 230.28; 230.30; 230.303; 230.31; 230.32; 230.321; 230.33; 230.35; 230.39; 230.63; 230.64; 230.643; 234.01; 234.021; 234.112; 236.25; 236.261; 236.29; 236.31; 236.32; 236.35; 236.36; 236.37; 236.38; 236.39; 236.40; 236.41; 236.42; 236.43; 236.44; 236.45; 236.46; 236.47; 236.48; 236.49; 236.50; 236.51; 236.52; 236.55; 236.56; 237.051; 237.071; 237.091; 237.201; 237.40; and 316.75. With the exception of subsection (16) of s. 230.23, s. 230.23 shall be held in abeyance. Reference to school boards in s. 230.23(16) shall mean the president of the university or the president's designee.

Notwithstanding the request provisions of s. 229.592(6), developmental research schools shall request all waivers through the Joint Developmental Research School Planning, Articulation, and Evaluation Committee, as established in s. 228.054. The committee shall approve or disapprove said requests pursuant to this subsection and s. 229.592(6); however, the Commissioner of Education shall have standing to challenge any decision of the committee should it adversely affect the health, safety, welfare, or civil rights of the students or public interest. The department shall immediately notify the committee and developmental research school of the decision and provide a rationale therefor.

Section 18. This act shall take effect January 1, 2000.

And the title is amended as follows:

On page 1, beginning on line 2 through line 26 remove from the title of the bill: all of said lines and insert in lieu thereof: An act relating to elections; amending s. 230.10, F.S.; providing for the election of school board members in a nonpartisan election; amending s. 105.031, F.S.; providing requirements for qualifying for nonpartisan office; requiring a statement of judicial candidates relating to the Code of Judicial Conduct; amending s. 105.035, F.S.; providing an alternative method of qualifying for nonpartisan school board candidates; eliminating the requirement for an undue burden oath; amending s. 105.041, F.S.; revising ballot requirements for nonpartisan candidates; amending s. 105.051, F.S., relating to determination of election to judicial office; creating s. 105.055, F.S.; providing for determination of election to the office of school board member; amending s. 105.061, F.S.; specifying the electors who are eligible to vote for nonpartisan school board candidates; amending s. 105.071, F.S., relating to limitations on political activity by candidates for judicial office; revising penalties; amending s. 105.08, F.S.; providing for reporting of contributions and expenditures for nonpartisan school board candidates; amending ss. 99.061, 101.141, 101.151, 101.251, 230.061, and 230.105, F.S., to conform; repealing s. 230.08, F.S., relating to nomination of candidates for the office of school board member; amending s. 228.053, F.S.; correcting a cross reference; providing an effective date.

Senator Saunders moved the following amendments which were adopted:

Senate Amendment 1 (581766) to House Amendment 1—On page 1, delete lines 19-22 and insert:

230.10 Election of board by districtwide vote.—*Notwithstanding any provision of local law or any county charter,* the election of members of the school board shall be by vote of the qualified electors of the entire district *in a nonpartisan election as provided in chapter 105.* Each candidate for school board member shall, at

Senate Amendment 2 (694460) to House Amendment 1 (with title amendment)—On page 11, line 9 through page 13, line 28, delete those lines and insert:

Section 5. Section 105.051, Florida Statutes, is amended to read:

105.051 Determination of election to office.—

(1)(a) The name of an unopposed candidate for the office of circuit judge, ~~or~~ county court judge *or member of a school board* shall not appear on any ballot, and such candidate shall be deemed to have voted for himself or herself at the general election.

(b) If two or more candidates, neither of whom is a write-in candidate, qualify for such an office, the names of those candidates shall be placed on the ballot at the first primary election. If any candidate for such office receives a majority of the votes cast for such office in the first primary election, the name of the candidate who receives such majority shall not appear on any other ballot unless a write-in candidate has qualified for such office. An unopposed candidate shall be deemed to have voted for himself or herself at the general election. If no candidate for such office receives a majority of the votes cast for such office in the first primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot. If more than two candidates receive an equal and highest number of votes, the name of each candidate receiving an equal and highest number of votes shall be placed on the general election ballot.

In any contest in which there is a tie for second place and the candidate placing first did not receive a majority of the votes cast for such office, the name of the candidate placing first and the name of each candidate tying for second shall be placed on the general election ballot.

(c) The candidate who receives the highest number of votes cast for the office in the general election shall be elected to such office. If the vote at the general election results in a tie, the outcome shall be determined by lot.

(2) With respect to any justice of the Supreme Court or judge of a district court of appeal who qualifies to run for retention in office, the question prescribed in s. 105.041(2) shall be placed on the ballot at the general election. If a majority of the qualified electors voting on such question within the territorial jurisdiction of the court vote for retention, the justice or judge shall be retained for a term of 6 years commencing on the first Tuesday after the first Monday in January following the general election. If less than a majority of the qualified electors voting on such question within the territorial jurisdiction of the court vote for retention, a vacancy shall exist in such office upon the expiration of the term being served by the justice or judge.

And the title is amended as follows:

On page 24, line 30 through page 25, line 2, delete those lines and insert: determination of election to nonpartisan office; amending s. 105.061, F.S.;

On motion by Senator Saunders, the Senate concurred in **House Amendment 1** as amended and requested the House to concur in the Senate amendments to the House amendment.

SB 756 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 82, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 82—A bill to be entitled An act relating to road and bridge designation; codesignating a portion of State Road 54 in Pasco County as the "State Trooper James Crooks Highway"; directing the Department of Transportation to erect suitable signs; designating the Florida Highway Patrol substation on State Road 52 in Land O'Lakes as the "State Trooper James Crooks Substation"; directing the Department of Highway Safety to erect suitable markers; directing the Department of Transportation to erect two additional markers for the "Purple Heart Highway" on State Road 54; designating a portion of Southwest 87th Avenue from Coral Way to Bird Road in Miami-Dade County as the "Saint Marcellin Champagnat Way"; directing the Department of Transportation to erect suitable markers; designating a portion of Highway 20 lying west of the Apalachicola River Bridge in Calhoun County to the Bay County line on the west as the "Fuller Warren Parkway"; directing the Department of Transportation to erect suitable markers; designating a portion of U.S. Highway 98 in Franklin County as the "Camp Gordon Johnston Memorial Highway"; directing the Department of Transportation to erect suitable markers; designating a specified bridge in Fort Lauderdale the "E. Clay Shaw, Jr., Bridge"; designating a specified portion of highway in Fort Lauderdale the "Commodore Brook Memorial Causeway"; directing the Department of Transportation to erect suitable markers; designating a portion of U.S. Highway 90 in Jefferson and Leon counties as a part of the "Florida Arts Trail"; directing the Department of Transportation to erect suitable signs; designating a portion of State Road 9 from NW 58th Street in Dade County to the Broward County line as the "Carrie P. Meek Boulevard"; directing the Department of Transportation to erect suitable markers; naming the Destin Bridge at East Pass the "William T. Marler Bridge"; directing the Department of Transportation to erect suitable markers; designating U.S. Highway 27 as the "Claude Pepper Memorial Highway"; directing the Department of Transportation to erect suitable markers; designating a portion of Biscayne Boulevard as the "Jorge Mas Canosa Boulevard"; directing the Department of Transportation to erect suitable markers; designating a portion of SW 1st Street in Dade County the "Armando Perez 'Yambo' Boulevard"; directing the Department of Transportation to erect suitable markers; providing an effective date.

House Amendment 1 (120061)(with title amendment)—On page 4, lines 19-24, remove from the bill: all of said lines and insert in lieu thereof:

Section 7. *(1) Northwest 27th Avenue from Northwest 54th Street to County Line Road (Miami-Dade/Broward County) is designated as the "Carrie P. Meek Boulevard."*

(2) The Department of Transportation is directed to erect suitable markers designating the "Carrie P. Meek Boulevard" as described in subsection (1).

And the title is amended as follows:

On page 2, lines 7-9, remove from the title of the bill: all of said lines and insert in lieu thereof: signs; designating Northwest 27th Avenue from 54th Street to County Line Road as the "Carrie P. Meek

House Amendment 2 (884555)(with title amendment)—On page 5, between lines 17 and 18, of the bill insert:

Section 12. *Charles B. Costar, Sr., Turnpike Plaza designation; markers.—*

(1) The Palm Beach Plaza on the Florida Turnpike in Palm Beach County is hereby designated as the "Charles B. Costar, Sr., Turnpike Plaza."

(2) The Department of Transportation is directed to erect suitable markers designating the "Charles B. Costar, Sr., Turnpike Plaza" as described in subsection (1).

Section 13. *Moroso Memorial Highway designation; markers.—*

(1) That portion of State Road 710 (Bee Line Highway) in Palm Beach County between State Road 809 (Military Trail) and State Road 706 (Indiantown Road) is hereby designated as the "Moroso Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Moroso Memorial Highway" as described in subsection (1).

Section 14. *Dr. Armando Bucelo, Sr., Way designation; markers.—*

(1) That portion of Southwest 8th Street in Miami between Southwest 67th Avenue and Southwest 70th Avenue is hereby designated as the "Dr. Armando Bucelo, Sr., Way."

(2) The Department of Transportation is directed to erect suitable markers designating the "Dr. Armando Bucelo, Sr., Way" as described in subsection (1).

Section 15. *Trooper Donald Earl Jennings Highway designation; markers.—*

(1) That portion of State Road 869 (Sawgrass Expressway) in Broward County between State Road 816 (Oakland Park Boulevard) and State Road 870 (Commercial Boulevard) is hereby designated as the "Trooper Donald Earl Jennings Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Trooper Donald Earl Jennings Highway" as described in subsection (1).

Section 16. *Bayou Chico Bridge designation; markers.—*

(1) The new bridge over Bayou Chico on State Road 292 in Pensacola/Escambia County is hereby designated as the "Bayou Chico Bridge."

(2) The Department of Transportation is directed to erect suitable markers designating the "Bayou Chico Bridge" as described in subsection (1).

Section 17. *Senator Ruben Mendiola Way designation; markers.—*

(1) That portion of Coral Way/State Road 972 in Miami between Southwest 17th Avenue and Southwest 13th Avenue is hereby designated as "Senator Ruben Mendiola Way."

(2) The Department of Transportation is directed to erect suitable markers designating "Senator Ruben Mendiola Way" as described in subsection (1).

And the title is amended as follows:

On page 2, line 25, after the semicolon insert: designating the "Charles B. Costar, Sr., Turnpike Plaza" in Palm Beach County; designating a portion of State Road 710 in Palm Beach County as the "Moroso Memorial Highway"; designating a portion of Southwest 8th Street in Miami as the "Dr. Armando Bucelo, Sr., Way"; designating a portion of State Road 869 (Sawgrass Expressway) in Broward County as the "Trooper Donald Earl Jennings Highway"; designating the State Road 292 bridge over Bayou Chico as the "Bayou Chico Bridge"; designating a portion of Coral Way/State Road 972 in Miami as "Senator Ruben Mendiola Way"; providing for the erection of markers;

House Amendment 3 (463699)(with title amendment)—On page 5, between lines 17 & 18, insert:

Section 12. *Pinecrest Parkway designated; markers; effect of designation.—*

(1) State Road 5 (South Dixie Highway) within the municipal limits of the Village of Pinecrest in Miami-Dade County is hereby designated as the "Pinecrest Parkway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Pinecrest Parkway" as described in subsection (1).

(3) The effect of the designation contained in this section shall only be construed to require the placement of a marker by the Department of Transportation at the termini specified for the highway segment designated by this section. This designation is for honorary purposes and shall not be construed to require any action by a local government or private party regarding the changing of any street sign, mailing address, or emergency telephone number "911" system listing.

And the title is amended as follows:

On page 2, line 25, after the semicolon insert: designating a portion of State Road 5 in the Village of Pinecrest in Miami-Dade County as the "Pinecrest Parkway"; directing the Department of Transportation to erect suitable markers; providing for the effect of the designation;

House Amendment 4 (441497)(with title amendment)—On page 5, between lines 17 and 18, insert:

Section 12. *(1) That portion of Coral Way between 12th Avenue and 22nd Avenue is hereby designated "Angel Pio de la Portilla Way."*

(2) The Department of Transportation shall erect suitable markers designating the "Angel Pio de la Portilla Way."

And the title is amended as follows:

On page 2, line 23, after the semicolon insert: designating a portion of Coral Way as the "Angel Pio de la Portilla Way";

On motion by Senator Brown-Waite, the Senate concurred in the House amendments.

CS for SB 82 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB 256, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 256—A bill to be entitled An act relating to the WAGES Program; amending s. 402.305, F.S.; prohibiting the factoring of specified individuals in calculating staff-to-children ratio; creating s. 414.0265, F.S.; providing for a Work and Gain Economic Self-sufficiency fiscal agent; specifying conditions; creating s. 414.0267, F.S.; establishing a program for matching grants; providing for administration; amending s. 414.027, F.S.; revising requirements for the annual state plan; modifying payment structure; amending s. 414.028, F.S.; conforming cross-references; deleting obsolete provisions; providing funding for local WAGES coalitions through contract with the Office of Tourism, Trade, and Economic Development; providing for revocation of a local coalition charter; providing for reassignment of duties; specifying use of funds; amending s. 414.030, F.S.; correcting an organizational name reference; eliminating a cap on the number of WAGES Program employment projects to be identified; specifying that the role of the WAGES Program Employment Project Coordinator includes other WAGES employment opportunities; authorizing the commitment and coordination of resources; providing for suspension of certain criteria and requirements; encouraging agency resolution of barriers to such projects; authorizing waiver of economic development incentive criteria; specifying a limit to funds allocated; authorizing the award of reasonable administrative costs associated with such projects; specifying contract terms; requiring creation of a WAGES Program Employment Implementation Team; authorizing the Governor to declare a WAGES employment emergency; providing for use of certain emergency management powers and other powers; creating s. 414.035, F.S.; requiring expenditures of funds under Temporary Assistance for Needy Families to be in accordance with federal provisions; requiring certification of fiscal controls; creating s. 414.045, F.S.; establishing a cash assistance program; designating applicable groups; amending s. 414.055, F.S.; conforming organizational name references; amending s. 414.065, F.S.; conforming organizational name references; excluding English language proficiency from education time limits; authorizing a local WAGES coalition to assign certain additional educational activities as work requirements; providing for an adjustment in the regional-participation requirement; requiring participants with medical limitations to be assigned appropriate work activities; providing for work activity exemption under certain circumstances; deleting obsolete provisions; amending s. 414.085, F.S.; excluding certain payments from consideration in determining grant amounts; amending s. 414.095, F.S.; deleting obsolete provisions; authorizing shelter obligations under certain circumstances; conforming organizational name references; amending s. 414.105, F.S.; revising limitations on extended eligibility for temporary cash assistance; deleting obsolete provisions; creating s. 414.151, F.S.; establishing a diversion program for victims of domestic violence; creating s. 414.1521, F.S.; establishing a diversion program to strengthen Florida's families; providing for determining eligibility for the program; authorizing the Healthy Families Florida program or the department to establish additional criteria for services or one-time payments under the program; providing that participation in the program does not preclude eligibility for other assistance; creating s. 414.159, F.S.; establishing a teen parent and pregnancy prevention diversion program; providing for eligibility for services under the program; providing that participation in the program does not pre-

clude eligibility for other assistance; creating s. 414.1525, F.S.; establishing an early exit incentive program; amending s. 414.155, F.S.; conforming organizational name references; revising standards regarding the relocation assistance program; amending s. 414.20, F.S., relating to support services; providing for the provision of care for certain dependent children so that the parent may accept or continue employment or participate in work activities; conforming organizational name references; creating s. 414.201, F.S.; establishing a program for dependent care for families with children with special needs; providing requirements for eligibility; providing that implementation of the program is subject to an appropriation; requiring compliance with certain federal requirements; providing a time limitation on the receipt of assistance; amending s. 414.22, F.S.; conforming organizational name references; creating s. 414.223, F.S.; authorizing the development of a list of post–secondary courses to promote job retention and advancement; authorizing Retention Incentive Training Accounts; prescribing eligible expenditures through such accounts; requiring performance monitoring and a report; reserving funds; amending s. 414.225, F.S.; revising provisions relating to transportation; amending s. 414.23, F.S.; conforming organizational name references; amending s. 414.37, F.S.; deleting obsolete reference; amending s. 414.44, F.S.; conforming organizational name reference; amending s. 414.45, F.S.; deleting obsolete language; amending s. 414.70, F.S.; providing conditions for inclusion in a demonstration project; providing for work activity requirements and penalties for failure to comply; amending s. 288.063, F.S.; providing for WAGES transportation projects; authorizing the Office of Tourism, Trade, and Economic Development to develop an expedited process; amending s. 250.10, F.S.; requiring the Adjutant General to administer a life preparation program and job readiness services; providing appropriations of TANF funds; amending s. 414.085, F.S.; requiring that income security payments be excluded as income except as required by federal law; repealing s. 414.25, F.S., relating to exemptions from leased real property requirements; repealing s. 414.43, F.S., relating to special needs allowances for families with disabled members; repealing s. 414.55, F.S., relating to implementation of the program; requiring compliance with s. 216.181, F.S.; providing an effective date.

House Amendment 1 (353505)(with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Paragraph (b) of subsection (4) of section 402.305, Florida Statutes, 1998 Supplement, is amended to read:

402.305 Licensing standards; child care facilities.—

(4) STAFF-TO-CHILDREN RATIO.—

(a) Minimum standards for the care of children in a licensed child care facility as established by rule of the department must include:

1. For children from birth through 1 year of age, there must be one child care personnel for every four children.

2. For children 1 year of age or older, but under 2 years of age, there must be one child care personnel for every six children.

3. For children 2 years of age or older, but under 3 years of age, there must be one child care personnel for every 11 children.

4. For children 3 years of age or older, but under 4 years of age, there must be one child care personnel for every 15 children.

5. For children 4 years of age or older, but under 5 years of age, there must be one child care personnel for every 20 children.

6. For children 5 years of age or older, there must be one child care personnel for every 25 children.

7. When children 2 years of age and older are in care, the staff-to-children ratio shall be based on the age group with the largest number of children within the group.

(b) This subsection does not apply to nonpublic schools and their integral programs as defined in s. 402.3025(2)(d)1. In addition, an *individual participating in a community service work experience activity under s. 414.065(1)(d), or a work experience activity under s. 414.065(1)(e), at a child care facility* ~~employee of a child care facility who receives subsidized wages under the WAGES Program~~ may not be considered in calculating the staff-to-children ratio.

Section 2. Subsection (12) of section 414.0252, Florida Statutes, 1998 Supplement, is renumbered as subsection (13), and a new subsection (12) is added to said section to read:

414.0252 Definitions.—As used in ss. 414.015-414.45, the term:

(12) "Services and one-time payments" or "services," when used in reference to individuals who are not receiving temporary cash assistance, means nonrecurrent, short-term benefits designed to deal with a specific crisis situation or episode of need and other services; work subsidies; supportive services such as child care and transportation; services such as counseling, case management, peer support, and child care information and referral; transitional services, job retention, job advancement, and other employment-related services; nonmedical treatment for substance abuse or mental health problems; and any other services that are reasonably calculated to further the purposes of the WAGES Program and the federal Temporary Assistance for Needy Families program. Such terms do not include assistance as defined in federal regulations at 45 C.F.R. s. 260.31(a).

Section 3. Section 414.0267, Florida Statutes, is created to read:

414.0267 Matching grants for economic independence.—

(1) There is established a program of matching grants for economic independence. The program shall provide an incentive in the form of matching grants for donations and expenditures by donors and charitable organizations for transitional, diversion, and support programs that complement, supplement, and further the goals of the WAGES Program.

(2) The WAGES Program State Board of Directors shall, by rule, specify the funds allocated for matching, the process for submission, documentation, and approval of requests for program funds and matching funds, accountability for funds and proceeds of investments, allocations to programs and coalitions, restrictions on the use of the funds, and criteria used in determining the value of donations.

Section 4. Subsection (1) of section 414.027, Florida Statutes, is amended to read:

414.027 WAGES Program *annual* statewide *program* ~~implementation~~ plan.—

(1) The WAGES Program State Board of Directors shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives *an annual* ~~a~~ statewide plan for ~~implementing~~ the WAGES Program established under this chapter. At a minimum, the *annual* statewide *program* ~~implementation~~ plan must include:

(a) Performance standards, measurement criteria, and contract guidelines for all services provided under the WAGES Program whether by state employees or contract providers. *The plan must include performance standards and objectives, measurement criteria, measures of performance, and contract guidelines for all local WAGES coalitions related to the following issues:*

1. Work participation rates by type of activity;

2. Caseload trends;

3. Recidivism;

4. Participation in diversion and relocation programs;

5. Employment retention; and

6. Other issues identified by the WAGES Program State Board of Directors.

(b) A description of:

1. Cooperative agreements and partnerships between local WAGES coalitions and local community agencies and not-for-profit organizations described in section 501(c)(3) of the Internal Revenue Code;

2. Efforts by local WAGES coalitions to provide WAGES applicants, recipients, and former recipients with information on the services and programs available to them, including diversion programs, relocation assistance, and other services that may be obtained without receiving monthly cash assistance;

3. Efforts by local WAGES coalitions to overcome transportation barriers to employment; and

4. Other issues determined by the WAGES Program State Board of Directors.

(c) An evaluation of the performance of each local WAGES coalition based on the performance measures and guidelines.

(d)~~(b)~~ Directives for creating and chartering local WAGES coalitions to plan and coordinate the delivery of services under the WAGES Program at the local level.

(e)~~(c)~~ The approval of the implementation plans submitted by local WAGES coalitions.

(f)~~(d)~~ Recommendations for clarifying, or if necessary, modifying the roles of the state agencies charged with implementing the WAGES Program so that all unnecessary duplication is eliminated.

(g)~~(e)~~ Recommendations for modifying compensation and incentive programs for state employees in order to achieve the performance outcomes necessary for successful implementation of the WAGES Program.

(h)~~(f)~~ Criteria for allocating WAGES Program resources to local WAGES coalitions. Such criteria must include weighting factors that reflect the relative degree of difficulty associated with securing employment placements for specific subsets of the welfare transition caseload.

(i)~~(g)~~ The development of a performance-based payment structure to be used for all WAGES Program services, which takes into account the following:

1. The degree of difficulty associated with placing a WAGES Program participant in a job;

2. The quality of the placement with regard to salary, benefits, and opportunities for advancement; and

3. The employee's retention of the placement.

The payment structure shall provide not more than *50* ~~40~~ percent of the cost of services provided to a WAGES participant prior to placement, *25* ~~50~~ percent upon employment placement, and *25* ~~10~~ percent if employment is retained for at least 6 months. The payment structure should provide bonus payments to providers that experience notable success in achieving long-term job retention with WAGES Program participants. The board shall consult with the *Workforce Development Board* ~~Enterprise Florida workforce development board~~ in developing the WAGES Program *annual* statewide *program* ~~implementation~~ plan.

(j) Specifications for WAGES Program services that are to be delivered through local WAGES coalitions, including the following:

1. Referral of participants to diversion and relocation programs;

2. Pre-placement services, including assessment, staffing, career plan development, work orientation, and employability skills enhancement;

3. Services necessary to secure employment for a WAGES participant;

4. Services necessary to assist participants in retaining employment, including, but not limited to, remedial education, language skills, and personal and family counseling;

5. Desired quality of job placements with regard to salary, benefits, and opportunities for advancement;

6. Expectations regarding job retention;

7. Strategies to ensure that transition services are provided to participants for the mandated period of eligibility;

8. Services that must be provided to the participant throughout an education or training program, such as monitoring attendance and progress in the program;

9. Services that must be delivered to WAGES participants who have a deferral from work requirements but wish to participate in activities that meet federal participation requirements; and

10. Expectations regarding continued participant awareness of available services and benefits.

Section 5. Subsections (2), (4), (5), and (7) of section 414.028, Florida Statutes, 1998 Supplement, are amended, and subsections (9) and (10) are added to said section, to read:

414.028 Local WAGES coalitions.—The WAGES Program State Board of Directors shall create and charter local WAGES coalitions to plan and coordinate the delivery of services under the WAGES Program at the local level. The boundaries of the service area for a local WAGES coalition shall conform to the boundaries of the service area for the regional workforce development board established under the Enterprise Florida workforce development board. The local delivery of services under the WAGES Program shall be coordinated, to the maximum extent possible, with the local services and activities of the local service providers designated by the regional workforce development boards.

(2) A local WAGES coalition and a regional workforce development board may be combined into one board if the membership complies with subsection (1), and if the membership of the combined board meets the requirements of Pub. L. No. *105-220, s. 117(b)(2)* ~~97-300, the federal Job Training Partnership Act, as amended~~, and with any law delineating the membership requirements for the regional workforce development boards.

(4) Each local WAGES coalition shall perform the planning, coordination, and oversight functions specified in the statewide implementation plan, including, but not limited to:

(a) Developing a program and financial plan to achieve the performance outcomes specified by the WAGES Program State Board of Directors for current and potential program participants in the service area. The plan must reflect the needs of service areas for seed money to create programs that assist children of WAGES participants. The plan must also include provisions for providing services for victims of domestic violence.

(b) Developing a funding strategy to implement the program and financial plan which incorporates resources from all principal funding sources.

(c) Identifying employment, service, and support resources in the community which may be used to fulfill the performance outcomes of the WAGES Program.

(d) In cooperation with the regional workforce development board, coordinating the implementation of one-stop career centers.

(e) Advising the Department of Children and Family Services ~~and the Department of Labor and Employment Security~~ with respect to the competitive procurement of services under the WAGES Program.

(f) Selecting an entity to administer the program and financial plan, such as a unit of a political subdivision within the service area, a not-for-profit private organization or corporation, or any other entity agreed upon by the local WAGES coalition.

(g) Developing a plan for services for victims of domestic violence.

1. The WAGES Program State Board of Directors shall specify requirements for the local plan, including:

a. Criteria for determining eligibility for exceptions to state work requirements;

b. The programs and services to be offered to victims of domestic violence;

c. Time limits for exceptions to program requirements, which may not result in an adult participant exceeding the federal time limit for exceptions or the state lifetime benefit limit that the participant would otherwise be entitled to receive; and

d. An annual report on domestic violence, including the progress made in reducing domestic violence as a barrier to self-sufficiency among WAGES participants, local policies and procedures for granting exceptions and exemptions from program requirements due to domestic violence, and the number and percentage of cases in which such exceptions and exemptions are granted.

2. Each local WAGES coalition plan must specify provisions for coordinating and, where appropriate, delivering services, including:

a. Provisions for the local coalition to coordinate with law enforcement agencies and social service agencies and organizations that provide services and protection to victims of domestic violence;

b. Provisions for allowing participants access to domestic violence support services and ensuring that WAGES participants are aware of domestic violence shelters, hotlines, and other domestic violence services and policies;

c. Designation of the agency that is responsible for determining eligibility for exceptions from program requirements due to domestic violence;

d. Provisions that require each individual who is granted an exemption from program requirements due to domestic violence to participate in a program that prepares the individual for self-sufficiency and safety; and

e. Where possible and necessary, provisions for job assignments and transportation arrangements that take maximum advantage of opportunities to preserve the safety of the victim of domestic violence and the victim's dependents.

(5) By October 1, 1998, local WAGES coalitions shall deliver through one-stop career centers, the full continuum of services provided under the WAGES Program, including services that are provided at the point of application. ~~The State WAGES Board may direct the Department of Labor and Employment Security to provide such services to WAGES participants if a local WAGES coalition is unable to provide services due to decertification.~~ Local WAGES coalitions may not determine an individual's eligibility for temporary cash assistance, and all education and training shall be provided through agreements with regional workforce development boards. ~~The local WAGES coalitions shall develop a transition plan to be approved by the WAGES Program State Board of Directors. Should career service employees of the Department of Labor and Employment Security be subject to layoff due to the local WAGES coalitions taking over the delivery of such services, such employees shall be given priority consideration for employment by the local WAGES coalitions. The local coalition's transition plan shall provide for the utilization of space leased by the Department of Labor and Employment Security for WAGES service functions. By October 1, 1998, the coalition may have negotiated and entered into new lease agreements or subleased for said space from the Department of Labor and Employment Security. In the event the coalition does not utilize the Department of Labor and Employment Security leased space, the Department of Labor and Employment Security shall not be obligated to pay under any lease agreement for WAGES services entered into by the department since July 1, 1996.~~

(7) At the option of the local WAGES coalition, local employees of the department ~~and the Department of Labor and Employment Security~~ shall provide staff support for the local WAGES coalitions. Staff support may be provided by another agency, entity, or by contract.

(9)(a) Effective October 1, 1999, funds for the administrative and service delivery operations of the local WAGES coalitions shall be provided to the coalitions by contract with the Department of Management Services. The local WAGES coalitions are subject to the provisions of the implementation plan approved for the coalition by the WAGES Program State Board of Directors. Each coalition's implementation plan shall be incorporated into the coalition's contract with the Department of Management Services so that the coalition is contractually committed to achieve the performance requirements contained in the approved plan. The Department of Management Services shall advise the state board of directors of applicable federal and state law related to the contract and of issues raised as a result of oversight of the contracts.

(b) A local WAGES coalition that does not meet the performance requirements set by the WAGES Program State Board of Directors and contained in the contract executed pursuant to this subsection must develop for approval by the state board of directors an analysis of the problems preventing the region from meeting the performance standards and a plan of corrective action for meeting state performance requirements. The analysis and plan of corrective action shall be included as appendices to the annual plan submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by the WAGES Program State Board of Directors.

(c) The WAGES Program State Board of Directors may direct the Department of Management Services to procure a portion of the duties of a local WAGES coalition from another agency, coalition, or provider for good cause. Good cause may include failure to meet performance requirements.

(d) The WAGES Program State Board of Directors may revoke the charter of a local WAGES coalition for good cause, which may include repeated failure to meet performance requirements. If the charter of a local WAGES coalition is revoked, the state board of directors may direct the Department of Management Services to procure a service provider or providers for any or all of the duties of a local WAGES coalition until a new coalition is established by the WAGES Program State Board of Directors and a contract is executed with the new coalition. The service provider may be a public or private agency or another local WAGES coalition.

(10) No less than 25 percent of funds provided to local WAGES coalitions must be used to contract with local public or private agencies that have elected or appointed boards of directors on which a majority of the members are residents of that local WAGES coalition's service area. Subcontracts with local public or private agencies shall be counted towards compliance with this requirement.

Section 6. Section 414.030, Florida Statutes, 1998 Supplement, is amended to read:

414.030 WAGES Program Employment Projects.—

(1) The Legislature finds that the success of the WAGES Program depends upon the existence of sufficient employment opportunities compatible with the education and skill levels of participants in the WAGES Program. The Legislature further finds that extraordinary assistance may need to be granted for certain economic development projects that can have a great impact on the employment of WAGES participants. It is the intent of the Legislature to authorize the Governor and local governments to marshal state and local resources in a coordinated and timely manner to foster the development and completion of economic development projects that have been identified as having a great impact on the employment of WAGES participants.

(2) By August 1 of each year, each local city and county economic development organization, in consultation with local WAGES coalitions, shall identify economic development projects that can have the greatest impact on employing WAGES participants in their areas. Each local economic development organization shall provide a prioritized list of no more than five such projects to Enterprise Florida, Inc., by August 1 of each year. The organizations shall identify local resources that are available to foster the development and completion of each project.

(3)(a) By September 1 of each year, Enterprise Florida, Inc., in consultation with the ~~state~~ WAGES *Program State* Board *of Directors*, shall review and prioritize the list of projects identified pursuant to subsection (2) using the following criteria:

1. Areas with a high proportion of families who had already received cash assistance in 3 out of the previous 5 years at the time their time limit was established;

2. Areas with a high proportion of families subject to the WAGES time limit headed by a parent who was under age 24 at the time the time limit was established and who lacked high school or GED completion;

3. Areas with a high proportion of families subject to the time limit who have used all of the available months of cash assistance since October 1996;

4. Areas with a low ratio of new jobs per WAGES participant;

5. Areas with a low ratio of job openings requiring less than a high school degree per WAGES participant;

6. Areas with a high proportion of families subject to the time limit who are either within 6 months of the time limit or are receiving cash assistance under a period of hardship extension to the time limit;

7. Areas with unusually high unemployment; and

8. Areas identified as labor surplus areas using the criteria established by the United States Department of Labor Employment and Training Administration.

(b) To the greatest extent possible, Enterprise Florida, Inc., shall foster the development or completion of the projects identified pursuant to paragraph (a) using existing state and local resources under the control of Enterprise Florida, Inc. To the extent that such projects cannot be developed or completed from resources available, ~~to~~ Enterprise Florida, Inc., *shall* ~~may~~ identify and prioritize ~~no more than 10~~ projects~~, of which no more than 3 may be located in Dade County,~~ that need extraordinary state and local assistance. Enterprise Florida, Inc., shall provide the list of projects needing extraordinary assistance to the Governor and each WAGES Program Employment Project Coordinator designated pursuant to subsection (4) by September 1 of each year.

(4)(a) By July 1, 1998, the heads of the Departments of Agriculture and Consumer Services, Labor and Employment Security, Community Affairs, Children and Family Services, Revenue, Business and Professional Regulation, Management Services, Military Affairs, Transportation, and Environmental Protection, and the Comptroller; the Auditor General; the executive director of each water management district; and the heads of the Office of Tourism, Trade, and Economic Development, Enterprise Florida, Inc., Institute of Food and Agricultural Sciences, the State Board of Community Colleges, the Division of Workforce Development of the Department of Education, State University System, and the Office of Planning and Budgeting shall select from within such organizations a person to be designated as the WAGES Program Employment Project Coordinator.

(b) By October 1 of each year, each WAGES Program Employment Project Coordinator shall determine what resources are available at the organization to foster the development and completion of the economic development projects received pursuant to subsection (3). Each coordinator shall provide this determination to the Governor by October 1 of each year.

(5)(a) By October 15 of each year, the Governor may, by executive order, designate these projects as WAGES Program Employment Projects, and direct the agencies to use the resources identified pursuant to subsection (4) to develop or complete such projects. The order shall direct such agencies to contract with the appropriate local WAGES coalition to develop or complete such projects. *Funds allocated to these projects must not exceed $5,000 per new job created.*

(b) Notwithstanding the eligibility provisions of s. 403.973, the Governor may waive such eligibility requirements by executive order for projects that have been identified as needing expedited permitting.

(c) To the extent that resources identified pursuant to subsection (4) have been appropriated by the Legislature for a specific purpose that does not allow for the expenditure of such resources on the projects, the Governor may use the budget amendment process in chapter 216 to request that these resources be released to the Governor's Office to accomplish the development or completion of the project.

(d) Any executive order issued by the Governor pursuant to this section shall expire within 90 days, unless renewed for an additional 60 days by the Governor. However, no executive order may be issued by the Governor pursuant to this section for a period in excess of 150 days.

(6) Each local WAGES coalition with jurisdiction over an area where a WAGES Program Employment Project has been designated by the Governor pursuant to subsection (5) shall enter into a contract with the appropriate local, state, or private entities to ensure that the project is developed and completed. Such contracts may include, but are not limited to, contracts with applicable state agencies and businesses to provide training, education, and employment opportunities for WAGES participants. *Each local WAGES coalition may be awarded reasonable administration costs from funds appropriated for these projects.*

(7) All contracts shall be performance-based and fixed-unit price. Contracts must include provisions for reporting employment performance outcomes, identified by the participant's social security number, utilizing the Florida Department of Labor and Employment Security's financial reporting management information system. Contracts may provide for expenditures that need to be made in advance of the hiring of WAGES participants as provided by applicable federal and state laws. Employment shall be committed to WAGES participants for a period of at least 3 years and shall provide health care benefits.

(8)~~(7)~~ *The Office of Tourism, Trade, and Economic Development shall convene a WAGES Program Employment Implementation Team to ensure the timely and effective implementation of these projects.* By March 15 of each year, *this team* ~~Enterprise Florida, Inc.,~~ shall submit to the ~~state~~ WAGES *Program State* Board *of Directors*, the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader a complete and detailed report that includes, but is not limited to, a description of the activities, expenditures, and projects undertaken pursuant to this section and a description of what, if any, legislative action that may be necessary.

(9)~~(8)~~(a) The Auditor General may, pursuant to his or her own authority or at the direction of the Legislature, conduct a financial audit of the expenditure of resources pursuant to this section.

(b) Prior to the 2000 Regular Session of the Legislature, the Office of Program Policy Analysis and Government Accountability shall conduct a review of the projects developed or completed pursuant to this section. The review shall be comprehensive in its scope, but, at a minimum, must be conducted in a manner as to specifically determine:

1. The impact the provisions contained in this section had on the development and completion of the projects identified pursuant to this section.

2. Whether it would be sound public policy to continue or discontinue to foster the development or completion of projects using the processes provided in this section. The report shall be submitted by January 1, 2000, to the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader.

Section 7. Section 414.035, Florida Statutes, is created to read:

414.035 Authorized expenditures.—Any expenditures from the Temporary Assistance for Needy Families block grant shall be expended in accordance with the requirements and limitations of part A of Title IV of the Social Security Act, as amended, or any other applicable federal requirement or limitation. Prior to any expenditure of such funds, the Secretary of Children and Family Services, or his or her designee, shall certify that controls are in place to ensure such funds are expended in accordance with the requirements and limitations of federal law and that any reporting requirements of federal law are met. It shall be the responsibility of any entity to which such funds are appropriated to obtain the required certification prior to any expenditure of funds.

Section 8. Section 414.045, Florida Statutes, is created to read:

414.045 Cash assistance program.—Cash assistance families include any families receiving cash assistance payments from the state program for temporary assistance for needy families as defined in federal law, whether such funds are from federal funds, state funds, or commingled federal and state funds. Cash assistance families may also include families receiving cash assistance through a program defined as a separate state program.

(1) For reporting purposes, families receiving cash assistance shall be grouped in the following categories. The department may develop additional groupings in order to comply with federal reporting requirements, to comply with the data-reporting needs of the WAGES Program State Board of Directors, or to better inform the public of program progress. Program reporting data shall include, but not necessarily be limited to, the following groupings:

(a) WAGES Cases.—WAGES cases shall include:

1. Families containing an adult or a teen head of household, as defined by federal law. These cases are generally subject to the work activity requirements provided in s. 414.065 and the time limitations on benefits provided in s. 414.105.

2. Families with a parent where the parent's needs have been removed from the case due to sanction or disqualification shall be considered WAGES cases to the extent that such cases are considered in the calculation of federal participation rates or would be counted in such calculation in future months.

3. Families participating in transition assistance programs.

4. Families otherwise eligible for the WAGES Program that receive a diversion or early exit payment or participate in the relocation program.

(b) Child-only cases.—Child-only cases include cases that do not have an adult or teen head of household as defined in federal law. Such cases include:

1. Child-only families with children in the care of caretaker relatives where the caretaker relatives choose to have their needs excluded in the calculation of the amount of cash assistance.

2. Families in the Relative Caregiver Program as provided in s. 39.5085.

3. Families in which the only parent in a single-parent family or both parents in a two-parent family receive supplemental security income (SSI) benefits under Title XVI of the Social Security Act, as amended. To the extent permitted by federal law, individuals receiving SSI shall be excluded as household members in determining the amount of cash assistance, and such cases shall not be considered families containing an adult. Parents or caretaker relatives who are excluded from the cash assistance group due to receipt of SSI may choose to participate in WAGES work activities. An individual who volunteers to participate in WAGES work activity but whose ability to participate in work activities is limited shall be assigned to work activities consistent with such limitations. An individual who volunteers to participate in a WAGES work activity may receive WAGES-related child care or support services consistent with such participation.

4. Families where the only parent in a single-parent family or both parents in a two-parent family are not eligible for cash assistance due to immigration status or other requirements of federal law. To the extent required by federal law, such cases shall not be considered families containing an adult.

Families described in subparagraph 1., subparagraph 2., or subparagraph 3. may receive child care assistance or other supports or services so that the children may continue to be cared for in their own homes or the homes of relatives. Such assistance or services may be funded from the temporary assistance for needy families block grant to the extent permitted under federal law and to the extent permitted by appropriation of funds.

(2) The oversight of the WAGES Program State Board of Directors and the service delivery and financial planning responsibilities of the local WAGES coalitions shall apply to the families defined as WAGES cases in paragraph (1)(a). The department shall be responsible for program administration related to families in groups defined in paragraph (1)(b) and the department shall coordinate such administration with the WAGES Program State Board of Directors to the extent needed for operation of the program.

Section 9. Subsection (6) of section 414.055, Florida Statutes, is amended to read:

414.055 One-stop career centers.—

(6) At the one-stop career centers, *local WAGES coalitions* ~~staff of the Department of Labor and Employment Security~~ shall assign a participant in the WAGES Program to ~~an~~ approved work *activities* ~~activity~~.

Section 10. Paragraphs (b), (g), (h), and (i) of subsection (1) and subsections (2), (4), (7), (9), (10), and (11) of section 414.065, Florida Statutes, 1998 Supplement, are amended, paragraph (l) is added to subsection (1), and subsection (13) is added to said section, to read:

414.065 Work requirements.—

(1) WORK ACTIVITIES.—The following activities may be used individually or in combination to satisfy the work requirements for a participant in the WAGES Program:

(b) Subsidized private sector employment.—Subsidized private sector employment is employment in a private for-profit enterprise or a private not-for-profit enterprise which is directly supplemented by federal or state funds. A subsidy may be provided in one or more of the forms listed in this paragraph.

1. Work supplementation.—A work supplementation subsidy diverts a participant's temporary cash assistance under the program to the employer. The employer must pay the participant wages that equal or exceed the applicable federal minimum wage. Work supplementation may not exceed 6 months. At the end of the supplementation period, the employer is expected to retain the participant as a regular employee without receiving a subsidy. A work supplementation agreement may not be continued with any employer who exhibits a pattern of failing to provide participants with continued employment after the period of work supplementation ends.

2. On-the-job training.—On-the-job training is full-time, paid employment in which the employer or an educational institution in cooperation with the employer provides training needed for the participant to perform the skills required for the position. The employer or the educational institution on behalf of the employer receives a subsidy to offset the cost of the training provided to the participant. Upon satisfactory completion of the training, the employer is expected to retain the participant as a regular employee without receiving a subsidy. An on-the-job training agreement may not be continued with any employer who exhibits a pattern of failing to provide participants with continued employment after the on-the-job training subsidy ends.

3. Incentive payments.—The department and *local WAGES coalitions* ~~the Department of Labor and Employment Security~~ may provide additional incentive payments to encourage employers to employ program participants. Incentive payments may include payments to encourage the employment of hard-to-place participants, in which case the amount of the payment shall be weighted proportionally to the extent to which the participant has limitations associated with the long-term receipt of welfare and difficulty in sustaining employment. In establishing incentive payments, the department and *local WAGES coalitions* ~~the Department of Labor and Employment Security~~ shall consider the extent of prior receipt of welfare, lack of employment experience, lack of education, lack of job skills, and other appropriate factors. A participant who has complied with program requirements and who is approaching the time limit for receiving temporary cash assistance may be defined as "hard-to-place." Incentive payments may include payments in which an initial payment is made to the employer upon the employment of a participant, and the majority of the incentive payment is made after the employer retains the participant as a full-time employee for at least 12 months. An incentive agreement may not be continued with any employer who exhibits a pattern of failing to provide participants with continued employment after the incentive payments cease.

4. Tax credits.—An employer who employs a program participant may qualify for enterprise zone property tax credits under s. 220.182, the tax refund program for qualified target industry businesses under s. 288.106, or other federal or state tax benefits. The department and the Department of Labor and Employment Security shall provide information and assistance, as appropriate, to use such credits to accomplish program goals.

5. WAGES training bonus.—An employer who hires a WAGES participant who has less than 6 months of eligibility for temporary cash assistance remaining and who pays the participant a wage that precludes the participant's eligibility for temporary cash assistance may receive $240 for each full month of employment for a period that may not exceed 3 months. An employer who receives a WAGES training bonus for an employee may not receive a work supplementation subsidy for the same employee. Employment is defined as 35 hours per week at a wage of no less than minimum wage.

(g) Vocational education or training.—Vocational education or training is education or training designed to provide participants with the skills and certification necessary for employment in an occupational area. Vocational education or training may be used as a primary program activity for participants when it has been determined that the individual has demonstrated compliance with other phases of program participation and successful completion of the vocational education or training is likely to result in employment entry at a higher wage than the participant would have been likely to attain without completion of the vocational education or training. Vocational education or training may be combined with other program activities and also may be used to upgrade skills or prepare for a higher paying occupational area for a participant who is employed.

1. *Unless otherwise provided in this section,* vocational education shall not be used as the primary program activity for a period which

exceeds 12 months. The 12-month restriction applies to instruction in a career education program and does not include remediation of basic skills, *including English language proficiency,* ~~through adult general education~~ if remediation is necessary to enable a WAGES participant to benefit from a career education program. Any necessary remediation must be completed before a participant is referred to vocational education as the primary work activity. In addition, use of vocational education or training shall be restricted to *the* ~~not more than 20 percent of adult participants in the WAGES region, or subject to other~~ limitation ~~as~~ established in federal law. Vocational education included in a program leading to a high school diploma shall not be considered vocational education for purposes of this section.

2. When possible, a provider of vocational education or training shall use funds provided by funding sources other than the department or the *local WAGES coalition* ~~Department of Labor and Employment Security~~. Either department may provide additional funds to a vocational education or training provider only if payment is made pursuant to a performance-based contract. Under a performance-based contract, the provider may be partially paid when a participant completes education or training, but the majority of payment shall be made following the participant's employment at a specific wage or job retention for a specific duration. Performance-based payments made under this subparagraph are limited to education or training for targeted occupations identified by the Occupational Forecasting Conference under s. 216.136, or other programs identified by the ~~Enterprise Florida~~ Workforce Development Board as beneficial to meet the needs of designated groups, such as WAGES participants, who are hard to place. If the contract pays the full cost of training, the community college or school district may not report the participants for other state funding, except that the college or school district may report WAGES clients for performance incentives or bonuses authorized for student enrollment, completion, and placement.

(h) Job skills training ~~directly related to employment. Job skills training directly related to employment provides job skills training in a specific occupation for which there is a written commitment by the employer to offer employment to a participant who successfully completes the training.~~ Job skills training includes customized training designed to meet the needs of a specific employer or a specific industry. *Job skills training shall include literacy instruction, and may include English proficiency instruction or Spanish language or other language instruction if necessary to enable a participant to perform in a specific job or job training program or if the training enhances employment opportunities in the local community.* A participant may be required to complete an entrance assessment or test before entering into job skills training ~~if assessments or tests are required for employment upon completion of the training. Job skills training includes literacy instruction in the workplace if necessary to enable a participant to perform in a specific job or job training program.~~

(i) Education services related to employment for participants 19 years of age or younger.—Education services provided under this paragraph are designed to prepare a participant for employment in an occupation. The department ~~and the Department of Labor and Employment Security~~ shall coordinate education services with the school-to-work activities provided under s. 229.595. Activities provided under this paragraph are restricted to participants 19 years of age or younger who have not completed high school or obtained a high school equivalency diploma.

(l) Extended education and training.—Notwithstanding any other provisions of this section to the contrary, the WAGES Program State Board of Directors may approve a plan by a local WAGES coalition for assigning, as work requirements, educational activities that exceed or are not included in those provided elsewhere in this section and that do not comply with federal work participation requirement limitations. In order to be eligible to implement this provision, a coalition must continue to exceed the overall federal work participation rate requirements. For purposes of this paragraph, the WAGES Program State Board of Directors may adjust the regional participation requirement based on regional caseload decline. However, this adjustment is limited to no more than the adjustment produced by the calculation used to generate federal adjustments to the participation requirement due to caseload decline.

(2) WORK ACTIVITY REQUIREMENTS.—Each *individual* ~~adult participant~~ who is not otherwise exempt must participate in a work activity, except for community service work experience, for the maximum number of hours allowable under federal law, provided that no participant be required to work more than 40 hours per week or less than the minimum number of hours required by federal law. The maximum number of hours each month that a participant may be required to participate in community service activities is the greater of: the number of hours that would result from dividing the family's monthly amount for temporary cash assistance and food stamps by the federal minimum wage and then dividing that result by the number of participants in the family who participate in community service activities; or the minimum required to meet federal participation requirements. However, in no case shall the maximum hours required per week for community work experience exceed 40 hours. An applicant shall be referred for employment at the time of application if the applicant is eligible to participate in the WAGES Program.

(a) A participant in a work activity may also be required to enroll in and attend a course of instruction designed to increase literacy skills to a level necessary for obtaining or retaining employment, provided that the instruction plus the work activity does not require more than 40 hours per week.

(b) WAGES Program funds may be used, as available, to support the efforts of a participant who meets the work activity requirements and who wishes to enroll in or continue enrollment in an adult general education program or a career education program.

(4) PENALTIES FOR NONPARTICIPATION IN WORK REQUIREMENTS *AND FAILURE TO COMPLY WITH ALTERNATIVE REQUIREMENT PLANS*.—The department ~~and the Department of Labor and Employment Security~~ shall establish procedures for administering penalties for nonparticipation in work requirements *and failure to comply with the alternative requirement plan*. If an individual in a family receiving temporary cash assistance fails to engage in work activities required in accordance with this section, the following penalties shall apply. *Prior to the imposition of a sanction, the participant shall be notified orally or in writing that the participant is subject to sanction and that action will be taken to impose the sanction unless the participant complies with the work activity requirements. The participant shall be counseled as to the consequences of noncompliance and, if appropriate, shall be referred for services that could assist the participant to fully comply with program requirements. If the participant has good cause for noncompliance or demonstrates satisfactory compliance, the sanction shall not be imposed. If the participant has subsequently obtained employment, the participant shall be counseled regarding the transitional benefits that may be available and provided information about how to access such benefits. Notwithstanding provisions of this section to the contrary, if the Federal Government does not allow food stamps to be treated under sanction as provided in this section, the department shall attempt to secure a waiver that provides for procedures as similar as possible to those provided in this section and shall administer sanctions related to food stamps consistent with federal regulations.*~~:~~

(a)*1.* First noncompliance: temporary cash assistance shall be terminated for the family until the individual who failed to comply does so, and food stamp benefits shall not be increased as a result of the loss of temporary cash assistance.

2.~~(b)~~ Second noncompliance: temporary cash assistance and food stamps shall be terminated for the family until the individual demonstrates compliance in the required work activity for a period of 30 days. Upon compliance, temporary cash assistance and food stamps shall be reinstated to the date of compliance. ~~Prior to the imposition of sanctions for a second noncompliance, the participant shall be interviewed to determine why full compliance has not been achieved. The participant shall be counseled regarding compliance and, if appropriate, shall be referred for services that could assist the participant to fully comply with program requirements.~~

3.~~(c)~~ Third noncompliance: temporary cash assistance and food stamps shall be terminated for the family for 3 months. The individual shall be required to demonstrate compliance in the work activity upon completion of the 3-month penalty period, before reinstatement of temporary cash assistance and food stamps.

(b) If a participant receiving temporary cash assistance who is otherwise exempted from noncompliance penalties fails to comply with the alternative requirement plan required in accordance with this section, the penalties provided in paragraph (a) shall apply.

If a participant fully complies with work activity requirements for at least 6 months, the participant shall be reinstated as being in full compliance with program requirements for purpose of sanctions imposed under this section.

(7) EXCEPTIONS TO NONCOMPLIANCE PENALTIES.—*Unless otherwise provided,* the situations listed in this subsection shall constitute exceptions to the penalties for noncompliance with participation requirements, except that these situations do not constitute exceptions to the applicable time limit for receipt of temporary cash assistance:

(a) Noncompliance related to child care.—Temporary cash assistance may not be terminated for refusal to participate in work activities if the individual is a single custodial parent caring for a child who has not attained 6 years of age, and the adult proves to the department ~~or to the Department of Labor and Employment Security~~ an inability to obtain needed child care for one or more of the following reasons:

1. Unavailability of appropriate child care within a reasonable distance from the individual's home or worksite.

2. Unavailability or unsuitability of informal child care by a relative or under other arrangements.

3. Unavailability of appropriate and affordable formal child care arrangements.

(b) Noncompliance related to domestic violence.—An individual who is determined to be unable to comply with the work requirements because such compliance would make it probable that the individual would be unable to escape domestic violence shall be exempt from work requirements pursuant to s. 414.028(4)(g). However, the individual shall comply with a plan that specifies alternative requirements that prepare the individual for self-sufficiency while providing for the safety of the individual and the individual's dependents. *A participant who is determined to be out of compliance with the alternative requirement plan shall be subject to the penalties under subsection (4).* An exception granted under this paragraph does not constitute an exception to the time limitations on benefits specified under s. 414.105.

(c) Noncompliance related to treatment or remediation of past effects of domestic violence.—An individual who is determined to be unable to comply with the work requirements under this section due to mental or physical impairment related to past incidents of domestic violence may be exempt from work requirements for a specified period pursuant to s. 414.028(4)(g), except that such individual shall comply with a plan that specifies alternative requirements that prepare the individual for self-sufficiency while providing for the safety of the individual and the individual's dependents. *A participant who is determined to be out of compliance with the alternative requirement plan shall be subject to the penalties under subsection (4).* The plan must include counseling or a course of treatment necessary for the individual to resume participation. The need for treatment and the expected duration of such treatment must be verified by a physician licensed under chapter 458 or chapter 459; a psychologist licensed under s. 490.005(1), s. 490.006, or the provision identified as s. 490.013(2) in s. 1, chapter 81-235, Laws of Florida; a therapist as defined in s. 491.003(2) or (6); or a treatment professional who is registered under s. 415.605(1)(g), is authorized to maintain confidentiality under s. 90.5036(1)(d), and has a minimum of 2 years experience at a certified domestic violence center. An exception granted under this paragraph does not constitute an exception from the time limitations on benefits specified under s. 414.105.

(d) Noncompliance related to medical incapacity.—If an individual cannot participate in assigned work activities due to a medical incapacity, the individual may be excepted from the activity for a specific period, except that the individual shall be required to comply with the course of treatment necessary for the individual to resume participation. A participant may not be excused from work activity requirements unless the participant's medical incapacity is verified by a physician licensed under chapter 458 or chapter 459, in accordance with procedures established by rule of the department ~~of Labor and Employment Security~~. *An individual for whom there is medical verification of limitation to participate in work activities shall be assigned to work activities consistent with such limitations. Evaluation of an individual's ability to participate in work activities or development of a plan for work activity assignment may include vocational assessment or work evaluation. The department or a local WAGES coalition may require an individual to cooperate in medical or vocational assessment necessary to evaluate the individual's ability to participate in a work activity.*

(e) Noncompliance due to medical incapacity by applicants for Supplemental Security Income (SSI).—An individual subject to work activity requirements may be exempted from those requirements if the individual provides information verifying that he or she has filed an application for SSI disability benefits and the decision is pending development and evaluation under social security disability law, rules, and regulations at the initial reconsideration, administrative law judge, or Social Security Administration Appeals Council levels.

(f)~~(e)~~ Other good cause exceptions for noncompliance.—Individuals who are temporarily unable to participate due to circumstances beyond their control may be excepted from the noncompliance penalties. The department ~~of Labor and Employment Security~~ may define by rule situations that would constitute good cause. These situations must include caring for a disabled family member when the need for the care has been verified and alternate care is not available.

(9) PRIORITIZATION OF WORK REQUIREMENTS.—The *department and local WAGES coalitions* ~~Department of Labor and Employment Security~~ shall require participation in work activities to the maximum extent possible, subject to federal and state funding. If funds are projected to be insufficient to allow full-time work activities by all program participants who are required to participate in work activities, *local WAGES coalitions* ~~the Department of Labor and Employment Security~~ shall screen participants and assign priority based on the following:

(a) In accordance with federal requirements, at least one adult in each two-parent family shall be assigned priority for full-time work activities.

(b) Among single-parent families, a family that has older preschool children or school-age children shall be assigned priority for work activities.

(c) A participant who has access to nonsubsidized child care may be assigned priority for work activities.

(d) Priority may be assigned based on the amount of time remaining until the participant reaches the applicable time limit for program participation or may be based on requirements of a case plan.

Local WAGES coalitions ~~The Department of Labor and Employment Security~~ may limit a participant's weekly work requirement to the minimum required to meet federal work activity requirements in lieu of the level defined in subsection (2). The department and *local WAGES coalitions* ~~the Department of Labor and Employment Security~~ may develop screening and prioritization procedures within service districts or within counties based on the allocation of resources, the availability of community resources, or the work activity needs of the service district.

(10) USE OF CONTRACTS.—The *department and local WAGES coalitions* ~~Department of Labor and Employment Security~~ shall provide work activities, training, and other services, as appropriate, through contracts. In contracting for work activities, training, or services, the following applies:

(a) All education and training provided under the WAGES Program shall be provided through agreements with regional workforce development boards.

(b) A contract must be performance-based. Wherever possible, payment shall be tied to performance outcomes that include factors such as, but not limited to, job entry, job entry at a target wage, and job retention, rather than tied to completion of training or education or any other phase of the program participation process.

(c) A contract may include performance-based incentive payments that may vary according to the extent to which the participant is more difficult to place. Contract payments may be weighted proportionally to reflect the extent to which the participant has limitations associated with the long-term receipt of welfare and difficulty in sustaining employment. The factors may include the extent of prior receipt of welfare, lack of employment experience, lack of education, lack of job skills, and other factors determined appropriate by the *department* ~~Department of Labor and Employment Security~~.

(d) Notwithstanding the exemption from the competitive sealed bid requirements provided in s. 287.057(3)(f) for certain contractual services, each contract awarded under this chapter must be awarded on the basis of a competitive sealed bid, except for a contract with a governmental entity as determined by the department ~~or the Department of Labor and Employment Security~~.

(e) The department *and the local WAGES coalitions* ~~or the Department of Labor and Employment Security~~ may contract with commercial, charitable, or religious organizations. A contract must comply with federal requirements with respect to nondiscrimination and other requirements that safeguard the rights of participants. Services may be provided under contract, certificate, voucher, or other form of disbursement.

(f) The administrative costs associated with a contract for services provided under this section may not exceed the applicable administrative cost ceiling established in federal law. An agency or entity that is awarded a contract under this section may not charge more than 7 percent of the value of the contract for administration, unless an exception is approved by the local WAGES coalition. A list of any exceptions approved must be submitted to the WAGES Program State Board of Directors for review, and the board may rescind approval of the exception. The WAGES Program State Board of Directors may also approve exceptions for any statewide contract for services provided under this section.

(g) *Local WAGES coalitions* ~~The Department of Labor and Employment Security~~ may enter into contracts to provide short-term work experience for the chronically unemployed as provided in this section.

(h) A tax-exempt organization under s. 501(c) of the Internal Revenue Code of 1986 which receives funds under this chapter must disclose receipt of federal funds on any advertising, promotional, or other material in accordance with federal requirements.

(11) PROTECTIONS FOR PARTICIPANTS.—

~~(a)~~ Each participant is subject to the same health, safety, and nondiscrimination standards established under federal, state, or local laws that otherwise apply to other individuals engaged in similar activities who are not participants in the WAGES Program.

~~(b) The Department of Labor and Employment Security shall recommend to the Legislature by December 30, 1997, policies to protect participants from discrimination, unreasonable risk, and unreasonable expectations related to work experience and community service requirements.~~

(13) CONTRACTS FOR VOCATIONAL ASSESSMENTS AND WORK EVALUATIONS.—Vocational assessments or work evaluations by the Division of Vocational Rehabilitation pursuant to this section shall be performed under contract with the local WAGES coalitions.

Section 11. Section 414.0655, Florida Statutes, is created to read:

414.0655 Medical incapacity due to substance abuse or mental health impairment.—

(1) Notwithstanding the provisions of s. 414.065 to the contrary, any participant who requires out-of-home residential treatment for alcoholism, drug addiction, alcohol abuse, or a mental health disorder, as certified by a physician licensed under chapter 458 or chapter 459, shall be exempted from work activities while participating in treatment. The participant shall be required to comply with the course of treatment necessary for the individual to resume work activity participation. The treatment agency shall be required to notify the department with an initial estimate of when the participant will have completed the course of treatment and be ready to resume full participation in the WAGES program. If the treatment will take longer than 60 days, the treatment agency shall provide to the department the conditions justifying extended treatment and the department and the treatment agency shall negotiate a continued stay in treatment not to exceed an additional 90 days.

(2) Notwithstanding any provision of s. 414.095(2)(a)4. or 5. to the contrary, a participant who is absent from the home due to out-of-home residential treatment for not more than 150 days shall continue to be a member of the assistance group whether or not the child or children for whom the participant is the parent or caretaker relative are living in the residential treatment center.

Section 12. Subsection (2) of section 414.085, Florida Statutes, is amended and subsection (4) is added to said section, to read:

414.085 Income eligibility standards.—For purposes of program simplification and effective program management, certain income definitions, as outlined in the food stamp regulations at 7 C.F.R. s. 273.9, shall be applied to the WAGES Program as determined by the department to be consistent with federal law regarding temporary cash assistance and Medicaid for needy families, except as to the following:

(2) Income security payments, including payments funded under part B of Title IV of the Social Security Act, as amended; supplemental security income under Title XVI of the Social Security Act, as amended; or other income security payments as defined by federal law shall be *excluded* ~~included~~ as income *unless* ~~to the extent~~ required *to be included* ~~or permitted~~ by federal law.

(4) An incentive payment to a participant authorized by a local WAGES coalition shall not be considered income.

Section 13. Paragraphs (b) and (c) of subsection (15) of section 414.095, Florida Statutes, 1998 Supplement, are amended, subsections (16), (17), and (18) are renumbered as subsections (17), (18), and (19), respectively, and a new subsection (16) is added to said section, to read:

414.095 Determining eligibility for the WAGES Program.—

(15) PROHIBITIONS AND RESTRICTIONS.—

(b) Temporary cash assistance, without shelter expense, may be available for a teen parent who is *a minor child* ~~less than 19 years of age~~ and for the child. Temporary cash assistance may not be paid directly to the teen parent but must be paid, on behalf of the teen parent and child, to an alternative payee who is designated by the department. The alternative payee may not use the temporary cash assistance for any purpose other than paying for food, clothing, shelter, and medical care for the teen parent and child and for other necessities required to enable the teen parent to attend school or a training program. In order for the child of the teen parent and the teen parent to be eligible for temporary cash assistance, the teen parent must:

1. Attend school or an approved alternative training program, unless the child is less than 12 weeks of age or the teen parent has completed high school; and

2. Reside with a parent, legal guardian, or other adult caretaker relative. The income and resources of the parent shall be included in calculating the temporary cash assistance available to the teen parent since the parent is responsible for providing support and care for the child living in the home.

3. Attend parenting and family classes that provide a curriculum specified by the department~~, the Department of Labor and Employment Security,~~ or the Department of Health, as available.

(c) The teen parent is not required to live with a parent, legal guardian, or other adult caretaker relative if the department determines that:

1. The teen parent has suffered or might suffer harm in the home of the parent, legal guardian, or adult caretaker relative.

2. The requirement is not in the best interest of the teen parent or the child. If the department determines that it is not in the best interest of the teen parent or child to reside with a parent, legal guardian, or other adult caretaker relative, the department shall provide or assist the teen parent in finding a suitable home, a second-chance home, a maternity home, or other appropriate adult-supervised supportive living arrangement. *Such living arrangement may include a shelter obligation in accordance with subsection (11).*

The department may not delay providing temporary cash assistance to the teen parent through the alternative payee designated by the department pending a determination as to where the teen parent should live and sufficient time for the move itself. A teen parent determined to need placement that is unavailable shall continue to be eligible for temporary cash assistance so long as the teen parent cooperates with the department, the *local WAGES coalition* ~~Department of Labor and Employment Security~~, and the Department of Health. The teen parent shall be provided with counseling to make the transition from independence to supervised living and with a choice of living arrangements.

(16) TRANSITIONAL BENEFITS AND SERVICES.—The department shall develop procedures to ensure that families leaving the temporary cash assistance program receive transitional benefits and services that will assist the family in moving toward self-sufficiency. At a minimum, such procedures must include, but are not limited to, the following:

(a) Each WAGES participant who is determined ineligible for cash assistance for a reason other than a work activity sanction shall be contacted by the case manager and provided information about the availability of transitional benefits and services. Such contact shall be attempted prior to closure of the case management file.

(b) Each WAGES participant who is determined ineligible for cash assistance due to noncompliance with the work activity requirements shall be contacted and provided information in accordance with s. 414.065(4).

(c) The department, in consultation with the WAGES Program State Board of Directors, shall develop informational material, including posters and brochures, to better inform families about the availability of transitional benefits and services.

(d) The department shall review federal requirements related to transitional Medicaid and shall, to the extent permitted by federal law, develop procedures to maximize the utilization of transitional Medicaid by families who leave the temporary cash assistance program.

Section 14. Subsections (2), (3), (10), and (12) of section 414.105, Florida Statutes, 1998 Supplement, are amended to read:

414.105 Time limitations of temporary cash assistance.—Unless otherwise expressly provided in this chapter, an applicant or current participant shall receive temporary cash assistance for episodes of not more than 24 cumulative months in any consecutive 60-month period that begins with the first month of participation and for not more than a lifetime cumulative total of 48 months as an adult.

(2) A participant who is not exempt from work activity requirements may earn 1 month of eligibility for extended temporary cash assistance, up to maximum of 12 additional months, for each month in which the participant is fully complying with the work activities of the WAGES Program through *subsidized or* unsubsidized *public or* private sector employment. The period for which extended temporary cash assistance is granted shall be based upon compliance with WAGES Program requirements beginning October 1, 1996. A participant may not receive temporary cash assistance under this subsection, in combination with other periods of temporary cash assistance for longer than a lifetime limit of 48 months. Hardship exemptions to the time limitations of this chapter shall be limited to ~~10 percent of participants in the first year of implementation of this chapter, 15 percent of participants in the second year of implementation of this chapter, and~~ 20 percent of participants in all subsequent years, *as determined by the department and approved by the WAGES Program State Board of Directors*. Criteria for hardship exemptions include:

(a) Diligent participation in activities, combined with inability to obtain employment.

(b) Diligent participation in activities, combined with extraordinary barriers to employment, including the conditions which may result in an exemption to work requirements.

(c) Significant barriers to employment, combined with a need for additional time.

(d) Diligent participation in activities and a need by teen parents for an exemption in order to have 24 months of eligibility beyond receipt of the high school diploma or equivalent.

(e) A recommendation of extension for a minor child of a participating family that has reached the end of the eligibility period for temporary cash assistance. The recommendation must be the result of a review which determines that the termination of the child's temporary cash assistance would be likely to result in the child being placed into emergency shelter or foster care. Temporary cash assistance shall be provided through a protective payee. Staff of the Children and Families Program Office of the department shall conduct all assessments in each case in which it appears a child may require continuation of temporary cash assistance through a protective payee.

At the recommendation of the local WAGES coalition, temporary cash assistance under a hardship exemption for a participant who is eligible for work activities and who is not working shall be reduced by 10 percent. Upon the employment of the participant, full benefits shall be restored.

(3) In addition to the exemptions listed in subsection (2), a victim of domestic violence may be granted a hardship exemption if the effects of such domestic violence delay or otherwise interrupt or adversely affect the individual's participation in the program. Hardship exemptions granted under this subsection shall not be subject to the percentage limitations in subsection *(2)* ~~(3)~~.

(10) An individual who receives benefits under the Supplemental Security Income program or the Social Security Disability Insurance program is not subject to time limitations. *An individual who has applied for supplemental security income (SSI), but has not yet received a determination must be granted an extension of time limits until the individual receives a final determination on the SSI application. Determination shall be considered final once all appeals have been exhausted, benefits have been received, or denial has been accepted without any appeal. Such individual must continue to meet all program requirements assigned to the participant based on medical ability to comply. Extensions of time limits shall be within the recipient's 48-month lifetime limit. Hardship exemptions granted under this subsection shall not be subject to the percentage limitations in subsection (2).*

(12) A member of the WAGES Program staff shall interview and assess the employment prospects and barriers of each participant who is within 6 months of reaching the 24-month time limit. The staff member shall assist the participant in identifying actions necessary to become employed prior to reaching the benefit time limit for temporary cash assistance and, if appropriate, shall refer the participant for services that could facilitate employment.

Section 15. Section 414.1525, Florida Statutes, is created to read:

414.1525 WAGES early exit diversion program.—An individual who meets the criteria listed in this section may choose to receive a lump-sum payment in lieu of ongoing cash assistance payments, provided the individual:

(1) Is employed and is receiving earnings, and would be eligible to receive cash assistance in an amount less than $100 per month given the WAGES earnings disregard.

(2) Has received cash assistance for at least 3 consecutive months.

(3) Expects to remain employed for at least 6 months.

(4) Chooses to receive a one-time lump-sum payment in lieu of ongoing monthly payments.

(5) Provides employment and earnings information to the department, so that the department can ensure that the family's eligibility for transitional benefits can be evaluated.

(6) Signs an agreement not to apply for or accept cash assistance for 6 months after receipt of the one-time payment. In the event of an emergency, such agreement shall provide for an exception to this restriction, provided that the one-time payment shall be deducted from any cash assistance for which the family subsequently is approved. This deduction may be prorated over an 8 month period. The department shall adopt rules defining the conditions under which a family may receive cash assistance due to such emergency.

Such individual may choose to accept a one-time lump-sum payment of $1,000 in lieu of receiving ongoing cash assistance. Such payment shall only count toward the time limitation for the month in which the payment is made in lieu of cash assistance. A participant choosing to accept such payment shall be terminated from cash assistance. However, eligibility for Medicaid, food stamps, or child care shall continue, subject to the eligibility requirements of those programs.

Section 16. Subsections (2), (3), (4), and (5) of section 414.155, Florida Statutes, 1998 Supplement, are amended to read:

414.155 Relocation assistance program.—

(2) The relocation assistance program shall involve five steps by the Department of Children and Family Services or *a local WAGES coalition* ~~the Department of Labor and Employment Security~~:

(a) A determination that the family is a WAGES Program participant or that all requirements of eligibility for the WAGES Program would likely be met.

(b) A determination that there is a basis for believing that relocation will contribute to the ability of the applicant to achieve self-sufficiency. For example, the applicant:

1. Is unlikely to achieve independence at the current community of residence;

2. Has secured a job that requires relocation to another community;

3. Has a family support network in another community; or

4. Is determined, pursuant to criteria or procedures established by the WAGES Program State Board of Directors, to be a victim of domestic violence who would experience reduced probability of further incidents through relocation.

(c) Establishment of a relocation plan *which includes*~~, including a budget and~~ such requirements as are necessary to prevent abuse of the benefit and ~~to provide an assurance that the applicant will relocate. The plan may require that expenditures be made on behalf of the recipient. However, the plan must include~~ provisions to protect the safety of victims of domestic violence and avoid provisions that place them in anticipated danger. The payment to defray relocation expenses shall be *determined based on a rule approved by the WAGES Program State Board of Directors and adopted by the department. Participants in the relocation program shall be eligible for transitional benefits* ~~limited to an amount not to exceed 4 months' temporary cash assistance, based on family size~~.

(d) A determination, pursuant to criteria adopted by the WAGES Program State Board of Directors, that a Florida community receiving a relocated family has the capacity to provide needed services and employment opportunities.

(e) Monitoring the relocation.

(3) A family receiving relocation assistance for reasons other than domestic violence must sign an agreement restricting the family from applying for temporary cash assistance for *a period specified in a rule approved by the WAGES Program State Board of Directors and adopted by the department* ~~6 months~~, unless an emergency is demonstrated to the department. If a demonstrated emergency forces the family to reapply for temporary cash assistance within *such period,* ~~6 months~~ after receiving a relocation assistance payment, repayment must be made on a prorated basis ~~over an 8-month period~~ and subtracted from any regular payment of temporary cash assistance for which the applicant may be eligible*, as specified in a rule approved by the WAGES Program State Board of Directors and adopted by the department*.

(4) The *department* ~~Department of Labor and Employment Security~~ shall have authority to adopt rules pursuant to the Administrative Procedure Act to determine that a community has the capacity to provide services and employment opportunities for a relocated family.

(5) The *department* ~~Department of Children and Family Services~~ shall have authority to adopt rules pursuant to the Administrative Procedure Act to develop and implement relocation plans and to draft an agreement restricting a family from applying for temporary cash assistance *for a specified period* ~~within 6 months~~ after receiving a relocation assistance payment.

Section 17. Section 414.157, Florida Statutes, is created to read:

414.157 Diversion program for victims of domestic violence.—

(1) The diversion program for victims of domestic violence is intended to provide services and one-time payments to assist victims of domestic violence and their children in making the transition to independence.

(2) Before finding an applicant family eligible for the diversion program created under this section, a determination must be made that:

(a) The applicant family includes a pregnant woman or a parent with one or more minor children or a caretaker relative with one or more minor children.

(b) The services or one-time payment provided are not considered assistance under federal law or guidelines.

(3) Notwithstanding any provision to the contrary in ss. 414.075, 414.085, and 414.095, a family meeting the criteria of subsection (2) who is determined by the domestic violence program to be in need of services or one-time payment due to domestic violence shall be considered a needy family and shall be deemed eligible under this section for services through a certified domestic violence shelter.

(4) One-time payments provided under this section shall not exceed an amount recommended by the WAGES Program State Board of Directors and adopted by the department in rule.

(5) Receipt of services or a one-time payment under this section shall not preclude eligibility for, or receipt of, other assistance or services under this chapter.

Section 18. Section 414.158, Florida Statutes, is created to read:

414.158 Diversion program to strengthen Florida's families.—

(1) The diversion program to strengthen Florida's families is intended to provide services and one-time payments to assist families in avoiding welfare dependency and to strengthen families so that children can be cared for in their own homes or in the homes of relatives and so that families can be self-sufficient.

(2) Before finding a family eligible for the diversion program created under this section, a determination must be made that:

(a) The family includes a pregnant woman or a parent with one or more minor children or a caretaker relative with one or more minor children.

(b) The family meets the criteria of a voluntary assessment performed by Healthy Families Florida; the family meets the criteria established by the department for determining that one or more children in the family are at risk of abuse, neglect, or threatened harm; or the family is homeless or living in a facility that provides shelter to homeless families.

(c) The services or one-time payment provided are not considered assistance under federal law or guidelines.

(3) Notwithstanding any provision to the contrary in s. 414.075, s. 414.085, or s. 414.095, a family meeting the requirements of subsection (2) shall be considered a needy family and shall be deemed eligible under this section.

(4) The department, in consultation with Healthy Families Florida, may establish additional requirements related to services or one-time payments, and the department is authorized to adopt rules relating to maximum amounts of such one-time payments.

(5) Receipt of services or a one-time payment under this section shall not preclude eligibility for, or receipt of, other assistance or services under this chapter.

Section 19. Section 414.1585, Florida Statutes, is created to read:

414.1585 Diversion program for families at risk of welfare dependency due to substance abuse or mental illness.

(1) The diversion program for families at risk of welfare dependency due to substance abuse or mental illness is intended to provide services and one-time payments to assist families in avoiding welfare dependency and to stabilize families, so that children can be cared for in their own homes or in the homes of relatives and so that families can be self-sufficient.

(2) Before finding a family eligible for the diversion program created under this section, a determination must be made that:

(a) The family includes a pregnant woman or a parent with one or more minor children or a caretaker relative with one or more minor children.

(b) The family meets criteria established by the department that one or more individuals in the family are at risk of or are impaired due to substance abuse or mental illness.

(c) The services or one-time payment provided are not considered assistance under federal law or guidelines.

(3) Notwithstanding any provision to the contrary in s. 414.075, s. 414.085, or s. 414.095, a family meeting the criteria of subsection (2) shall a be considered a needy family and shall be deemed eligible under this section.

(4) The department is authorized to adopt rules governing the administration of this section and may establish additional criteria related to services, client need, or one-time payments. The department may establish maximum amounts of one-time payments in rule.

(5) Receipt of services or a one-time payment under this section shall not preclude eligibility for, or receipt of, other assistance or services under this chapter.

Section 20. Section 414.159, Florida Statutes, is created to read:

414.159 Teen parent and pregnancy prevention diversion program; eligibility for services.—The Legislature recognizes that teen pregnancy is a major cause of dependency on government assistance that often extends through more than one generation. The purpose of the teen parent and pregnancy prevention diversion program is to provide services to reduce and avoid welfare dependency by reducing teen pregnancy, reducing the incidence of multiple pregnancies to teens, and by assisting teens in completing educational programs.

(1) Notwithstanding any provision to the contrary in ss. 414.075, 414.085, and 414.095, a teen who is determined to be at-risk of teen pregnancy or who already has a child shall be deemed eligible to receive services under this program.

(2) Services provided under this program shall be limited to services that are not considered assistance under federal law or guidelines.

(3) Receipt of services under this section shall not preclude eligibility for, or receipt of, other assistance or services under this chapter.

Section 21. Section 414.1599, Florida Statutes, is created to read:

414.1599 Diversion programs; determination of need.—If federal regulations require a determination of needy families or needy parents to be based on financial criteria, such as income or resources, for individuals or families who are receiving services, one-time payments, or nonrecurring short-term benefits, the department shall adopt rules to define such criteria. In such rules, the department shall use the income level established for Temporary Assistance for Needy Families funds which are transferred for use under Title XX of the Social Security Act. If federal regulations do not require a financial determination for receipt of such benefits, payments, or services, the criteria otherwise established in this chapter shall be used.

Section 22. Section 414.18, Florida Statutes, is created to read:

414.18 Program for dependent care for families with children with special needs.—

(1) There is created the program for dependent care for families with children with special needs. This program is intended to provide assistance to families with children who meet the following requirements:

(a) The child or children are between the ages of 13 and 17 years, inclusive.

(b) The child or children are considered to be children with special needs as defined by the subsidized child care program authorized under s. 402.3015.

(c) The family meets the income guidelines established under s. 402.3015. Financial eligibility for this program shall be based solely on the guidelines used for subsidized child care, notwithstanding any financial eligibility criteria to the contrary in s. 414.075, s. 414.085, or s. 414.095.

(2) Implementation of this program shall be subject to appropriation of funds for this purpose.

(3) If federal funds under the Temporary Assistance for Needy Families block grant provided under Title IV-A of the Social Security Act, as amended, are used for this program, the family must be informed about the federal requirements on receipt of such assistance and must sign a written statement acknowledging, and agreeing to comply with, all federal requirements.

(4) In addition to child care services provided under s. 402.3015, dependent care may be provided for children age 13 years and older who are in need of care due to disability and where such care is needed for the parent to accept or continue employment or otherwise participate in work activities. The amount of subsidy shall be consistent with the rates for special needs child care established by the department. Dependent care needed for employment may be provided as transitional services for up to 2 years after eligibility for WAGES assistance ends.

(5) Notwithstanding any provision of s. 414.105 to the contrary, the time limitation on receipt of assistance under this section shall be the limit established pursuant to s. 408(a)(7) of the Social Security Act, as amended, 42 U.S.C. s. 608(a)(7).

Section 23. Section 414.20, Florida Statutes, 1998 Supplement, is amended to read:

414.20 Other support services.—Support services shall be provided, if resources permit, to assist participants in complying with work activity requirements outlined in s. 414.065. If resources do not permit the provision of needed support services, the department and the *local WAGES coalition* ~~Department of Labor and Employment Security~~ may prioritize or otherwise limit provision of support services. This section does not constitute an entitlement to support services. Lack of provision of support services may be considered as a factor in determining whether good cause exists for failing to comply with work activity requirements but does not automatically constitute good cause for failing to comply with work activity requirements, and does not affect any applicable time limit on the receipt of temporary cash assistance or the provision of services under this chapter. Support services shall include, but need not be limited to:

(1) TRANSPORTATION.—Transportation expenses may be provided to any participant when the assistance is needed to comply with work activity requirements or employment requirements, including transportation to and from a child care provider. Payment may be made in cash or tokens in advance or through reimbursement paid against receipts or invoices. Transportation services may include, but are not limited to, cooperative arrangements with the following: public transit providers; community transportation coordinators designated under chapter 427; school districts; churches and community centers; donated motor vehicle programs, van pools, and ridesharing programs; small enterprise developments and entrepreneurial programs that encourage WAGES participants to become transportation providers; public and private transportation partnerships; and other innovative strategies to expand transportation options available to program participants.

(a) Local WAGES coalitions are authorized to provide payment for vehicle operational and repair expenses, including repair expenditures necessary to make a vehicle functional; vehicle registration fees; driver's license fees; and liability insurance for the vehicle for a period of up to 6 months. Request for vehicle repairs must be accompanied by an estimate of the cost prepared by a repair facility registered under s. 559.904.

(b) Transportation disadvantaged funds as defined in chapter 427 do not include WAGES support services funds or funds appropriated to assist persons eligible under the Job Training Partnership Act. It is the intent of the Legislature that local WAGES coalitions and regional workforce development boards consult with local community transportation coordinators designated under chapter 427 regarding the availability and cost of transportation services through the coordinated transportation system prior to contracting for comparable transportation services outside the coordinated system.

(2) ANCILLARY EXPENSES.—Ancillary expenses such as books, tools, clothing, fees, and costs necessary to comply with work activity requirements or employment requirements may be provided.

(3) MEDICAL SERVICES.—A family that meets the eligibility requirements for Medicaid shall receive medical services under the Medicaid program.

(4) PERSONAL AND FAMILY COUNSELING AND THERAPY.—Counseling may be provided to participants who have a personal or family problem or problems caused by substance abuse that is a barrier to compliance with work activity requirements or employment requirements. In providing these services, the department and *local WAGES coalitions* ~~the Department of Labor and Employment Security~~ shall use services that are available in the community at no additional cost. If these services are not available, the department and *local WAGES coalitions* ~~the Department of Labor and Employment Security~~ may use support services funds. Personal or family counseling not available through Medicaid may not be considered a medical service for purposes of the required statewide implementation plan or use of federal funds.

Section 24. Section 414.22, Florida Statutes, is amended to read:

414.22 Transitional education and training.—In order to assist current and former participants *who are working or actively seeking employment* in continuing their training and upgrading their skills, education, or training, support services may be provided to a participant for up to 2 years after the participant is no longer ~~eligible to participate~~ in the program. This section does not constitute an entitlement to transitional education and training. If funds are not sufficient to provide services under this section, the *WAGES Program State Board of Directors* ~~Department of Labor and Employment Security~~ may limit or otherwise prioritize transitional education and training.

(1) Education or training resources available in the community at no additional cost to the *WAGES Program* ~~Department of Labor and Employment Security~~ shall be used whenever possible.

(2) The *local WAGES coalitions* ~~Department of Labor and Employment Security~~ may authorize child care or other support services in addition to services provided in conjunction with employment. For example, a participant who is employed full time may receive subsidized child care related to that employment and may also receive additional subsidized child care in conjunction with training to upgrade the participant's skills.

(3) Transitional education or training must be job-related, but may include training to improve job skills in a participant's existing area of employment or may include training to prepare a participant for employment in another occupation.

(4) *A local WAGES coalition* ~~The Department of Labor and Employment Security~~ may enter into an agreement with an employer to share the costs relating to upgrading the skills of participants hired by the employer. For example, *local WAGES coalitions* ~~the department~~ may agree to provide support services such as transportation or a wage subsidy in conjunction with training opportunities provided by the employer.

Section 25. Section 414.223, Florida Statutes, is created to read:

414.223 Retention Incentive Training Accounts.—To promote job retention and to enable upward job advancement into higher skilled, higher paying employment, the WAGES Program State Board of Directors, Workforce Development Board, regional workforce development boards, and local WAGES coalitions may jointly assemble, from postsecondary education institutions, a list of programs and courses for WAGES participants who have become employed which promote job retention and advancement.

(1) The WAGES Program State Board of Directors and the Workforce Development Board may jointly establish Retention Incentive Training Accounts (RITAs). RITAs shall utilize Temporary Assistance to Needy Families block grant funds specifically appropriated for this purpose. RITAs must complement the Individual Training Account required by the federal Workforce Investment Act of 1998, Pub. L. No. 105–220.

(2) RITAs may pay for tuition, fees, educational materials, coaching and mentoring, performance incentives, transportation to and from courses, child care costs during education courses, and other such costs as the regional workforce development boards determine are necessary to effect successful job retention and advancement.

(3) Regional workforce development boards shall retain only those courses that continue to meet their performance standards as established in their local plan.

(4) Regional workforce development boards shall report annually to the Legislature on the measurable retention and advancement success of each program provider and the effectiveness of RITAs, making recommendations for any needed changes or modifications.

Section 26. Section 414.225, Florida Statutes, 1998 Supplement, is amended to read:

414.225 Transitional transportation.—In order to assist former WAGES participants in maintaining and sustaining employment *or educational opportunities*, transportation may be provided, if funds are available, for up to 1 year after the participant is no longer ~~eligible to participate~~ in the program ~~due to earnings~~. This does not constitute an entitlement to transitional transportation. If funds are not sufficient to provide services under this section, the department may limit or otherwise prioritize transportation services.

(1) Transitional transportation must be job *or education* related.

(2) Transitional transportation may include expenses identified in s. 414.20*, paid directly or by voucher, as well as a vehicle valued at not more than $8,500 if the vehicle is needed for training, employment, or educational purposes*.

Section 27. Section 414.23, Florida Statutes, is amended to read:

414.23 Evaluation.—The department and the *WAGES Program State Board of Directors* ~~Department of Labor and Employment Security~~ shall arrange for evaluation of programs operated under this chapter, as follows:

(1) If required by federal waivers or other federal requirements, the department and the *WAGES Program State Board of Directors* ~~Department of Labor and Employment Security~~ may provide for evaluation according to these requirements.

(2) The department and the *WAGES Program State Board of Directors* ~~Department of Labor and Employment Security~~ shall participate in the evaluation of this program in conjunction with evaluation of the state's workforce development programs or similar activities aimed at evaluating program outcomes, cost-effectiveness, or return on investment, and the impact of time limits, sanctions, and other welfare reform measures set out in this chapter. Evaluation shall also contain information on the number of participants in work experience assignments who obtain unsubsidized employment, including, but not limited to, the length of time the unsubsidized job is retained, wages, and the public benefits, if any, received by such families while in unsubsidized employment. The evaluation shall solicit the input of consumers, community-based organizations, service providers, employers, and the general public, and shall publicize, especially in low-income communities, the process for submitting comments.

(3) The department and the *WAGES Program State Board of Directors* ~~Department of Labor and Employment Security~~ may share information with and develop protocols for information exchange with the Florida Education and Training Placement Information Program.

(4) The department and the *WAGES Program State Board of Directors* ~~Department of Labor and Employment Security~~ may initiate or participate in additional evaluation or assessment activities that will further the systematic study of issues related to program goals and outcomes.

(5) In providing for evaluation activities, the department and the *WAGES Program State Board of Directors* ~~Department of Labor and Employment Security~~ shall safeguard the use or disclosure of information obtained from program participants consistent with federal or state requirements. The department and the *WAGES Program State Board of Directors* ~~Department of Labor and Employment Security~~ may use evaluation methodologies that are appropriate for evaluation of program activities, including random assignment of recipients or participants into program groups or control groups. To the extent necessary or appropriate, evaluation data shall provide information with respect to the state, district, or county, or other substate area.

(6) The department and the *WAGES Program State Board of Directors* ~~Department of Labor and Employment Security~~ may contract with a qualified organization for evaluations conducted under this section.

(7) Evaluations described in this section are exempt from the provisions of s. 381.85.

Section 28. Section 414.37, Florida Statutes, is amended to read:

414.37 Public assistance overpayment recovery privatization; reemployment of laid-off career service employees.—Should career service employees of the Department of Children and Family Services be subject to layoff after July 1, 1995, due to the privatization of public assistance overpayment recovery functions, the privatization contract shall require the contracting firm to give priority consideration to employment of such employees. In addition, a task force composed of representatives from the Department of Children and Family Services, ~~the Department of Labor and Employment Security,~~ and the Department of Management Services shall be established to provide reemployment assistance to such employees.

Section 29. Section 414.44, Florida Statutes, is amended to read:

414.44 Data collection and reporting.—The department and the *WAGES Program State Board of Directors* ~~Department of Labor and Employment Security~~ shall collect data necessary to administer this chapter and make the reports required under federal law to the United States Department of Health and Human Services and the United States Department of Agriculture.

Section 30. Section 414.45, Florida Statutes, 1998 Supplement, is amended to read:

414.45 Rulemaking.—The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement and enforce the provisions of this chapter. ~~The Department of Labor and Employment Security may adopt rules pursuant to ss. 120.536(1) and 120.54, to implement and enforce the provisions of this chapter.~~ The rules must provide protection against discrimination and the opportunity for a participant to request a review by a supervisor or administrator of any decision made by a panel or board of the department~~, the Department of Labor and Employment Security,~~ or the WAGES Program.

Section 31. Subsection (1), paragraph (b) of subsection (2), and paragraph (a) of subsection (3) of section 414.70, Florida Statutes, 1998 Supplement, are amended to read:

414.70 Drug-testing and drug-screening program; procedures.—

(1) DEMONSTRATION PROJECT.—The Department of Children and Family Services, in consultation with local WAGES coalitions 3 and 8, shall develop and, as soon as possible after January 1, 1999, implement a demonstration project in WAGES regions 3 and 8 to screen each applicant and test applicants for temporary cash assistance provided under this chapter, who the department has reasonable cause to believe, based on the screening, engage in illegal use of controlled substances. Unless reauthorized by the Legislature, this demonstration project expires June 30, 2001. As used in this act, the term "applicant" means an individual who first applies for assistance or services under the WAGES Program. Screening and testing for the illegal use of controlled substances is not required if the individual reapplies during any continuous period in which the individual receives assistance or services. However, an individual may volunteer for drug testing and treatment if funding is available.

(a) Applicants subject to the requirements of this section include any parent or caretaker relative who is included in the cash assistance group, including individuals who may be exempt from work activity requirements due to the age of the youngest child or who may be excepted from work activity requirements under s. 414.065(7).

(b) Applicants not subject to the requirements of this section include applicants for food stamps or Medicaid who are not applying for cash assistance, applicants who, if eligible, would be exempt from the time limitation and work activity requirements due to receipt of social security disability income, and applicants who, if eligible, would be excluded from the assistance group due to receipt of supplemental security income.

(2) PROCEDURES.—Under the demonstration project, the Department of Children and Family Services shall:

(b) Develop a procedure for drug screening and conducting drug testing of applicants for temporary assistance or services under the WAGES Program. *For two-parent families, both parents must comply with the drug screening and testing requirements of this section.*

(3) CHILDREN.—

(a) If a parent is deemed ineligible for cash assistance due to *refusal to comply with the provisions of this section* ~~the failure of a drug test under this act~~, his or her dependent child's eligibility for cash assistance is not affected. *A parent who is ineligible for cash assistance due to refusal or failure to comply with the provisions of this section shall be subject to the work activity requirements of s. 414.065, and shall be subject to the penalties under s. 414.065(4) upon failure to comply with such requirements.*

Section 32. Subsection (13) of section 239.249, Florida Statutes, is amended to read:

239.249 Market-driven, performance-based incentive funding for vocational and technical education programs.—

(13) Payment for vocational and technical education and training provided to WAGES Program participants shall be in accordance with the payment structure established by the WAGES Program State Board of Directors under s. 414.027(1)*(i)*~~(g)~~.

Section 33. Paragraph (m) is added to subsection (2) of section 250.10, Florida Statutes, 1998 Supplement, to read:

250.10 Appointment and duties of the Adjutant General.—

(2) The Adjutant General of the state shall be the Chief of the Department of Military Affairs. He or she shall:

(m) Subject to annual appropriations, administer youth About Face programs and adult Forward March programs at sites to be selected by the Adjutant General.

1. About Face shall establish a summer and a year-round afterschool life-preparation program for economically disadvantaged and at-risk youths from 13 through 17 years of age. Both programs must provide schoolwork assistance, focusing on the skills needed to pass the high school competency test, and also focus on functional life skills, including teaching students to work effectively in groups; providing basic instruction in computer skills; teaching basic problem solving, decisionmaking, and reasoning skills; teaching how the business world and free enterprise work through computer simulations; and teaching home finance and budgeting and other daily living skills. In the afterschool program, students must train in academic study skills, and the basic skills that businesses require for employment consideration.

2. The Adjutant General shall provide job-readiness services in the Forward March program for WAGES Program participants who are directed to Forward March by local WAGES coalitions. The Forward March program shall provide training on topics that directly relate to the skills required for real-world success. The program shall emphasize functional life skills, computer literacy, interpersonal relationships, critical-thinking skills, business skills, preemployment and work maturity skills, job-search skills, exploring careers activities, how to be a successful and effective employee, and some job-specific skills. The program also shall provide extensive opportunities for participants to practice generic job skills in a supervised work setting. Upon completion of the program, Forward March shall return participants to the local WAGES coalition for placement in a job placement pool.

Section 34. *Sections 414.29 and 414.43, Florida Statutes, are repealed.*

Section 35. *(1) Notwithstanding the provisions of ss. 216.031, 216.0181, 216.251, and 216.262, Florida Statutes, to the contrary and pursuant to the provisions of s. 216.351, Florida Statutes, funds and authorized positions for the operation of programs affected by this act may be transferred by the Executive Office of the Governor between appropriation categories, budget entities, and departments as necessary to implement the act. The affected departments shall develop and publish annual operating budgets that reflect any reallocations. Any program, activity, or function transferred under the provisions of this subsection shall be considered a type two transfer under the provisions of s. 20.06, Florida Statutes.*

(2) Notwithstanding the provisions of s. 216.181, Florida Statutes, and pursuant to the provisions of s. 216.351, Florida Statutes, but subject to any requirements imposed in the General Appropriations Act, the Comptroller, upon the request of the Executive Office of the Governor, shall transfer or reallocate funds to or among accounts established for disbursement purposes as necessary to implement this act. The departments shall maintain records to account for the original appropriation and shall submit legislative budget requests which reflect the transfer of funds between expenditure categories which have been made in order to implement this act.

(3) This section shall take effect upon this act becoming a law.

Section 36. This act shall take effect upon becoming a law.

And the title is amended as follows: remove from the title of the bill: the entire title and insert in lieu thereof: A bill to be entitled An act relating to the WAGES Program; amending s. 402.305, F.S.; revising provisions excepting program participants working at a child care facility from calculation of the facility's staff-to-child ratio; amending s. 414.0252, F.S.; providing a definition; creating s. 414.0267, F.S.; establishing a program of matching grants for economic independence; amending s. 414.027, F.S.; revising requirements for the annual state plan; modifying payment structure for services to WAGES participants; amending s. 414.028, F.S.; eliminating references to certain duties of the Department of Labor and Employment Security; providing funding for local WAGES coalitions through contract with the Department of Management Services; providing for revocation of a local coalition charter; providing for reassignment of duties; specifying use of funds; amending s. 414.030, F.S.; eliminating a cap on the number of WAGES Program employment projects to be identified; specifying a limit to funds allocated; authorizing the award of reasonable administrative costs associated with such projects; specifying contract terms; requiring creation of a WAGES Program Employment Implementation Team; creating s. 414.035, F.S.; requiring expenditures of funds under Temporary Assistance for Needy Families to be in accordance with federal provisions; requiring certification of fiscal controls; creating s. 414.045, F.S.; providing cash assistance program reporting and oversight requirements; providing duties of the state board of directors, local coalitions, and Department of Children and Family Services; amending s. 414.055, F.S.; conforming references; amending s. 414.065, F.S.; revising restrictions on the use of vocational education to fulfill work activity requirements; revising provisions relating to job skills training; providing for extended education and training; providing penalties for failure to comply with work activity alternative requirement plans; revising provisions relating to interview, counseling, and services for noncompliant participants; directing the department to seek a federal waiver to administer certain sanctions; providing for limited work activity assignments for persons with medically verified limitations; providing for medical or vocational assessment; providing an exemption from work activity requirements for certain supplemental security income applicants; providing for contracts for vocational assessments and work evaluations; creating s. 414.0655, F.S.; providing an exception from work activities for participants who require out-of-home residential treatment for substance abuse or mental health impairment; providing time limitations; amending s. 414.085, F.S.; revising applicability of certain federal income to program income eligibility standards; providing that local coalition incentive payments not be considered income; amending s. 414.095, F.S.; revising provisions relating to temporary cash assistance and a shelter obligation for teen parents; providing for transitional benefits and services for families leaving the temporary cash assistance program; amending s. 414.105, F.S.; revising time limitations and exceptions for temporary cash assistance; creating s. 414.1525, F.S.; authorizing an early exit diversion program; providing criteria for one-time lump-sum payment in lieu of ongoing cash assistance; providing limitations; amending s. 414.155, F.S.; revising procedure for determination of relocation assistance and for receipt and repayment of assistance thereafter; providing eligibility for transitional benefits and services; creating s. 414.157, F.S.; authorizing a diversion program for victims of domestic violence; providing eligibility; providing limitations; creating s. 414.158, F.S.; authorizing a diversion program to strengthen Florida's families; providing limitations and requirements; creating s. 414.1585, F.S.; authorizing a diversion program for families at risk of welfare dependency due to substance abuse or mental illness; providing limitations and requirements; creating s. 414.159, F.S.; authorizing the teen parent and teen pregnancy diversion program; providing eligibility; providing limitations; creating s. 414.1599, F.S.; providing for determination of need for diversion programs; creating s. 414.18, F.S.; creating a program for dependent care for families with children with special needs; providing requirements and limitations; amending ss. 414.20, 414.23, 414.37, 414.44, and 414.45, F.S.; conforming references; amending s. 414.22, F.S.; revising eligibility for transitional education and training; creating s. 414.223, F.S.; providing for development of lists of postsecondary programs and courses that promote job retention and advancement; authorizing establishment of Retention Incentive Training Accounts; providing for funding; providing eligible expenditures; requiring an annual report; amending s. 414.225, F.S.; revising provisions relating to transitional transportation; amending s. 414.70, F.S.; providing drug testing and screening requirements for parents and caretaker relatives in a cash assistance group; providing exceptions; providing applicability of work requirements and penalties to persons who fail to comply with drug testing and screening requirements; amending s. 239.249, F.S.; correcting a cross reference; amending s. 250.10, F.S.; requiring the Adjutant General to administer a life preparation program and job readiness services; repealing s. 414.29, F.S., relating to access to lists of temporary cash assistance recipients; repealing s. 414.43, F.S., relating to a special needs allowance for families with a disabled family member; providing for transfer of funds between appropriations categories; providing an effective date.

On motion by Senator Kirkpatrick, the Senate concurred in the House amendment.

CS for CS for SB 256 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

SENATOR BURT PRESIDING

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB 338, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 338—A bill to be entitled An act relating to the protection of children; creating the "Kayla McKean Child Protection Act"; providing legislative intent; amending s. 39.01, F.S.; redefining the term "harm" for purposes of ch. 39, F.S., to include the act of placing a child with another person to avoid or impede a protective investigation; redefining the term "participant" to include providers when designated by the court; amending s. 39.201, F.S.; requiring that a judge report known or suspected child abuse; requiring that the Department of Children and Family Services accept certain reports of child abuse for investigation; providing additional requirements for the department with respect to recording calls on the central abuse hotline; requiring that the department's quality assurance program review reports made to the hotline which involve a specified number of reports on a single child; amending s. 39.202, F.S.; providing for certain persons who report child abuse to request a summary of the investigation; amending s. 39.205, F.S.; increasing the penalties imposed for failing to report child abuse or preventing the reporting of child abuse, unless the court finds the offender is a victim of domestic violence; amending s. 39.301, F.S.; requiring notification of the appropriate law enforcement agency of reports provided to the department's district staff; requiring review; requiring criminal investigation, if warranted; requiring that the department maintain certain information on child abuse investigations; providing requirements for assigning multidisciplinary staff to an investigation;

requiring that the department adopt rules governing the completion of investigatory activities; revising requirements for conducting risk assessments and onsite child protective investigations; authorizing the department to conduct unannounced visits and interviews; requiring that the department adopt rules specifying criteria under which a child is taken into custody, that a petition be filed with the court, or that an administrative review be held; requiring documentation; requiring that law enforcement agencies participating in an investigation take photographs of the child's living environment which shall be part of the investigative file; requiring certain training; amending s. 39.302, F.S.; authorizing the department to conduct unannounced visits when conducting an investigation; requiring that the department conduct certain onsite visits; amending s. 39.303, F.S.; providing for a child protection team to include a representative of the school district; providing for medical evaluations in certain cases of child abuse, and neglect; specifying additional conditions that must be evaluated by the child protection team; amending s. 39.304, F.S.; requiring that photographs be taken of visible trauma on a child which shall be part of the investigative file; amending s. 39.306, F.S.; specifying local criminal history information that a law enforcement entity is authorized to share; amending s. 39.402, F.S.; authorizing the court to order that a child remain in the department's custody for an additional period in order for the court to determine risk to the child; requiring that the department provide certain information to the court at the shelter hearing; creating s. 383.402, F.S.; creating the State Child Abuse Death Review Committee; 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 abuse 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 providers to charge a specified fee; authorizing the State Child Abuse Death Review Committee to issue subpoenas; requiring the Department of Health to administer the funds appropriated to operate the review committees; requiring that the Department of Children and Family Services appoint a child abuse death review coordinator in each district; amending s. 409.1671, F.S.; requiring a case-transfer process; requiring that private providers furnish status reports to the Department of Children and Family Services; prohibiting a provider from discontinuing services without the department's written notification; requiring that contracts between the department and community-based agencies include provisions for dispute resolution; amending s. 777.03, F.S.; providing that certain actions to assist an offender who has committed child abuse, child neglect, or the manslaughter or murder of a child under a specified age constitute acting as an accessory after the fact; amending s. 827.03, F.S.; increasing the penalties imposed for the offense of aggravated child abuse; amending s. 921.0022, F.S., relating to the offense severity ranking chart of the Criminal Punishment Code; conforming provisions to changes made by the act; amending s. 934.03, F.S.; authorizing the central abuse hotline to record incoming wire communications; amending s. 39.823, F.S., relating to guardian advocates for newborns; conforming a cross-reference to changes made by the act; requiring the Department of Health to develop a plan for county child protection teams; requiring the Department of Children and Family Services to contract with an independent entity to evaluate the central abuse hotline; providing appropriations; providing that certain full-time positions within the Department of Children and Family Services are not subject to position-lapse adjustments in the General Appropriations Act or in agency operation budgets; providing for an analysis and report by the Office of Program Policy Analysis and Government Accountability; providing an effective date.

House Amendment 1 (762419)(with title amendment)—remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. *Short title.—This act may be cited as the "Kayla McKean Child Protection Act."*

Section 2. *Legislative intent.—The Legislature intends to identify those gaps or shortcomings in the current child protection system, including those gaps or shortcomings in child protection services provided by the Department of Children and Family Services and its contract providers, by child protection teams, by law enforcement agencies, by schools, and by the courts, in order to make the system more responsive to children who are at risk of child abuse or neglect.*

Section 3. Paragraph (l) is added to subsection (30) of section 39.01, Florida Statutes, 1998 Supplement, and subsection (50) of that section is amended, to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(30) "Harm" to a child's health or welfare can occur when the parent, legal custodian, or caregiver responsible for the child's welfare:

(l) Makes the child unavailable for the purpose of impeding or avoiding a protective investigation unless the court determines that the parent, legal custodian, or caregiver was fleeing from a situation involving domestic violence.

(50) "Participant," for purposes of a shelter proceeding, dependency proceeding, or termination of parental rights proceeding, means any person who is not a party but who should receive notice of hearings involving the child, including foster parents or caregivers, identified prospective parents, grandparents entitled to priority for adoption consideration under s. 63.0425, actual custodians of the child, and any other person whose participation may be in the best interest of the child. *A community-based agency under contract with the department to provide protective services may be designated as a participant at the discretion of the court.* Participants may be granted leave by the court to be heard without the necessity of filing a motion to intervene.

Section 4. Subsections (1) and (2) of section 39.201, Florida Statutes, 1998 Supplement, are amended, and subsections (8) and (9) are added to that section, 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) Law enforcement officer*; or*~~,~~

(g) Judge,

who knows, or has reasonable cause to suspect, that a child is an abused, abandoned, or neglected child shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(2)(a) Each report of known or suspected child abuse, abandonment, or neglect pursuant to this section, except those solely under s. 827.04(3), shall be made immediately to the department's central abuse hotline on the single statewide toll-free telephone number, and, if the report is of an instance of known or suspected child abuse by a noncaretaker, the call shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse hotline. If the report is of an instance of known or suspected child abuse involving impregnation of a child under 16 years of age by a person 21 years of age or older solely under s. 827.04(3), the report shall be made immediately to the appropriate county sheriff's office or other appropriate law enforcement agency. If the report is of an instance of known or suspected child abuse solely under s. 827.04(3), the reporting provisions of this subsection do not apply to health care professionals or other persons who provide medical or counseling services to pregnant children when such reporting would interfere with the provision of medical services.

(b) The department must consider valid and accept for investigation any report received by the central abuse hotline from a judge, teacher or other professional school official, or physician, as specified in paragraph (1)(a), paragraph (1)(d), or paragraph (1)(g), who is acting in his or her professional capacity, alleging harm as defined in s. 39.01.

(c)~~(b)~~ Reporters in occupation categories designated in subsection (1) are required to provide their names to the hotline staff. The names of

reporters shall be entered into the record of the report, but shall be held confidential as provided in s. 39.202.

(d)~~(c)~~ Reports involving known or suspected institutional child abuse or neglect shall be made and received in the same manner as all other reports made pursuant to this section.

(e)~~(d)~~ Reports involving a known or suspected juvenile sexual offender shall be made and received by the department.

1. The department shall determine the age of the alleged juvenile sexual offender if known.

2. When the alleged juvenile sexual offender is 12 years of age or younger, the department shall proceed with an investigation of the report pursuant to this part, immediately electronically transfer the call to the appropriate law enforcement agency office by the central abuse hotline, and send a written report of the allegation to the appropriate county sheriff's office within 48 hours after the initial report is made to the central abuse hotline.

3. When the alleged juvenile sexual offender is 13 years of age or older, the department shall immediately electronically transfer the call to the appropriate county sheriff's office by the central abuse hotline, and send a written report to the appropriate county sheriff's office within 48 hours after the initial report to the central abuse hotline.

(f)~~(e)~~ Hotline counselors shall receive periodic training in encouraging reporters to provide their names when reporting abuse, abandonment, or neglect. Callers shall be advised of the confidentiality provisions of s. 39.202. The department shall secure and install electronic equipment that automatically provides to the hotline the number from which the call is placed. This number shall be entered into the report of abuse, abandonment, or neglect and become a part of the record of the report, but shall enjoy the same confidentiality as provided to the identity of the caller pursuant to s. 39.202.

(g) The department shall voice-record all incoming or outgoing calls that are received or placed by the central abuse hotline which relate to suspected or known child abuse, neglect, or abandonment. The recording shall become a part of the record of the report, but is subject to the same confidentiality as is provided to the identity of the caller under s. 39.202.

(8) Nothing in this chapter or in the privatization of foster care and related services as specified in s. 409.1671 shall be construed to remove or reduce the duty and responsibility of any person, including any employee of the privatization provider, to report a suspected or actual case of child abuse, abandonment, or neglect or the sexual abuse of a child to the department's central abuse hotline.

(9) On an ongoing basis, the department's quality assurance program shall review reports to the hotline involving three or more unaccepted reports on a single child in order to detect such things as harassment and situations that warrant an investigation because of the frequency or variety of the source of the reports. The assistant secretary may refer a case for investigation when it is determined, as a result of this review, that an investigation may be warranted.

Section 5. Subsection (4) of section 39.202, Florida Statutes, 1998 Supplement, is amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(4) The name of any person reporting child abuse, abandonment, or neglect may not be released to any person other than employees of the department responsible for child protective services, the central abuse hotline, law enforcement, or the appropriate state attorney, without the written consent of the person reporting. This does not prohibit the subpoenaing of a person reporting child abuse, abandonment, or neglect when deemed necessary by the court, the state attorney, or the department, provided the fact that such person made the report is not disclosed. Any person who reports a case of child abuse or neglect may, at the time he or she makes the report, request that the department notify him or her that a child protective investigation occurred as a result of the report. *Any person specifically listed in s. 39.201(1) who makes a report in his or her official capacity may also request a written summary of the outcome of the investigation.* The department shall mail such a notice to the reporter within 10 days after completing the child protective investigation.

Section 6. Section 39.205, Florida Statutes, 1998 Supplement, is amended to read:

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 *first* ~~second~~ degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Unless the court finds that the person is a victim of domestic violence or that other mitigating circumstances exist, a person who is 18 years of age or older and lives in the same house or living unit as a child who is known or suspected to be a victim of child abuse, neglect of a child, or aggravated child abuse, and knowingly and willfully fails to report the child abuse commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3)~~(2)~~ A person who knowingly and willfully makes public or discloses any confidential information contained in the central abuse hotline or in the records of any child abuse, abandonment, or neglect case, except as provided in this chapter, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4)~~(3)~~ The department shall establish procedures for determining whether a false report of child abuse, abandonment, or neglect has been made and for submitting all identifying information relating to such a report to the appropriate law enforcement agency and shall report annually to the Legislature the number of reports referred.

(5)~~(4)~~ If the department or its authorized agent has determined after its investigation that a report is false, the department shall, with the consent of the alleged perpetrator, refer the report to the local law enforcement agency having jurisdiction for an investigation to determine whether sufficient evidence exists to refer the case for prosecution for filing a false report as defined in s. 39.01(27). During the pendency of the investigation by the local law enforcement agency, the department must notify the local law enforcement agency of, and the local law enforcement agency must respond to, all subsequent reports concerning children in that same family in accordance with s. 39.301. If the law enforcement agency believes that there are indicators of abuse, abandonment, or neglect, it must immediately notify the department, which must assure the safety of the children. If the law enforcement agency finds sufficient evidence for prosecution for filing a false report, it must refer the case to the appropriate state attorney for prosecution.

(6)~~(5)~~ A person who knowing and willfully makes a false report of child abuse, abandonment, or neglect, or who advises another to make a false report, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. Anyone making a report who is acting in good faith is immune from any liability under this subsection.

(7)~~(6)~~ Each state attorney shall establish and publish written procedures to facilitate the prosecution of persons under this section, and shall report to the Legislature annually the number of complaints that have resulted in the filing of an information or indictment and the disposition of those complaints under this section.

Section 7. Section 39.301, Florida Statutes, 1998 Supplement, is amended to read:

39.301 Initiation of protective investigations.—

(1) Upon receiving an oral or written report of known or suspected child abuse, abandonment, or neglect, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department's designated children and families district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central abuse hotline shall notify the department's designated children and families district staff responsible for protective investigations in sufficient time to allow for an investigation. At the time of notification of district staff with respect to the report, the central abuse hotline shall also provide information on any previous report concerning

a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

(2) Upon notification by the department's central abuse hotline under subsection (1), the designated child protective investigator shall immediately notify the appropriate law enforcement agency of the county in which the known or suspected child abuse, abandonment, or neglect is believed to have occurred. Upon receipt of a report, the law enforcement agency must review the report and determine whether a criminal investigation of the case is warranted and, if so, shall conduct the criminal investigation that shall be coordinated, whenever possible, with the child protective investigation of the department or its agent.

(3) The department shall maintain a master file for each child whose report is accepted by the central abuse hotline for investigation. Such file must contain information concerning all reports received concerning that child. The file must be made available to any department staff, agent of the department, or contract provider given responsibility for conducting a protective investigation.

(4) To the extent practical, all protective investigations involving a child shall be conducted or the work supervised by a single individual in order for there to be broad knowledge and understanding of the child's history. When a new investigator is assigned to investigate a second and subsequent report involving a child, a multidisciplinary staffing shall be conducted which includes new and prior investigators, their supervisors, and appropriate private providers in order to ensure that, to the extent possible, there is coordination among all parties. The department shall establish an internal operating procedure that ensures that all required investigatory activities, including a review of the child's complete investigative and protective services history, are completed by the investigator, reviewed by the supervisor in a timely manner, and signed and dated by both the investigator and the supervisor.

(5)~~(2)~~(a) Upon commencing an investigation under this part, the child protective investigator shall inform any subject of the investigation of the following:

1. The names of the investigators and identifying credentials from the department.

2. The purpose of the investigation.

3. The right to obtain his or her own attorney and ways that the information provided by the subject may be used.

4. The possible outcomes and services of the department's response shall be explained to the caregiver.

5. The right of the parent, legal custodian, or caregiver to be involved to the fullest extent possible in determining the nature of the allegation and the nature of any identified problem.

(b) The department's training program shall ensure that protective investigators know how to fully inform parents, guardians, and caregivers of their rights and options, including opportunities for audio or video recording of investigators' interviews with parents, guardians, caretakers, or children.

(6)~~(3)~~ An assessment of risk and the perceived needs for the child and family shall be conducted in a manner that is sensitive to the social, economic, and cultural environment of the family. *This assessment must include a face-to-face interview with the child, other siblings, parents, and other adults in the household and an onsite assessment of the child's residence.*

(7)~~(4)~~ Protective investigations shall be performed by the department or its agent.

(8)~~(5)~~ The person responsible for the investigation shall make a preliminary determination as to whether the report or complaint is complete, consulting with the attorney for the department when necessary. In any case in which the person responsible for the investigation finds that the report or complaint is incomplete, he or she shall return it without delay to the person or agency originating the report or complaint or having knowledge of the facts, or to the appropriate law enforcement agency having investigative jurisdiction, and request additional information in order to complete the report or complaint; however, the confidentiality of any report filed in accordance with this chapter shall not be violated.

(a) If it is determined that the report or complaint is complete, after determining that such action would be in the best interests of the child, the attorney for the department shall file a petition for dependency.

(b) If it is determined that the report or complaint is complete, but the interests of the child and the public will be best served by providing the child care or other treatment voluntarily accepted by the child and the parents, caregivers, or legal custodians, the protective investigator may refer the child for such care or other treatment.

(c) If the person conducting the investigation refuses to request the attorney for the department to file a petition for dependency, the complainant shall be advised of the right to file a petition pursuant to this part.

(9)~~(6)~~ For each report it receives, the department shall perform an onsite child protective investigation *that includes a face-to-face interview with the child, other siblings, parents, and other adults in the household and an onsite assessment of the child's residence in order* to:

(a) Determine the composition of the family or household, including the name, address, date of birth, social security number, sex, and race of each child named in the report; any siblings or other children in the same household or in the care of the same adults; the parents, legal custodians, or caregivers; and any other adults in the same household.

(b) Determine whether there is indication that any child in the family or household has been abused, abandoned, or neglected; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse, abandonment, or neglect, including the name, address, date of birth, social security number, sex, and race of each such person.

(c) Determine the immediate and long-term risk to each child by conducting state and federal records checks, *including, when feasible, the records of the Department of Corrections,* on the parents, legal custodians, or caregivers, and any other persons in the same household. This information shall be used solely for purposes supporting the detection, apprehension, prosecution, pretrial release, posttrial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect and shall not be further disseminated or used for any other purpose. The department's child protection investigators are hereby designated a criminal justice agency for the purpose of accessing criminal justice information to be used for enforcing this state's laws concerning the crimes of child abuse, abandonment, and neglect.

(d) Determine the immediate and long-term risk to each child through utilization of standardized risk assessment instruments.

(e) Based on the information obtained from the caregiver, complete the risk assessment instrument within 48 hours after the initial contact and, if needed, develop a case plan.

(f) Determine the protective, treatment, and ameliorative services necessary to safeguard and ensure the child's safety and well-being and development, and cause the delivery of those services through the early intervention of the department or its agent.

(10)~~(7)~~ If the department or its agent is denied reasonable access to a child by the parents, legal custodians, or caregivers and the department deems that the best interests of the child so require, it shall seek an appropriate court order or other legal authority prior to examining and interviewing the child.

(11) Onsite visits and face-to-face interviews with the child or family shall be unannounced unless it is determined by the department or its agent or contract provider that such unannounced visit would threaten the safety of the child.

(12)(a)~~(8)~~ If the department or its agent determines that a child requires immediate or long-term protection through:

1.~~(a)~~ Medical or other health care;

2.~~(b)~~ Homemaker care, day care, protective supervision, or other services to stabilize the home environment, including intensive family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both; or

3.~~(c)~~ Foster care, shelter care, or other substitute care to remove the child from the custody of the parents, legal guardians, or caregivers,

such services shall first be offered for voluntary acceptance unless there are high-risk factors that may impact the ability of the parents, legal guardians, or caregivers to exercise judgment. Such factors may include the parents', legal guardians', or caregivers' young age or history of substance abuse or domestic violence.

(b) The parents, legal custodians, or caregivers shall be informed of the right to refuse services, as well as the responsibility of the department to protect the child regardless of the acceptance or refusal of services. If the services are refused and the department deems that the child's need for protection so requires, the department shall take the child into protective custody or petition the court as provided in this chapter.

(c) The department, in consultation with the judiciary, shall adopt by rule criteria that are factors requiring that the department take the child into custody, petition the court as provided in this chapter, or, if the child is not taken into custody or a petition is not filed with the court, conduct an administrative review. If after an administrative review the department determines not to take the child into custody or petition the court, the department shall document the reason for its decision in writing and include it in the investigative file. For all cases that were accepted by the local law enforcement agency pursuant to subsection (2), the department must include in the file written documentation that the administrative review included input from law enforcement. In addition, for all cases that must be referred to child protection teams pursuant to s. 39.303(2) and (3), the file must include written documentation that the administrative review included the results of the medical evaluation. Factors that must be included in the development of the rule include noncompliance with the case plan developed by the department, or its agent, and the family under this chapter and prior abuse reports with findings that involve the child or caregiver.

(13)~~(9)~~ When a child is taken into custody pursuant to this section, the authorized agent of the department shall request that the child's parent, caregiver, or legal custodian disclose the names, relationships, and addresses of all parents and prospective parents and all next of kin, so far as are known.

(14)~~(10)~~ No later than 30 days after receiving the initial report, the local office of the department shall complete its investigation.

(15)~~(11)~~ Immediately ~~upon receipt of a report alleging, or immediately~~ upon learning during the course of an investigation~~,~~ that:

(a) The immediate safety or well-being of a child is endangered;

(b) The family is likely to flee;

(c) A child died as a result of abuse, abandonment, or neglect;

(d) A child is a victim of aggravated child abuse as defined in s. 827.03; or

(e) A child is a victim of sexual battery or of sexual abuse,

the department shall orally notify the jurisdictionally responsible state attorney, and county sheriff's office or local police department, and, *within 3 days* ~~as soon as practicable~~, transmit the *written* report to those agencies. The law enforcement agency shall review the report and determine whether a criminal investigation needs to be conducted and shall assume lead responsibility for all criminal fact-finding activities. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding an offense described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate.

(16)~~(12)~~ In a child protective investigation or a criminal investigation, when the initial interview with the child is conducted at school, the department or the law enforcement agency may allow, notwithstanding the provisions of s. 39.0132(4), a school instructional staff member who is known by the child to be present during the initial interview if:

(a) The department or law enforcement agency believes that the school instructional staff member could enhance the success of the interview by his or her presence; and

(b) The child requests or consents to the presence of the school instructional staff member at the interview.

School instructional staff may only be present when authorized by this subsection. Information received during the interview or from any other source regarding the alleged abuse or neglect of the child shall be confidential and exempt from the provisions of s. 119.07(1), except as otherwise provided by court order. A separate record of the investigation of the abuse, abandonment, or neglect shall not be maintained by the school or school instructional staff member. Violation of this subsection constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(17) When a law enforcement agency is participating in an investigation, the agency shall take photographs of the child's living environment. Such photographs shall become part of the investigative file.

(18)~~(13)~~ Within 15 days after the completion of the investigation of cases reported to him or her pursuant to this section, the state attorney shall report his or her findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

(19) In order to enhance the skills of individual staff and to improve the district's overall child protection system, the department's training program at the district level must include periodic reviews of cases handled within the district in order to identify weaknesses as well as examples of effective interventions that occurred at each point in the case.

Section 8. Subsection (1) of section 39.302, Florida Statutes, 1998 Supplement, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(1) The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report which alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(32) or (47), acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall immediately initiate a child protective investigation and orally notify the appropriate state attorney, law enforcement agency, and licensing agency. These agencies shall immediately conduct a joint investigation, unless independent investigations are more feasible. *When conducting investigations onsite or having face-to-face interviews with the child, such investigation visits shall be unannounced unless it is determined by the department or its agent that such unannounced visits would threaten the safety of the child.* When a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation shall be entitled to full access to the information gathered by the department in the course of the investigation. *A protective investigation must include an onsite visit of the child's place of residence.* In all cases, the department shall make a full written report to the state attorney within 3 days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 9. 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 *appropriate* representatives of *school districts and* 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 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 *reports* ~~cases~~ that *must be referred* ~~are appropriate for referral~~ by the *Department of Children and Family Services* ~~family safety and preservation program~~ to child protection teams of the Department of Health for *medical evaluation and available* support services as set forth in subsection (1) *must* 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.~~

(b)~~(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.

(c)~~(d)~~ Venereal disease, or any other sexually transmitted disease, in a prepubescent child.

(d)~~(e)~~ Reported malnutrition of a child and failure of a child to thrive.

(e)~~(f)~~ Reported medical, physical, or emotional neglect of a child.

(f)~~(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.

(g)~~(h)~~ Symptoms of serious emotional problems in a child when emotional or other abuse, abandonment, or neglect is suspected.

(h) Injuries to a child's head.

(3) All abuse and neglect cases transmitted for investigation to a district by the hotline must be simultaneously transmitted to the Department of Health child protection team for review. All cases transmitted to the child protection team which meet the criteria in subsection (2) must be timely reviewed by a board-certified pediatrician or registered nurse practitioner under the supervision of such pediatrician for the purpose of determining whether a face-to-face medical evaluation by a child protection team is necessary. Such face-to-face medical evaluation is not necessary only if it is determined that the child was examined by a physician for the alleged abuse or neglect, and a consultation between the child protection team board-certified pediatrician or nurse practitioner and the examining physician concludes that a further medical evaluation is unnecessary.

(4)~~(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 10. Subsection (1) of section 39.304, Florida Statutes, 1998 Supplement, is amended to read:

39.304 Photographs, medical examinations, X rays, and medical treatment of abused, abandoned, or neglected child.—

(1)*(a)* Any person required to investigate cases of suspected child abuse, abandonment, or neglect may take or cause to be taken photographs of the areas of trauma visible on a child who is the subject of a report. *Any child protection team that examines a child who is the subject of a report must take, or cause to be taken, photographs of any areas of trauma visible on the child. Such photographs, or duplicates thereof, shall be provided to the department for inclusion in the investigative file and shall become part of that file.*

(b) If the areas of trauma visible on a child indicate a need for a medical examination, or if the child verbally complains or otherwise exhibits distress as a result of injury through suspected child abuse, abandonment, or neglect, or is alleged to have been sexually abused, the person required to investigate may cause the child to be referred for diagnosis to a licensed physician or an emergency department in a hospital without the consent of the child's parents, caregiver, or legal custodian. Such examination may be performed by an advanced registered nurse practitioner licensed pursuant to chapter 464. Any licensed physician, or advanced registered nurse practitioner licensed pursuant to chapter 464, who has reasonable cause to suspect that an injury was the result of child abuse, abandonment, or neglect may authorize a radiological examination to be performed on the child without the consent of the child's parent, caregiver, or legal custodian.

Section 11. Section 39.306, Florida Statutes, 1998 Supplement, is amended to read:

39.306 Child protective investigations; working agreements with local law enforcement.—The department shall enter into agreements with the jurisdictionally responsible county sheriffs' offices and local police departments that will assume the lead in conducting any potential

criminal investigations arising from allegations of child abuse, abandonment, or neglect. The written agreement must specify how the requirements of this chapter will be met. For the purposes of such agreement, the jurisdictionally responsible law enforcement entity is authorized to share Florida criminal history *and local criminal history* information that is not otherwise exempt from s. 119.07(1) with the district personnel, authorized agent, or contract provider directly responsible for the child protective investigation and emergency child placement. The agencies entering into such agreement must comply with s. 943.0525. Criminal justice information provided by such law enforcement entity shall be used only for the purposes specified in the agreement and shall be provided at no charge. Notwithstanding any other provision of law, the Department of Law Enforcement shall provide to the department electronic access to Florida criminal justice information which is lawfully available and not exempt from s. 119.07(1), only for the purpose of child protective investigations and emergency child placement. As a condition of access to such information, the department shall be required to execute an appropriate user agreement addressing the access, use, dissemination, and destruction of such information and to comply with all applicable laws and regulations, and rules of the Department of Law Enforcement.

Section 12. Subsection (8) of section 39.402, Florida Statutes, 1998 Supplement, is amended to read:

39.402 Placement in a shelter.—

(8)(a) A child may not be held in a shelter longer than 24 hours unless an order so directing is entered by the court after a shelter hearing. In the interval until the shelter hearing is held, the decision to place the child in a shelter or release the child from a shelter lies with the protective investigator.

(b) The parents or legal custodians of the child shall be given such notice as best ensures their actual knowledge of the time and place of the shelter hearing. The failure to provide notice to a party or participant does not invalidate an order placing a child in a shelter if the court finds that the petitioner has made a good faith effort to provide such notice. The court shall require the parents or legal custodians present at the hearing to provide to the court on the record the names, addresses, and relationships of all parents, prospective parents, and next of kin of the child, so far as are known.

(c) At the shelter hearing, the court shall:

1. Appoint a guardian ad litem to represent the child, unless the court finds that such representation is unnecessary;

2. Inform the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013; and

3. Give the parents or legal custodians an opportunity to be heard and to present evidence.

(d) At the shelter hearing, *in order to continue the child in shelter care:*

1. The department must establish probable cause that reasonable grounds for removal exist and that the provision of appropriate and available services will not eliminate the need for placement*; or*.

2. The court must determine that additional time is necessary, which may not exceed 72 hours, in which to obtain and review documents pertaining to the family in order to appropriately determine the risk to the child during which time the child shall remain in the department's custody, if so ordered by the court.

(e) At the shelter hearing, the department shall provide the court copies of any available law enforcement, medical, or other professional reports, and shall also provide copies of abuse hotline reports pursuant to state and federal confidentiality requirements.

(f) At the shelter hearing, the department shall inform the court of:

1. Any current or previous case plans negotiated in any district with the parents or caregivers under this chapter and problems associated with compliance;

2. Any adjudication of the parents or caregivers of delinquency;

3. Any past or current injunction for protection from domestic violence; and

4. All of the child's places of residence during the prior 12 months.

(g)~~(e)~~ At the shelter hearing, each party shall provide to the court a permanent mailing address. The court shall advise each party that this address will be used by the court and the petitioner for notice purposes unless and until the party notifies the court and the petitioner in writing of a new mailing address.

(h)~~(f)~~ The order for placement of a child in shelter care must identify the parties present at the hearing and must contain written findings:

1. That placement in shelter care is necessary based on the criteria in subsections (1) and (2).

2. That placement in shelter care is in the best interest of the child.

3. That continuation of the child in the home is contrary to the welfare of the child because the home situation presents a substantial and immediate danger to the child's physical, mental, or emotional health or safety which cannot be mitigated by the provision of preventive services.

4. That based upon the allegations of the petition for placement in shelter care, there is probable cause to believe that the child is dependent *or that the court needs additional time, which may not exceed 72 hours, in which to obtain and review documents pertaining to the family in order to appropriately determine the risk to the child.*

5. That the department has made reasonable efforts to prevent or eliminate the need for removal of the child from the home. A finding of reasonable effort by the department to prevent or eliminate the need for removal may be made and the department is deemed to have made reasonable efforts to prevent or eliminate the need for removal if:

a. The first contact of the department with the family occurs during an emergency.

b. The appraisal of the home situation by the department indicates that the home situation presents a substantial and immediate danger to the child's physical, mental, or emotional health or safety which cannot be mitigated by the provision of preventive services.

c. The child cannot safely remain at home, either because there are no preventive services that can ensure the health and safety of the child or because, even with appropriate and available services being provided, the health and safety of the child cannot be ensured.

6. That the court notified the parents or legal custodians of the subsequent dependency proceedings, including scheduled hearings, and of the importance of the active participation of the parents or legal custodians in those subsequent proceedings and hearings.

7. That the court notified the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013.

Section 13. Section 383.402, Florida Statutes, is created to read:

383.402 Child abuse death review; State Child Abuse Death Review Committee; local child abuse death review committees.—

(1) It is the intent of the Legislature to establish a statewide multidisciplinary, multiagency child abuse death assessment and prevention system that consists of state and local review committees. The state and local review committees shall review the facts and circumstances of all deaths of children from birth through age 18 which occur in this state as the result of child abuse or neglect and for whom at least one report of abuse or neglect was accepted by the central abuse hotline within the Department of Children and Family Services. The purpose of the review shall be to:

(a) Achieve a greater understanding of the causes and contributing factors of deaths resulting from child abuse.

(b) Whenever possible, develop a communitywide approach to address such cases and contributing factors.

(c) Identify any gaps, deficiencies, or problems in the delivery of services to children and their families by public and private agencies which may be related to deaths that are the result of child abuse.

(d) Make and implement recommendations for changes in law, rules, and policies, as well as develop practice standards that support the safe and healthy development of children and reduce preventable child abuse deaths.

(2)(a) The State Child Abuse Death Review Committee is established within the Department of Health and shall consist of a representative of the Department of Health, appointed by the Secretary of Health, who shall serve as the state committee coordinator. The head of each of the following agencies or organizations shall also appoint a representative to the state committee:

1. The Department of Legal Affairs.

2. The Department of Children and Family Services.

3. The Department of Law Enforcement.

4. The Department of Education.

5. The Florida Prosecuting Attorneys Association, Inc.

6. The Florida Medical Examiners Commission, whose representative must be a forensic pathologist.

(b) In addition, the Secretary of Health shall appoint the following members to the state committee, based on recommendations from the Department of Health and the agencies listed in paragraph (a), and ensuring that the committee represents the regional, gender, and ethnic diversity of the state to the greatest extent possible:

1. A board-certified pediatrician.

2. A public health nurse.

3. A mental health professional who treats children or adolescents.

4. An employee of the Department of Children and Family Services who supervises family services counselors and who has at least 5 years of experience in child protective investigations.

5. The medical director of a child protection team.

6. A member of a child advocacy organization.

7. A social worker who has experience in working with victims and perpetrators of child abuse.

8. A person trained as a paraprofessional in patient resources who is employed in a child abuse prevention program.

9. A law enforcement officer who has at least 5 years of experience in children's issues.

10. A representative of the Florida Coalition Against Domestic Violence.

11. A representative from a private provider of programs on preventing child abuse and neglect.

(3) The State Child Abuse Death Review Committee shall:

(a) Develop a system for collecting data on deaths that are the result of child abuse. The system must include a protocol for the uniform collection of data statewide, which uses existing data-collection systems to the greatest extent possible.

(b) Provide training to cooperating agencies, individuals, and local child abuse death review committees on the use of the child abuse death data system.

(c) Prepare an annual statistical report on the incidence and causes of death resulting from child abuse in the state during the prior calendar year. The state committee shall submit a copy of the report by September 30 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives, with the first annual report due on September 30, 2000. The report must include recommendations for state and local action, including specific policy, procedural, regulatory, or statutory changes, and any other recommended preventive action.

(d) Encourage and assist in developing the local child abuse death review committees.

(e) Develop guidelines, standards, and protocols, including a protocol for data collection, for local child abuse death review committees, and provide training and technical assistance to local committees.

(f) Develop guidelines for reviewing deaths that are the result of child abuse, including guidelines to be used by law enforcement agencies, prosecutors, medical examiners, health care practitioners, health care facilities, and social service agencies.

(g) Study the adequacy of laws, rules, training, and services to determine what changes are needed to decrease the incidence of child abuse deaths and develop strategies and recruit partners to implement these changes.

(h) Provide consultation on individual cases to local committees upon request.

(i) Educate the public regarding the Kayla McKean Child Protection Act, the incidence and causes of child abuse death, and ways by which such deaths may be prevented.

(j) Promote continuing education for professionals who investigate, treat, and prevent child abuse or neglect.

(k) Recommend, when appropriate, the review of the death certificate of a child who died as a result of abuse or neglect.

(4) The members of the state committee shall be appointed to staggered terms of office which may not exceed 2 years, as determined by the Secretary of Health. Members are eligible for reappointment. The state committee shall elect a chairperson from among its members to serve for a 2-year term, and the chairperson may appoint ad hoc committees as necessary to carry out the duties of the committee.

(5) Members of the state committee 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 to the extent that funds are available.

(6) At the direction of the Secretary of Health, the director of each county health department, or the directors of two or more county health departments by agreement, may convene and support a county or multicounty child abuse death review committee in accordance with the protocols established by the State Child Abuse Death Review Committee. Each local committee must include a local state attorney, or his or her designee, and any other members that are determined by guidelines developed by the State Child Abuse Death Review Committee. The members of a local committee shall be appointed to 2-year terms and may be reappointed. The local committee shall elect a chairperson from among its members. Members 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 to the extent that funds are available.

(7) Each local child abuse death review committee shall:

(a) Review all deaths resulting from child abuse which are reported to the Office of Vital Statistics.

(b) Assist the state committee in collecting data on deaths that are the result of child abuse, in accordance with the protocol established by the state committee.

(c) Submit written reports at the direction of the state committee. The reports must include nonidentifying information on individual cases and the steps taken by the local committee and private and public agencies to implement necessary changes and improve the coordination of services and reviews.

(d) Submit all records requested by the state committee at the conclusion of its review of a death resulting from child abuse.

(e) Abide by the standards and protocols developed by the state committee.

(f) On a case-by-case basis, request that the state committee review the data of a particular case.

(8) Notwithstanding any other law, the chairperson of the State Child Abuse Death Review Committee, or the chairperson of a local committee, shall be provided with access to any information or records that pertain to a child whose death is being reviewed by the committee and that are necessary for the committee to carry out its duties, including information or records that pertain to the child's family, as follows:

(a) Patient records in the possession of a public or private provider of medical, dental, or mental health care, including, but not limited to, a facility licensed under chapter 393, chapter 394, or chapter 395, or a health care practitioner as defined in s. 455.501. Providers may charge a fee for copies not to exceed 50 cents per page for paper records and $1 per fiche for microfiche records.

(b) Information or records of any state agency or political subdivision which might assist a committee in reviewing a child's death, including, but not limited to, information or records of the Department of Children and Family Services, the Department of Health, the Department of Education, or the Department of Juvenile Justice.

(9) The State Child Abuse Death Review Committee or a local committee shall have access to all information of a law enforcement agency which is not the subject of an active investigation and which pertains to the review of the death of a child. A committee may not disclose any information that is not subject to public disclosure by the law enforcement agency, and active criminal intelligence information or criminal investigative information, as defined in s. 119.011(3), may not be made available for review or access under this section.

(10) The state committee and any local committee may share any relevant information that pertains to the review of the death of a child.

(11) A member of the state committee or a local committee may not contact, interview, or obtain information by request or subpoena directly from a member of a deceased child's family as part of a committee's review of a child abuse death, except that if a committee member is also a public officer or state employee, that member may contact, interview, or obtain information from a member of the deceased child's family, if necessary, as part of the committee's review. A member of the deceased child's family may voluntarily provide records or information to the state committee or a local committee.

(12) The chairperson of the State Child Abuse Death Review Committee may require the production of records by requesting a subpoena, through the Department of Legal Affairs, in any county of the state. Such subpoena is effective throughout the state and may be served by any sheriff. Failure to obey the subpoena is punishable as provided by law.

(13) This section does not authorize the members of the state committee or any local committee to have access to any grand jury proceedings.

(14) A person who has attended a meeting of the state committee or a local committee or who has otherwise participated in activities authorized by this section may not be permitted or required to testify in any civil, criminal, or administrative proceeding as to any records or information produced or presented to a committee during meetings or other activities authorized by this section. However, this subsection does not prevent any person who testifies before the committee or who is a member of the committee from testifying as to matters otherwise within his or her knowledge. An organization, institution, committee member, or other person who furnishes information, data, reports, or records to the state committee or a local committee is not liable for damages to any person and is not subject to any other civil or criminal or administrative recourse. This subsection does not apply to any person who admits to committing a crime.

(15) The Department of Health shall administer the funds appropriated to operate the review committees and may apply for grants and accept donations.

(16) To the extent that funds are available, the Department of Health may hire staff or consultants to assist a review committee in performing its duties. Funds may also be used to reimburse reasonable expenses of the staff and consultants for the state committee and the local committees.

(17) For the purpose of carrying out the responsibilities assigned to the State Child Abuse Death Review Committee and the local review committees, the Secretary of Health may substitute an existing entity whose function and organization include the function and organization of the committees established by this section.

(18) Each district administrator of the Department of Children and Family Services must appoint a child abuse death review coordinator for the district. The coordinator must have knowledge and expertise in the area of child abuse and neglect. The coordinator's general responsibilities include:

(a) Coordinating with the local child abuse death review committee.

(b) Ensuring the appropriate implementation of the child abuse death review process and all district activities related to the review of child abuse deaths.

(c) Working with the committee to ensure that the reviews are thorough and that all issues are appropriately addressed.

(d) Maintaining a system of logging child abuse deaths covered by this procedure and tracking cases during the child abuse death review process.

(e) Conducting or arranging for a Florida Abuse Hotline Information System (FAHIS) record check on all child abuse deaths covered by this procedure to determine whether there were any prior reports concerning the child or concerning any siblings, other children, or adults in the home.

(f) Coordinating child abuse death review activities, as needed, with individuals in the community and the Department of Health.

(g) Notifying the district administrator, the Secretary of Children and Family Services, and the Deputy Secretary of Children's Medical Services Assistant Health Officer of all child abuse deaths meeting criteria for review as specified in this section within 1 working day after learning of the child's death.

(h) Ensuring that all critical issues identified by the local child abuse death review committee are brought to the attention of the district administrator and the Secretary of Children and Family Services.

(i) Providing technical assistance to the local child abuse death review committee during the review of any child abuse death.

Section 14. Present subsections (3), (4), (5), and (6) of section 409.1671, Florida Statutes, 1998 Supplement, are redesignated as subsections (4), (5), (6), and (7), respectively, and a new subsection (3) is added to that section, to read:

409.1671 Foster care and related services; privatization.—

(3)(a) In order to help ensure a seamless child protection system, the department shall ensure that contracts entered into with community-based agencies pursuant to this section include provisions for a case-transfer process to determine the date that the community-based agency will initiate the appropriate services for a child and family. This case-transfer process must clearly identify the closure of the protective investigation and the initiation of service provision. At the point of case transfer, the department must provide a complete summary of the findings of the investigation to the community-based agency.

(b) The contracts must also ensure that each community-based agency shall furnish regular status reports of its cases to the department as specified in the contract. A provider may not discontinue services without prior written notification to the department. After discontinuing services to a child or a child and family, the community-based agency must provide a written case summary, including its assessment of the child and family, to the department.

(c) The annual contract between the department and community-based agencies must include provisions that specify the procedures to be

used by the parties to resolve differences in interpreting the contract or to resolve disputes as to the adequacy of the parties' compliance with their respective obligations under the contract.

Section 15. Section 777.03, Florida Statutes, as amended by section 16 of chapter 97-194, Laws of Florida, is amended to read:

777.03 Accessory after the fact.—

(1)*(a)* Any person not standing in the relation of husband or wife, parent or grandparent, child or grandchild, brother or sister, by consanguinity or affinity to the offender, who maintains or assists the principal or accessory before the fact, or gives the offender any other aid, knowing that the offender had committed a felony or been accessory thereto before the fact, with intent that the offender avoids or escapes detection, arrest, trial or punishment, is an accessory after the fact.

(b) Any person, regardless of the relation to the offender, who maintains or assists the principal or accessory before the fact, or gives the offender any other aid, knowing that the offender had committed the offense of child abuse, neglect of a child, aggravated child abuse, aggravated manslaughter of a child under 18 years of age, or murder of a child under 18 years of age, or had been accessory thereto before the fact, with the intent that the offender avoids or escapes detection, arrest, trial, or punishment, is an accessory after the fact unless the court finds that the person is a victim of domestic violence.

(2)(a) If the felony offense committed is a capital felony, the offense of accessory after the fact is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the felony offense committed is a life felony or a felony of the first degree, the offense of accessory after the fact is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If the felony offense committed is a felony of the second degree or a felony of the third degree ranked in level 3, 4, 5, 6, 7, 8, 9, or 10 under s. 921.0022 or s. 921.0023, the offense of accessory after the fact is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) If the felony offense committed is a felony of the third degree ranked in level 1 or level 2 under s. 921.0022 or s. 921.0023, the offense of accessory after the fact is a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Except as otherwise provided in s. 921.0022, for purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, the offense of accessory after the fact is ranked two levels below the ranking under s. 921.0022 or s. 921.0023 of the felony offense committed.

Section 16. Subsection (2) of section 827.03, Florida Statutes, is amended to read:

827.03 Abuse, aggravated abuse, and neglect of a child; penalties.—

(2) "Aggravated child abuse" occurs when a person:

(a) Commits aggravated battery on a child;

(b) Willfully tortures, maliciously punishes, or willfully and unlawfully cages a child; or

(c) Knowingly or willfully abuses a child and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the child.

A person who commits aggravated child abuse commits a felony of the *first* ~~second~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 17. Paragraphs (h), (i), and (j) of subsection (3) of section 921.0022, Florida Statutes, 1998 Supplement, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(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).
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.

Florida Statute	Felony Degree	Description
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.
827.03(2)	*1st*	*Aggravated child abuse.*
847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
859.01	1st	Poisoning food, drink, medicine, or water with intent to kill or injure another person.
893.135	1st	Attempted capital trafficking offense.
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
		(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.
782.07(3)	*1st*	*Aggravated manslaughter of a child.*
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.

Section 18. Paragraph (g) of subsection (2) of section 934.03, Florida Statutes, is amended to read:

934.03 Interception and disclosure of wire, oral, or electronic communications prohibited.—

(2)

(g) It is lawful under ss. 934.03-934.09 for an employee of:

1. An ambulance service licensed pursuant to s. 401.25, a fire station employing firefighters as defined by s. 633.30, a public utility as defined by ss. 365.01 and 366.02, a law enforcement agency as defined by s. 934.02(10), or any other entity with published emergency telephone numbers*;* ~~, or~~

2. An agency operating an emergency telephone number "911" system established pursuant to s. 365.171*; or*~~,~~

3. The central abuse hotline operated pursuant to s. 39.201,

to intercept and record incoming wire communications; however, such employee may intercept and record incoming wire communications on published emergency telephone numbers only. It is also lawful for such employee to intercept and record outgoing wire communications to the numbers from which such incoming wire communications were placed when necessary to obtain information required to provide the emergency services being requested.

Section 19. Section 39.823, Florida Statutes, 1998 Supplement, is amended to read:

39.823 Guardian advocates for drug dependent newborns.—The Legislature finds that increasing numbers of drug dependent children are born in this state. Because of the parents' continued dependence upon drugs, the parents may temporarily leave their child with a relative or other adult or may have agreed to voluntary family services under *s. 39.301(12)* ~~s. 39.301(8)~~. The relative or other adult may be left with a child who is likely to require medical treatment but for whom they are unable to obtain medical treatment. The purpose of this section is to provide an expeditious method for such relatives or other responsible adults to obtain a court order which allows them to provide consent for medical treatment and otherwise advocate for the needs of the child and to provide court review of such authorization.

Section 20. *The Department of Health, in consultation with the Department of Children and Family Services and the Florida Association of Counties, shall develop a plan for submission to the Legislature describing the resources that are necessary to provide adequate support for child protection teams in each county. The plan must specify those resources that should be provided by the state and those that should be provided by the county. The Department of Health shall submit the plan to the President of the Senate and the Speaker of the House of Representatives by October 1, 1999.*

Section 21. *The Department of Children and Family Services shall contract with an independent entity for the purpose of evaluating the central abuse hotline within the department to determine its effectiveness and efficiency in performing its statutory responsibilities pursuant to chapter 39, Florida Statutes. This evaluation must include, but need not be limited to, the criteria and the application of criteria by which calls*

are accepted or denied. This evaluation must also address the need to monitor the central abuse hotline on an ongoing basis and, if recommended, must propose the monitoring process.

Section 22. *There is appropriated to the Department of Children and Family Services 8 full-time-equivalent positions and $216,931 from recurring General Revenue Funds, $457,896 from nonrecurring General Revenue Funds, and $155,764 from the Federal Grants Trust Fund to implement sections 4 and 21 of this act. There is appropriated to the Department of Health 3 full-time-equivalent positions and $2,413,234 from recurring General Revenue Funds and $435,862 from nonrecurring General Revenue Funds to implement sections 9 and 13 of this act.*

Section 23. *The Office of Program Policy Analysis and Government Accountability is directed to analyze and report on all cases for which an administrative review is conducted under section 39.301(12)(c), Florida Statutes, and the Department of Children and Family Services does not take the child into custody or file a petition under chapter 39, Florida Statutes. The analysis shall include, at a minimum, an assessment of the characteristics of these children as compared to children who are taken into custody or for whom a petition is filed under section 39.301(12)(c), Florida Statutes, as a result of the administrative review and an assessment of each child's outcome in terms of whether any reports of known or suspected abuse, neglect, or abandonment are received. The analysis of this and any other data identified and collected by the Office of Program Policy Analysis and Government Accountability is to be compiled quarterly and submitted to the President of the Senate and the Speaker of the House of Representatives by January 1, 2000, and January 1, 2001. The Office of Program Policy Analysis and Government Accountability and the Department of Children and Family Services shall work cooperatively to develop a research and data-collection design necessary to implement the requirements of this section.*

Section 24. This act shall take effect July 1, 1999.

And the title is amended as follows: remove from the title of the bill: the entire title and insert in lieu thereof: A bill to be entitled An act relating to the protection of children; creating the "Kayla McKean Child Protection Act"; providing legislative intent; amending s. 39.01, F.S.; redefining the term "harm" for purposes of ch. 39, F.S., to include the act of placing a child with another person to avoid or impede a protective investigation; redefining the term "participant" to include providers when designated by the court; amending s. 39.201, F.S.; requiring that a judge report known or suspected child abuse; requiring that the Department of Children and Family Services accept certain reports of child abuse for investigation; providing additional requirements for the department with respect to recording calls on the central abuse hotline; requiring that the department's quality assurance program review reports made to the hotline which involve a specified number of reports on a single child; amending s. 39.202, F.S.; providing for certain persons who report child abuse to request a summary of the investigation; amending s. 39.205, F.S.; increasing the penalties imposed for failing to report child abuse or preventing the reporting of child abuse, unless the court finds the offender is a victim of domestic violence; amending s. 39.301, F.S.; requiring notification of the appropriate law enforcement agency of reports provided to the department's district staff; requiring review; requiring criminal investigation, if warranted; requiring that the department maintain certain information on child abuse investigations; providing requirements for assigning multidisciplinary staff to an investigation; requiring that the department establish an internal operating procedure governing the completion of investigatory activities; revising requirements for conducting risk assessments and onsite child protective investigations; authorizing the department to conduct unannounced visits and interviews; requiring that the department adopt rules specifying criteria under which a child is taken into custody, that a petition be filed with the court, or that an administrative review be held; requiring documentation; requiring that law enforcement agencies participating in an investigation take photographs of the child's living environment which shall be part of the investigative file; requiring certain training; amending s. 39.302, F.S.; authorizing the department to conduct unannounced visits when conducting an investigation; requiring that the department conduct certain onsite visits; amending s. 39.303, F.S.; providing for a child protection team to include a representative of the school district; providing for medical evaluations in certain cases of child abuse, abandonment, and neglect; specifying additional conditions that must be evaluated by the child protection team; amending s. 39.304, F.S.; requiring that photographs be taken of visible trauma on a child which shall be part of the investigative file; amending s. 39.306, F.S.; specifying local criminal history information that a law enforcement entity is authorized to share; amending s. 39.402, F.S.; authorizing the court to order that a child remain in the department's custody for an additional period in order for the court to determine risk to the child; requiring that the department provide certain information to the court at the shelter hearing; creating s. 383.402, F.S.; creating the State Child Abuse Death Review Committee; 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 abuse 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 providers to charge a specified fee; authorizing the State Child Abuse Death Review Committee to issue subpoenas; requiring the Department of Health to administer the funds appropriated to operate the review committees; requiring that the Department of Children and Family Services appoint a child abuse death review coordinator in each district; amending s. 409.1671, F.S.; requiring a case-transfer process; requiring that private providers furnish status reports to the Department of Children and Family Services; prohibiting a provider from discontinuing services without the department's written notification; requiring that contracts between the department and community-based agencies include provisions for dispute resolution; amending s. 777.03, F.S.; providing that certain actions to assist an offender who has committed child abuse, child neglect, or the manslaughter or murder of a child under a specified age constitute acting as an accessory after the fact; providing penalties; amending s. 827.03, F.S.; increasing the penalties imposed for the offense of aggravated child abuse; amending s. 921.0022, F.S., relating to the offense severity ranking chart of the Criminal Punishment Code; conforming provisions to changes made by the act; amending s. 934.03, F.S.; authorizing the central abuse hotline to record incoming wire communications; amending s. 39.823, F.S., relating to guardian advocates for newborns; conforming a cross-reference to changes made by the act; requiring the Department of Health to develop a plan for county child protection teams; requiring the Department of Children and Family Services to contract with an independent entity to evaluate the central abuse hotline; providing appropriations; providing for an analysis and report by the Office of Program Policy Analysis and Government Accountability; providing an effective date.

WHEREAS, national statistics indicate that 46 percent of children who died as a result of child abuse or neglect had prior contact with the state child protection agency, and

WHEREAS, more than 79,000 children in Florida were abused or neglected in fiscal year 1997-1998, and a number of these children died as a result of being abused, and

WHEREAS, 10 percent of the abused or neglected children in this state were abused or neglected again within 1 year after the case was closed by the Department of Children and Family Services, and

WHEREAS, the Legislature abhors a child protection system that allows a child who is known to be at serious risk to remain in a dangerous home and be further harmed, even killed, and

WHEREAS, the recent deaths of children in this state which resulted from the maltreatment of children by their parents, family members, or caregivers emphasize the need to enhance the protection of the health and safety of children served by Florida's child protection system by means that include strengthening the identification and assessment of those parents, family members, or other caregivers who are involved in or at risk of engaging in abusive or neglectful behavior, NOW, THEREFORE,

On motion by Senator Cowin, the Senate concurred in the House amendment.

CS for CS for SB 338 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

Madam President	Campbell	Clary	Dyer
Bronson	Carlton	Cowin	Forman
Brown-Waite	Casas	Dawson-White	Geller
Burt	Childers	Diaz-Balart	Grant

Gutman	Kirkpatrick	Meek	Sebesta
Hargrett	Klein	Mitchell	Silver
Holzendorf	Kurth	Myers	Sullivan
Horne	Latvala	Rossin	Thomas
Jones	Lee	Saunders	Webster
King	McKay	Scott	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed SB 514, with amendment(s), by the required constitutional three-fifths vote of the membership and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 514—A bill to be entitled An act terminating specified trust funds and fund accounts within the Executive Office of the Governor; providing for disposition of balances in and revenues of such trust funds and fund accounts; prescribing procedures for the termination of such trust funds and fund accounts; repealing s. 215.195, F.S., relating to the State-Federal Relations Trust Fund; providing an effective date.

House Amendment 1 (634823)(with title amendment)—On page 2, lines 3 and 4, remove from the bill: all of said lines and insert in lieu thereof:

Section 2. Section 215.195, Florida Statutes, is amended to read:

215.195 *Agency Deposits Relating to the Statewide Cost Allocation Plan* ~~State-Federal Relations Trust Fund~~.—

~~(1) CREATION.—There is created, within the Executive Office of the Governor, the State-Federal Relations Trust Fund.~~

(1)~~(2)~~ APPLICATION FOR ALLOCABLE STATEWIDE OVERHEAD.—Each state agency, and the judicial branch, making application for federal grant or contract funds shall, in accordance with the Statewide Cost Allocation Plan, include in its application a prorated share of the cost of services provided by state central service agencies which are reimbursable to the state pursuant to the provisions of *Office of Management and Budget Circular A-87* ~~Federal Management Circular 74-4~~.

(2)~~(3)~~ DEPOSIT OF OVERHEAD IN THE *GENERAL REVENUE FUND* ~~TRUST FUND~~.—If an application for federal grant or contract funds is approved, the state agency or judicial branch receiving the federal grant or contract shall identify that portion representing reimbursement of allocable statewide overhead and deposit that amount *into the General Revenue Fund unallocated as directed by the Executive Office of the Governor* ~~into the State-Federal Relations Trust Fund~~.

~~(4) DISPOSITION OF MONEYS DEPOSITED IN THE TRUST FUND.—Moneys deposited in the State-Federal Relations Trust Fund shall be deposited quarterly to the General Revenue Fund, unallocated.~~

And the title is amended as follows:

On page 1, lines 8 and 9, remove from the title of the bill: all of said lines and insert in lieu thereof: accounts; amending s. 215.195, F.S.; requiring deposit of reimbursement for certain statewide allocated costs into General Revenue unallocated;

On motion by Senator Casas, the Senate concurred in the House amendment.

SB 514 passed as amended by the required constitutional three-fifths vote of the membership, and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed SB 562, with amendment(s), by the required constitutional three-fifths vote of the membership and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 562—A bill to be entitled An act relating to the re-creation of the Challenger Astronauts Memorial Undergraduate Scholarship Trust Fund without modification; re-creating the trust fund; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

House Amendment 1 (184535)(with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. (1) Subsection (7) of section 409.910, Florida Statutes, 1998 Supplement, is amended to read:

409.910 Responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable.—

(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.

(2) The amendments to section 409.910, Florida Statutes, 1998 Supplement, provided herein 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.

And the title is amended as follows:

On page , remove from the title of the bill: the entire title and insert in lieu thereof: A bill to be entitled An act relating to Medicaid fraud; amending s. 409.910, F.S., relating to Medicaid third-party liability; 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.

On motion by Senator Casas, the Senate concurred in the House amendment.

SB 562 passed as amended by the required constitutional three-fifths vote of the membership, and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—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

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed SB 602, with amendment(s), by the required constitutional three-fifths vote of the membership and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 602—A bill to be entitled An act terminating specified trust funds and fund accounts within the State University System; providing for disposition of balances in and revenues of such trust funds and fund accounts; prescribing procedures for the termination of such trust funds and fund accounts; providing an effective date.

House Amendment 1 (963085)(with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. *(1)(a) The following trust funds within the Department of Education are terminated:*

1. The Community College Capital Facilities Matching Trust Fund, no FLAIR number.

2. The Florida School Improvement and Academic Achievement Trust Fund, no FLAIR number.

3. The Challenger Astronauts Memorial Undergraduate Scholarship Trust Fund, FLAIR number 48-2-082.

4. The Federal Rehabilitation Trust Fund, FLAIR number 48-2-270.

5. The Dr. Philip Benjamin Academic Improvement Trust Fund for Community Colleges, FLAIR number 48-2-297.

(b) The following trust funds within the Department of Education, Division of Universities, are terminated:

1. The University of Florida Institute of Food and Agricultural Sciences Relocation and Construction Trust Fund, FLAIR number 49-2-025.

2. The Hurricane Andrew Disaster Relief Trust Fund, FLAIR number 49-2-200.

3. The Hurricane Andrew Recovery and Rebuilding Trust Fund, FLAIR number 49-2-205.

4. The University of Florida Institute of Food and Agricultural Sciences Student Fee Trust Fund, FLAIR number 49-2-407. The current balance remaining in, and all revenues of, the trust fund shall be transferred to the Education and General Student and Other Fees Trust Fund.

5. The University of Florida Health Center Student Fee Trust Fund, FLAIR number 49-2-409. The current balance remaining in, and all revenues of, the trust fund shall be transferred to the Education and General Student and Other Fees Trust Fund.

6. The University of Florida Health Center Liability Insurance Trust Fund, FLAIR number 49-2-444.

7. The University of South Florida Medical Center Professional Medical Liability Self-Insurance Trust Fund, FLAIR number 49-2-477.

8. The University of Florida Health Center at Jacksonville Liability Insurance Trust Fund, FLAIR number 49-2-768.

(2) Unless otherwise provided, all current balances remaining in, and all revenues of, the trust funds terminated by this section shall be transferred to the General Revenue Fund.

(3) For each trust fund terminated by this section, the agency or branch that administers the trust fund shall pay any outstanding debts and obligations of the terminated fund as soon as practicable, and the Comptroller shall close out and remove the terminated fund from the various state accounting systems using generally accepted accounting principles concerning warrants outstanding, assets, and liabilities.

Section 2. *The Legislature finds that the following trust funds are exempt from termination pursuant to Section 19(f), Article III of the State Constitution:*

(1) Within the Department of Education:

(a) The Construction Trust Fund, Florida School for the Deaf and the Blind, FLAIR number 48-2-137.

(b) The Educational Enhancement Trust Fund, FLAIR number 48-2-178.

(c) The State School Trust Fund, FLAIR number 48-2-543.

(d) The Public Education Capital Outlay and Debt Service Trust Fund, FLAIR number 48-2-555.

(e) The School District and Community College District Capital Outlay and Debt Service Trust Fund, FLAIR number 48-2-612.

(2) Within the Department of Education, Division of Universities:

(a) The Ancillary Facilities Construction Trust Fund, FLAIR number 49-2-026.

(b) The Division of Universities Building Fee Trust Fund, FLAIR number 49-2-064.

(c) The Division of Universities Capital Improvement Fee Trust Fund, FLAIR number 49-2-071.

(d) The State University System Construction Trust Fund, FLAIR number 49-2-137.

(e) The Education--Contracts, Grants, and Donations Trust Fund, FLAIR number 49-2-153.

(f) The Educational Enhancement Trust Fund, FLAIR number 49-2-178.

(g) The Engineering Industrial Experimental Station Trust Fund, FLAIR number 49-2-186.

(h) The Auxiliary General Trust Fund, FLAIR number 49-2-330.

(i) The State University System Law Enforcement Trust Fund, FLAIR number 49-2-434.

(j) The Sponsored Research Trust Fund, FLAIR number 49-2-655.

(k) The Uniform Payroll Trust Fund, FLAIR number 49-2-766.

(l) The Developmental Research School Trust Fund, FLAIR number 49-2-999.

Section 3. *Section 3 of chapter 95-114, Laws of Florida, and section 3 of chapter 95-115, Laws of Florida, are repealed.*

Section 4. Section 11.2423, Florida Statutes, is amended to read:

11.2423 Laws or statutes not repealed.—

(1) No special or local statute, or statute, local, limited or special in its nature, shall be repealed by the Florida Statutes, now or hereafter adopted, and, for the purpose of this saving from repeal any statute of the following classes shall be taken to be included in such exception, namely:

(a) Any statutes for or concerning only a certain county or certain designated counties.

(b) Any statute for, or concerning or operative in only a portion of the state.

(c) Any statute for or concerning only a certain municipal corporation.

(d) Any statute for or concerning only a designated individual corporation or corporations.

(e) Any statute incorporating a designated individual corporation, or making a grant thereto.

(f) Any statute of such limited or local application as makes its inclusion in a general statute impracticable or undesirable.

(g) Road designation laws.

(h) Severability section in any law.

(i) Any act of the Legislature declaring a trust fund to be exempt from termination pursuant to s. 19(f), Art. III of the State Constitution.

(2) The foregoing enumeration of classes of statutes not repealed shall not be construed to imply a repeal of other statutes which are local, limited or special in their nature.

Section 5. Paragraph (b) of subsection (1) of section 28.101, Florida Statutes, 1998 Supplement, is amended to read:

28.101 Petitions and records of dissolution of marriage; additional charges.—

(1) When a party petitions for a dissolution of marriage, in addition to the filing charges in s. 28.241, the clerk shall collect and receive:

(b) A charge of $5. On a monthly basis, the clerk shall transfer the moneys collected pursuant to this paragraph to the State Treasury for deposit in the Displaced Homemaker Trust Fund created in s. *446.50* ~~410.30~~. If a petitioner does not have sufficient funds with which to pay this fee and signs an affidavit so stating, all or a portion of the fee shall be waived subject to a subsequent order of the court relative to the payment of the fee.

Section 6. Section 446.52, Florida Statutes, is amended to read:

446.52 Confidentiality of information.—Information about displaced homemakers who receive services under ss. *446.50* ~~410.30~~ and *446.51* ~~410.301~~ which is received through files, reports, inspections, or otherwise, by the division or by authorized employees of the division, by persons who volunteer services, or by persons who provide services to displaced homemakers under ss. *446.50* ~~410.30~~ and *446.51* ~~410.301~~ through contracts with the division is confidential and exempt from the provisions of s. 119.07(1). Such information may not be disclosed publicly in such a manner as to identify a displaced homemaker, unless such person or the person's legal guardian provides written consent.

Section 7. Subsection (3) of section 741.01, Florida Statutes, 1998 Supplement, is amended to read:

741.01 County court judge or clerk of the circuit court to issue marriage license; fee.—

(3) Further, the fee charged for each marriage license issued in the state shall be increased by an additional sum of $7.50 to be collected upon receipt of the application for the issuance of a marriage license. The clerk shall transfer such funds monthly to the State Treasury for deposit in the Displaced Homemaker Trust Fund created in s. *446.50* ~~410.30~~.

Section 8. *Section 236.1229, Florida Statutes, 1998 Supplement, and section 236.12295, Florida Statutes, are repealed.*

Section 9. Subsection (7) of section 240.235, Florida Statutes, 1998 Supplement, is amended to read:

240.235 Fees.—

(7) Each university may assess a service charge for the payment of tuition and fees in installments. Such service charge must be approved by the Board of Regents. The revenues from such service charges shall be deposited into *a student fee trust fund the Legislature has established and assigned to the university for that purpose* ~~the Incidental Trust Fund~~.

Section 10. Paragraph (a) of subsection (1) of section 240.243, Florida Statutes, is amended to read:

240.243 Required number of classroom teaching hours for university faculty members.—

(1) As used in this section:

(a) "State funds" means those funds appropriated annually *in the General Appropriations Act* ~~from the General Revenue Fund and Incidental Trust Fund for institutional and research functions and, in the case of a health center, those funds appropriated from the General Revenue Fund and Operations and Maintenance Trust Fund for the same purposes~~.

Section 11. Section 240.36, Florida Statutes, 1998 Supplement, is amended to read:

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

(1) There is created the Dr. Philip Benjamin Academic Improvement *Program* ~~Trust Fund~~ for Community Colleges to be administered according to rules of the State Board of Community Colleges. This *program* ~~trust fund~~ shall be used to encourage private support in enhancing public community colleges by providing the community college system with the opportunity to receive and match challenge grants.

~~(2) Funds appropriated shall be deposited in the trust fund and shall be invested pursuant to s. 18.125. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any undisbursed balance remaining in the trust fund and interest income accruing to that portion of the trust fund not matched shall remain in the trust fund and shall increase the total funds available for challenge grants. At the end of a fiscal year, any unexpended balance of an appropriation in the trust fund will not revert to the fund from which appropriated, but will remain in the trust fund until used for the purposes specified in this section.~~

(2)~~(3)~~ For every year in which there is a legislative appropriation to the *program* ~~trust fund~~, no less than $25,000 must be reserved to permit each community college and the State Board of Community Colleges, which shall be an eligible community college entity for the purposes of this section, an opportunity to match challenge grants. The balance of the funds shall be available for matching by any eligible community college entity. ~~Trust~~ Funds which remain unmatched by contribution on

March 1 of any year shall also be available for matching by any community college entity. The State Board of Community Colleges shall adopt rules providing all community college entities with an opportunity to apply for excess ~~trust~~ funds prior to the awarding of such funds. However, no community college may receive more than its percentage of the total full-time equivalent enrollment or 15 percent, whichever is greater, of the funds appropriated to the *program* ~~trust fund~~ for that fiscal year and, likewise, the State Board of Community Colleges may not receive more than 15 percent of the funds appropriated to the *program* ~~trust fund~~ for that fiscal year. A community college entity shall place all funds it receives in excess of the first challenge grant and its matching funds in its endowment fund and only the earnings on that amount may be spent for approved projects. A community college entity may spend the first challenge grant and its matching funds as cash for any approved project, except scholarships. If a community college entity proposes to use any amount of the grant or the matching funds for scholarships, it must deposit that amount in its endowment in its academic improvement trust fund and use the earnings of the endowment to provide scholarships.

(3)~~(4)~~ Challenge grants shall be proportionately allocated from the *program* ~~trust fund~~ on the basis of matching each $4 of state funds with $6 of local or private funds. To be eligible, a minimum of $4,500 must be raised from private sources.

(4)~~(5)~~ Funds sufficient to provide the match shall be transferred from the state *appropriation* ~~trust fund~~ to the local community college foundation or the statewide community college foundation upon notification that a proportionate amount has been received and deposited by the community college entity in its own trust fund.

(5)~~(6)~~ Each community college entity shall establish its own academic improvement trust fund as a depository for the private contributions and matching state *funds provided under this section* ~~fund established herein~~. The foundations of the community college entities are responsible for the maintenance, investment, and administration of their academic improvement trust funds.

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

1. Scientific and technical equipment.

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

3. Scholarships, loans, or need-based grants.

(b) If a community college includes scholarships, loans, or need-based grants in its proposal, it shall create an endowment in its academic improvement trust fund and use the earnings of the endowment to provide scholarships, loans, or need-based grants.

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

(7)~~(8)~~ The State Board of Community Colleges shall establish rules to provide for the administration of this *program* ~~fund~~. Such rules shall establish the minimum challenge grant reserved for each community college entity and the maximum amount which a community college entity may receive from a legislative appropriation in any fiscal year in accordance with the provisions of the General Appropriations Act.

Section 12. Subsection (5) of section 240.334, Florida Statutes, is amended to read:

240.334 Technology transfer centers at community colleges.—

(5) A technology transfer center shall be financed from the Academic Improvement *Program* ~~Trust Fund~~ or from moneys of a community college which are on deposit or received for use in the activities conducted in the center. Such moneys shall be deposited by the community college in a permanent technology transfer fund in a depository or depositories approved for the deposit of state funds and shall be accounted for and disbursed subject to regular audit by the Auditor General.

Section 13. *Section 240.3835, Florida Statutes, is repealed.*

Section 14. Subsections (3), (4), and (11) of section 240.383, Florida Statutes, are amended to read:

240.383 State Community College System Facility Enhancement Challenge Grant Program.—

(3) The Community College Capital Facilities Matching *Program* ~~Trust Fund, if created by law, otherwise the General Revenue Fund,~~ shall provide funds to match private contributions for the development of high priority instructional and community-related capital facilities, including common areas connecting such facilities, within the State Community College System. ~~All appropriated funds deposited in the trust fund, if created by law, otherwise the General Revenue Fund, shall be invested pursuant to the provisions of s. 18.125. Interest income accruing to that portion of the trust fund, if created by law, otherwise the General Revenue Fund, shall increase the total funds available for the challenge grant program. Interest income accruing from the private donations shall be returned to the participating direct-support organization upon completion of the project.~~

(4) Within the direct-support organization of each community college there must be established a separate capital facilities matching account for the purpose of providing matching funds from the direct-support organization's unrestricted donations or other private contributions for the development of high priority instructional and community-related capital facilities, including common areas connecting such facilities. The Legislature shall appropriate funds ~~to be transferred to the Community College Capital Facilities Matching Trust Fund, if created by law, otherwise the General Revenue Fund,~~ for distribution to a community college after matching funds are certified by the direct-support organization and community college. The Public Education Capital Outlay and Debt Service Trust Fund shall not be used as the source of the state match for private contributions.

(11) Any project funds that are unexpended after a project is completed shall revert to the community college's direct-support organization capital facilities matching account. Fifty percent of such unexpended funds shall be reserved for the community college which originally received the private contribution for the purpose of providing private matching funds for future facility construction projects as provided in this section. The balance of such unexpended funds shall be returned to the ~~Community College Capital Facilities Matching Trust Fund, if created by law, otherwise the~~ General Revenue Fund~~, and be available to any community college for future facility construction projects conducted pursuant to this section~~.

Section 15. *Section 240.408, Florida Statutes, is repealed.*

Section 16. Subsection (10) of section 229.602, Florida Statutes, is amended to read:

229.602 Florida private sector and education partnerships.—

(10)(a) There is hereby created the teacher/quest partnership program. This program establishes a new education partnership with business, industry, or nonprofit or government agencies for the purpose of providing teachers with the opportunity to enhance their knowledge and improve their teaching skills in the areas of science, mathematics, and computer science.

(b) Teachers shall participate in a project in association with a business, industry, or agency partner. Teachers shall explore job-related science, mathematics, and computer skills, and the application of mathematical, scientific, and computing concepts to problems faced in business, industry, or agency settings. This experience will keep them current, provide them with a "real world" perspective and experiential knowledge, and enable them to develop resource contacts from the participating organizations who could be invited to participate in classroom demonstrations or other learning experiences.

(c) The Department of Education is authorized to distribute grants to school districts for teacher/quest partnership projects. Each project shall provide salary stipends to teachers for the summer recess at their regular rate of pay. Each school district and participating business, industry, or agency shall reach a contractual agreement which shall be included in a proposal submitted to the Department of Education. A business, industry, or agency shall agree to hire teachers, and teacher

recipients shall make a commitment to continue teaching or repay the cost of the stipend. The proposed projects shall be judged on their originality and the potential transfer of knowledge to learning opportunities for students. All projects shall require the participating business, industry, or agency to match state dollars one for one.

~~(d) The program shall be funded wholly or in part by the Challenger Astronauts Memorial Undergraduate Scholarship Trust Fund, pursuant to s. 240.408.~~

Section 17. Section 240.4082, Florida Statutes, is amended to read:

240.4082 Teacher/Quest Scholarship Program.—

~~(1)~~ The Teacher/Quest Scholarship Program is created for the purpose of providing teachers with the opportunity to enhance their knowledge of science, mathematics, and computer applications in business, industry, and government. A school district or developmental research school may propose that one or more teachers be granted a Teacher/Quest Scholarship by submitting to the Department of Education:

(1)~~(a)~~ A project proposal specifying activities a teacher will carry out to improve his or her:

(a)~~1.~~ Understanding of mathematical, scientific, or computing concepts;

(b)~~2.~~ Ability to apply and demonstrate such concepts through instruction;

(c)~~3.~~ Knowledge of vocational requirements for competency in mathematics, science, and computing; and

(d)~~4.~~ Ability to integrate and apply technological concepts from all three fields; and

(2)~~(b)~~ A contractual agreement with a private corporation or governmental agency that implements the project proposal and guarantees employment to the teacher during a summer or other period when schools are out of session. The agreement must stipulate a salary rate that does not exceed regular rates of pay and a gross salary amount consistent with applicable statutory and contractual provisions for the teachers' employment. The teachers' compensation shall be provided for on an equally matched basis by ~~funds from the Challenger Astronauts Memorial Undergraduate Scholarship Trust Fund, as provided for in s. 240.408, and~~ funds from the employing corporation or agency.

~~(2) This section shall be administered subject to the availability of funds from the Challenger Astronauts Memorial Undergraduate Scholarship Trust Fund and such authority as may be exercised by the Challenger Astronauts Memorial Foundation over such fund.~~

Section 18. This act shall take effect July 1, 2000.

And the title is amended as follows:

On page 1, lines 2 - 8 remove from the title of the bill: all of said lines and insert in lieu thereof: An act relating to trust funds; terminating specified trust funds within the Department of Education; providing for disposition of balances in and revenues of such trust funds; prescribing procedures for the termination of such trust funds; declaring the findings of the Legislature that specified trust funds within the Department of Education are exempt from the termination requirements of s. 19(f), Art. III of the State Constitution; repealing s. 3, ch. 95-114, Laws of Florida, and s. 3, ch. 95-115, Laws of Florida, to eliminate future review and termination or re-creation of the Ancillary Facilities Construction Trust Fund and the Education--Contracts, Grants, and Donations Trust Fund; amending s. 11.2423, F.S.; providing that acts declaring trust funds exempt from constitutional termination requirements are not repealed by the adoption of the Florida Statutes; amending ss. 28.101, 446.52, 741.01, F.S.; correcting cross references; repealing ss. 236.1229 and 236.12295, F.S., relating to the Florida School Improvement and Academic Achievement Trust Fund and grants from the trust fund; amending ss. 240.235 and 240.243, F.S.; eliminating reference to the Incidental Trust Fund; revising provisions relating to deposit of revenues from the service charge assessed for payment of university tuition and fees in installments and redefining the term "state funds" for purposes of provisions relating to the number of classroom teaching hours required of university faculty members, to conform; amending s. 240.36, F.S.; revising funding provisions of the Dr. Philip Benjamin Academic Improvement Program; amending s. 240.334, F.S., to conform; repealing s. 240.3835, F.S., relating to the Community College Capital Facilities Matching Trust Fund; amending s. 240.383, F.S.; revising funding provisions of the Community College Capital Facilities Matching Program, to conform; repealing s. 240.408, F.S., relating to the Challenger Astronauts Memorial Undergraduate Scholarship Trust Fund; amending ss. 229.602 and 240.4082, F.S., relating to the teacher/quest partnership program and the Teacher/Quest Scholarship Program, to conform; providing an effective date.

On motion by Senator Casas, the Senate concurred in the House amendment.

SB 602 passed as amended by the required constitutional three-fifths vote of the membership, and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
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

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB 660, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 660—A bill to be entitled An act relating to foster care and related services; amending s. 216.136, F.S.; requiring the Child Welfare System Estimating Conference to include forecasts of child welfare caseloads within the information it generates; providing for inclusion of additional classes of children in need of care among estimates; amending s. 409.1671, F.S.; providing that the Legislature does not intend to require local governments to fund foster care and related services previously funded by the state; providing for distribution of documented federal funds in excess of amounts appropriated by the Legislature; providing uses for such funds; providing for a review of the distribution program and a report; designating Broward County for either the state attorney or Attorney General to provide child welfare legal services; requiring community-based providers and their subcontractors to obtain certain liability insurance; prescribing limits on liability; prescribing immunity of employees of providers and their subcontractors; defining the term "culpable negligence"; declaring legislative intent with respect to inflationary increases in liability amounts; providing for hiring preference for state employees; prescribing requirements for preschool foster homes; changing the date for privatization of foster care and related services in district 5; amending s. 409.906, F.S.; authorizing the Agency for Health Care Administration to establish a targeted case-management pilot project within certain counties; providing for the pilot project to determine the impact of targeted case-management services; providing for eligibility for coverage under the pilot project; providing certain limitations on funding; providing for severability; amending s. 39.013, F.S.; providing for circuit court jurisdiction in dependency proceedings until the child reaches a specified age; providing for an annual review during the time a child remains in the custody of or under the supervision of the Department of Children and Family Services; amending s. 409.145, F.S.; deleting a requirement that foster care services be terminated upon a child's leaving an educational program; creating s. 39.4085, F.S.; providing legislative intent; specifying goals in support of a "Bill of Rights," specifying the rights of dependent children in shelter or foster care; clarifying that the establishment of goals does not create rights; prohibiting certain causes of action; providing an effective date.

House Amendment 1 (235795)(with title amendment)—On page 18, line 1, through page 19, line 17, remove from the bill: all of said lines

And the title is amended as follows:

On page 2, lines 9-19, remove from the title of the bill: all of said lines and insert in lieu thereof: funding; providing for severability; creating s. 39.4085,

House Amendment 2 (440379)—In the title, on page 2, lines 21-22, remove from the bill: all of said lines and insert in lieu thereof: goals for dependent children in

House Amendment 3 (122915)—On page 9, lines 29-31, and on page 11, lines 12-14, remove from the bill: *This paragraph does not preclude the filing of a claims bill pursuant to s. 768.28 by the claimant* and insert in lieu thereof: *A claims bill may be brought on behalf of a claimant pursuant to s. 768.28*

On motion by Senator Brown-Waite, the Senate concurred in the House amendments.

CS for CS for SB 660 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—40

Madam President	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

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB 662, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 662—A bill to be entitled An act relating to expedited permitting; providing legislative intent with respect to creating a statewide one-stop permitting system; amending s. 14.2015, F.S.; deleting provisions authorizing the Office of Tourism, Trade, and Economic Development to make recommendations to the Legislature on improving permitting procedures; amending s. 288.021, F.S.; authorizing the appointment of certain economic development liaisons; creating s. 288.109, F.S.; requiring that the Department of Management Services establish a One-Stop Permitting System using the Internet; providing requirements for the system; requiring that the department develop a protocol for adding state agencies and counties to the One-Stop Permitting System; specifying the various state agencies to be provided access to the system; requiring a permit that is filed using the One-Stop Permitting System to be approved or denied within a specified time; providing for a temporary waiver of the permit fee for applications filed using the One-Stop Permitting System; providing for a permit fee reduction under certain conditions; creating s. 288.1092, F.S.; creating the One-Stop Permitting System Grant Program within the Department of Management Services; providing for grant moneys to be awarded to counties certified as Quick Permitting Counties; providing requirements for the use of grant moneys; creating s. 288.1093, F.S.; creating the Quick Permitting County Designation Program within the Department of Management Services; providing criteria under which the department may designate a county as a Quick Permitting County; creating s. 288.1095, F.S.; requiring that the Office of Tourism, Trade, and Economic Development, Enterprise Florida, Inc., and state agencies provide information on the One-Stop Permitting System and the Quick Permitting Counties; repealing ss. 403.950, 403.951, 403.952, 403.953, 403.954, 403.955, 403.9551, 403.956, 403.957, 403.958, 403.959, 403.960, 403.961, 403.9615, 403.962, 403.963, 403.964, 403.965, 403.966, 403.967, 403.968, 403.969, 403.970, 403.971, 403.972, F.S., relating to the Florida Jobs Siting Act; amending s. 403.973, F.S.; providing that certain projects located in certain counties may be certified as eligible for expedited permitting; requiring that the Office of Tourism, Trade, and Economic Development delegate certain responsibilities to a county designated as a Quick Permitting County; requiring a memorandum of agreement for projects that qualify for expedited review; providing requirements for such memoranda of agreement; deleting obsolete provisions; providing an appropriation; appropriating funds to offset reduced revenues resulting from implementing the One-Stop Permitting System; providing an effective date.

House Amendment 1 (535409)—On page 24, lines 25-28, remove from the bill: all of said lines and insert in lieu thereof:

Section 10. *The sum of $100,000 is appropriated from the General Revenue Fund to the Department of Management Services to fund the administrative costs to establish and implement an Internet site for the One-Stop Permitting System.*

On motion by Senator Carlton, the Senate concurred in the House amendment.

CS for CS for SB 662 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB 864, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 864—A bill to be entitled An act relating to the Fish and Wildlife Conservation Commission; amending s. 20.325, F.S.; specifying the divisions in the Fish and Wildlife Conservation Commission; transferring the duties of the Marine Fisheries Commission assigned to the Board of Trustees of the Internal Improvement Trust Fund to the commission; transferring the duties of the Game and Fresh Water Fish Commission to the Fish and Wildlife Conservation Commission; transferring certain duties of the Department of Environmental Protection, Division of Marine Resources and Division of Law Enforcement, to the Fish and Wildlife Conservation Commission; amending s. 20.255, F.S.; providing for the organization and powers of the Department of Environmental Protection; providing for a transition advisory committee to determine the appropriate number of support service personnel to be transferred; providing for an operating agreement and an annual work plan regarding responsibilities shared by the department and the commission; providing for submission of the work plan to the Governor and the Legislature; providing for a memorandum of agreement between the commission and the department regarding responsibilities of the Florida Marine Research Institute to the department; amending s. 206.606, F.S.; revising the distribution of funds; amending s. 259.101, F.S.; providing for the sale of conservation lands; amending s. 370.0603, F.S.; establishing the Marine Resources Conservation Trust Fund in the Fish and Wildlife Conservation Commission; amending s. 370.0608, F.S.; revising the use of license fees by the Fish and Wildlife Conservation Commission; amending s. 370.16; transferring certain activities related to oysters and shellfish to the Fish and Wildlife Conservation Commission;

amending s. 370.26, F.S.; transferring certain activities related to aquaculture to the Fish and Wildlife Conservation Commission; amending s. 932.7055, F.S.; providing for funds to be deposited into the Forfeited Property Trust Fund; amending ss. 20.055, 23.21, 120.52, 120.81, 163.3244, 186.003, 186.005, 229.8058, 240.155, 252.365, 253.05, 253.45, 253.75, 253.7829, 253.787, 255.502, 258.157, 258.397, 258.501, 259.035, 259.036, 282.1095, 282.404, 285.09, 285.10, 288.021, 288.975, 316.640, 320.08058, 327.02, 327.25, 327.26, 327.28, 327.30, 327.35215, 327.395, 327.41, 327.43, 327.46, 327.48, 327.70, 327.71, 327.731, 327.74, 327.803, 327.804, 327.90, 328.01, 339.281, 341.352, 369.20, 369.22, 369.25, 370.01, 370.021, 370.028, 370.06, 370.0605, 370.0615, 370.062, 370.063, 370.0805, 370.081, 370.092, 370.093, 370.1107, 370.1111, 370.12, 370.13, 370.14, 370.1405, 370.142, 370.1535, 370.17, 370.31, 372.001, 372.01, 372.0215, 372.0222, 372.0225, 372.023, 372.025, 372.03, 372.051, 372.06, 372.07, 372.071, 372.072, 372.0725, 372.073, 372.074, 372.105, 372.106, 372.12, 372.121, 372.16, 372.26, 372.265, 372.27, 372.31, 372.57, 372.5714, 372.5717, 372.5718, 372.574, 372.651, 372.653, 372.66, 372.661, 372.662, 372.663, 372.664, 372.6645, 372.667, 372.6672, 372.672, 372.673, 372.674, 372.70, 372.701, 372.7015, 372.7016, 372.72, 372.73, 372.74, 372.76, 372.761, 372.77, 372.7701, 372.771, 372.85, 372.86, 372.87, 372.88, 372.89, 372.901, 372.911, 372.912, 372.92, 372.921, 372.922, 372.97, 372.971, 372.98, 372.981, 372.99, 372.9901, 372.9903, 372.9904, 372.9906, 372.991, 372.992, 372.995, 373.453, 373.455, 373.4595, 373.465, 373.466, 373.591, 375.021, 375.311, 375.312, 376.121, 378.011, 378.036, 378.409, 380.061, 388.45, 388.46, 403.0752, 403.0885, 403.413, 403.507, 403.508, 403.518, 403.526, 403.527, 403.5365, 403.7841, 403.786, 403.787, 403.9325, 403.941, 403.9411, 403.961, 403.962, 403.972, 403.973, 487.0615, 581.186, 585.21, 597.003, 597.004, 597.006, 784.07, 790.06, 790.15, 828.122, 832.06, 843.08, 870.04, 943.1728, F.S.; conforming provisions to the State Constitution and this act; repealing s. 370.0205, F.S., which provides for the use of citizen support organizations; repealing s. 370.025, F.S., which provides policies for the Marine Fisheries Commission; repealing s. 370.026, F.S., which provides for the creation of the Marine Fisheries Commission; repealing s. 370.027, F.S., which provides for rulemaking authority; repealing s. 372.021, F.S., which provides for the powers of the Game and Fresh Water Fish Commission; repealing s. 372.061, F.S., which provides for meetings of the Game and Fresh Water Fish Commission; repealing s. 373.1965, F.S., which creates the Coordinating Council on the Restoration of the Kissimmee River Valley and Taylor Creek-Nubbins Slough Basin; repealing s. 373.197, F.S., which provides direction for the Kissimmee River Valley and Taylor Creek-Nubbins Slough Basin restoration project; repealing s. 403.261, F.S., which provides for the repeal of rulemaking jurisdiction over air and water pollution; creating s. 403.0611, F.S.; providing for the use of citizen support organizations; creating s. 406.0613, F.S.; providing authorization for publications; creating s. 403.0614, F.S.; providing for the administration of Department of Environmental Protection grant programs; amending ss. 161.031, 161.36, 252.937, 309.01, 370.023, 370.03, 370.0607, 370.0609, 370.061, 370.07, 370.071, 370.08, 370.0821, 370.10, 370.103, 370.135, 370.143, 370.15, 370.151, 370.153, 370.1603, 370.172, 370.18, 370.19, 370.20, 370.21, 372.107, 376.15, 823.11, F.S.; conforming provisions to the State Constitution and this act; authorizing the executive Office of the Governor to transfer funds when necessary because of the reorganization made by this act, after prior consultation with specified legislative committees; providing an effective date.

House Amendment 1 (202315)(with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Section 20.331, Florida Statutes, is created to read:

20.331 Fish and Wildlife Conservation Commission.—

(1) The Legislature, recognizing the Fish and Wildlife Conservation Commission as being specifically authorized by the State Constitution under s. 9, Art. IV, grants rights and privileges to the commission, as contemplated by s. 6, Art. IV of the State Constitution, equal to those of departments established under this chapter, while preserving its constitutional designation and title as a commission.

(2) The head of the Fish and Wildlife Conservation Commission is the commission appointed by the Governor as provided for in s. 9, Art. IV of the State Constitution.

(3) The following administrative units are established within the commission:

(a) Division of Administrative Services.

(b) Division of Law Enforcement.

(c) Division of Freshwater Fisheries.

(d) Division of Marine Fisheries.

(e) Division of Wildlife.

(f) Florida Marine Research Institute.

The bureaus and offices of the Game and Fresh Water Fish Commission existing on February 1, 1999, are established within the Fish and Wildlife Conservation Commission.

(4)(a) To aid the commission in the implementation of its constitutional and statutory duties, the Legislature authorizes the commission to appoint, fix the salary of, and at its pleasure, remove a person, not a member of the commission, as the executive director. The executive director shall be reimbursed for travel per diem and travel expenses, as provided in s. 112.061, incurred in the discharge of official duties. The executive director shall maintain headquarters and reside in Tallahassee.

(b) Each new executive director must be confirmed by the Senate during the legislative session immediately following his or her hiring by the commission.

(5) In further exercise of its duties, the Fish and Wildlife Conservation Commission:

(a) Shall assign to the Division of Freshwater Fisheries and the Division of Marine Fisheries such powers, duties, responsibilities, and functions as are necessary to ensure compliance with the laws and rules governing the management, protection, conservation, improvement, and expansion of Florida's freshwater aquatic life and marine life resources.

(b) Shall assign to the Division of Wildlife such powers, duties, responsibilities, and functions as are necessary to ensure compliance with the laws and rules governing the management, protection, conservation, improvement, and expansion of Florida's wildlife resources.

(c) Shall assign to the Division of Law Enforcement such powers, duties, responsibilities, and functions as are necessary to ensure enforcement of the laws and rules governing the management, protection, conservation, improvement, and expansion of Florida's wildlife resources, freshwater aquatic life resources, and marine life resources. In performance of their duties as sworn law enforcement officers for the State of Florida, the division's officers also shall assist in the enforcement of all general environmental laws remaining under the responsibility of the Department of Environmental Protection.

(d) Shall assign to the Florida Marine Research Institute such powers, duties, responsibilities, and functions as are necessary to accomplish its mission. It shall be the mission of the Florida Marine Research Institute to:

1. Serve as the primary source of research and technical information and expertise on the status of Florida's saltwater resources;

2. Monitor the status and health of saltwater habitat, marine life, and wildlife;

3. Develop and implement restoration techniques for marine habitat and enhancement of saltwater plant and animal populations;

4. Respond and provide critical technical support for marine catastrophes including oil spills, ship groundings, major marine species die-offs, hazardous spills, and natural disaster;

5. Identify and monitor marine toxic red tides and their impacts, and provide technical support for state and local public health concerns; and

6. Provide state and local governments with estuarine, marine, coastal technical information and research results.

(6)(a) Shall implement a system of adequate due process procedures to be accorded to any party, as defined in s. 120.52, whose substantial interests will be affected by any action of the Fish and Wildlife Conserva-

tion Commission in the performance of its constitutional duties or responsibilities.

(b) The Legislature encourages the commission to incorporate in its process the provisions of s. 120.54(3)(c) when adopting rules in the performance of its constitutional duties or responsibilities.

(c) The provisions of chapter 120 shall be accorded to any party whose substantial interests will be affected by any action of the commission in the performance of its statutory duties or responsibilities. For purposes of this subsection, statutory duties or responsibilities include, but are not limited to, the following:

1. Research and management responsibilities for marine species listed as endangered, threatened, or of special concern, including, but not limited to, manatees and marine turtles;

2. Establishment and enforcement of boating safety regulations;

3. Land acquisition and management;

4. Enforcement and collection of fees for all recreational and commercial hunting or fishing licenses or permits;

5. Aquatic plant removal and management using fish as a biological control agent;

6. Enforcement of penalties for violations of commission rules, including, but not limited to, the seizure and forfeiture of vessels and other equipment used to commit those violations;

7. Establishment of free fishing days;

8. Regulation of off-road vehicles on state lands;

9. Establishment and coordination of a statewide hunter safety course;

10. Establishment of programs and activities to develop and distribute public education materials;

11. Police powers of wildlife and marine officers;

12. Establishment of citizen support organizations to provide assistance, funding, and promotional support for programs of the commission;

13. Creation of the Voluntary Authorized Hunter Identification Program; and

14. Regulation of required clothing of persons hunting deer.

(d) The commission is directed to provide a report on the development and implementation of its adequate due process provisions to the President of the Senate, the Speaker of the House of Representatives, and the appropriate substantive committees of the House of Representatives and the Senate no later than December 1, 1999.

(7) Comments submitted by the commission to a permitting agency for applications for permits, licenses, or authorizations impacting the commission's jurisdiction must be based on credible, factual scientific data, and must be received by the permitting agency within the time specified by applicable statutes or rules, or within 30 days, whichever is shorter. Comments provided by the commission are not binding on any permitting agency. Comments by the commission shall be considered for consistency with the Florida Coastal Management Program and sections 373.428, and 380.23. Should a permitting agency use the commission's comments as a condition of denial, approval, or modification of a proposed permit, license, or authorization, any party to an administrative proceeding involving such proposed action may require the commission to join as a party in determining the validity of the condition. In any action where the commission is joined as a party, the commission shall only bear the actual cost of defending the validity of the credible, factual scientific data used as a basis for its comments.

(8) Shall acquire, in the name of the state, lands and waters suitable for the protection, improvement, and restoration of marine life, wildlife resources, and freshwater aquatic life resources by purchase, lease, gift or otherwise, using state, federal, or other sources of funding. Lands acquired under this section shall be managed for recreation and other multiple-use activities that do not impede the commission's ability to perform its constitutional and statutory responsibilities and duties.

(9) May require any employee of the commission to give a bond for the faithful performance of duties. The commission may determine the amount of the bond and must approve the bond. In determining the amount of the bond, the commission may consider the amount of money or property likely to be in custody of the officer or employee at any one time. The premiums for the bond must be paid out of the funds of the commission.

Section 2. *The Game and Fresh Water Fish Commission is transferred to the Fish and Wildlife Conservation Commission by a type two transfer, as defined in s. 20.06(2), Florida Statutes.*

Section 3. *The Marine Fisheries Commission is transferred to the Fish and Wildlife Conservation Commission by a type two transfer, as defined in s. 20.06(2), Florida Statutes.*

Section 4. *(1) The Bureau of Environmental Law Enforcement, the Bureau of Administrative Support, the Bureau of Operational Support, and the Office of Enforcement Planning and Policy Coordination within the Division of Law Enforcement at the Department of Environmental Protection, together with the positions assigned to these specified bureaus and offices as of February 1, 1999, are transferred to the Fish and Wildlife Conservation Commission by a type two transfer, as defined in s. 20.06(2), Florida Statutes, except for:*

(a) Any administrative and technical positions and equipment within the Bureau of Administrative Support and the Bureau of Operational Support providing support services to the Bureau of Emergency Response, the Florida Park Patrol, and the Office of Environmental Investigations within the Division of Law Enforcement at the Department of Environmental Protection as of February 1, 1999;

(b) Any sworn positions classified as Investigator I or Investigator II positions within the different program components of the Division of Law Enforcement at the Department of Environmental Protection as of February 1, 1999.

(c) Any sworn positions assigned to the Office of the Director of the Division of Law Enforcement as of February 1, 1999; and

(d) All sworn positions assigned to the Florida Park Patrol within the Division of Law Enforcement at the Department of Environmental Protection as of February 1, 1999.

(2) The sworn positions assigned to the Uniform Patrol, Inspections, Aviation and Boating Safety program components of the Division of Law Enforcement at the Department of Environmental Protection as of February 1, 1999, are assigned to the Division of Law Enforcement at the Fish and Wildlife Conservation Commission.

(3) No duties or responsibilities relating to boating safety shall remain in the Department of Environmental Protection.

Section 5. *(1) The Division of Marine Resources at the Department of Environmental Protection, together with the positions assigned to the division as of February 1, 1999, are transferred to the Fish and Wildlife Conservation Commission by a type two transfer, as defined in s. 20.06(2), Florida Statutes, except for:*

(a) The Bureau of Coastal and Aquatic Managed Areas which is assigned to the Division of State Lands at the Department of Environmental Protection; and

(b) Positions assigned to the Office of the Division Director as of February 1, 1999, and not performing angler outreach and education duties.

(2) The Office of Fisheries Management and Assistance Services, and positions assigned to angler outreach and education duties within the Division of Marine Resources at the Department of Environmental Protection are assigned to the Division of Marine Fisheries at the commission.

(3) The Florida Marine Research Institute at the Department of Environmental Protection is established as a separate budget entity within the commission, and is assigned to the Office of the Executive Director for administrative purposes.

(4) The Bureau of Protected Species Management at the Department of Environmental Protection is assigned as a bureau to the Office of Environmental Services within the commission.

Section 6. *Within the Department of Environmental Protection, the Office of Environmental Investigations, the Florida Park Patrol, and the Bureau of Emergency Response are assigned to the Division of Law Enforcement.*

Section 7. *The Bureau of Marine Resource Regulation and Development at the Department of Environmental Protection, and the positions assigned to the bureau effective February 1, 1999, are transferred to the Division of Aquaculture within the Department of Agriculture and Consumer Services by a type one transfer, as defined in s. 20.06(1), Florida Statutes. Water quality data collected by the Division of Aquaculture with the Department of Agriculture and Consumer Services are to be shared with the Division of Water Resource Management within the Department of Environmental Protection.*

Section 8. Subsections (2) and (6) of section 20.255, Florida Statutes, 1998 Supplement, are amended, and new subsections (7), (8), and (9) are added, and current subsection (7) is renumbered subsection (10) in said section, to read:

20.255 Department of Environmental Protection.—There is created a Department of Environmental Protection.

(2)*(a)* There shall be two deputy secretaries and an executive coordinator for ecosystem management who are to be appointed by and shall serve at the pleasure of the secretary. The secretary may assign either deputy secretary the responsibility to supervise, coordinate, and formulate policy for any division, office, or district. The following special offices are established and headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary:

1. Office of General Counsel,

2. Office of Inspector General,

3. Office of Communication, the latter including public information, legislative liaison, cabinet liaison and special projects,

4. Office of Water Policy,

5. Office of Intergovernmental Programs,

6. Office of Ecosystem Planning and Coordination,

7. Office of Environmental Education, *and an*

8. Office of Greenways and Trails.~~, and an Office of the Youth Corps.~~

(b) The executive coordinator for ecosystem management shall coordinate policy within the department to assure the implementation of the ecosystem management provisions of chapter 93-213, Laws of Florida. The executive coordinator for ecosystem management shall supervise only the Office of Water Policy, the Office of Intergovernmental Programs, the Office of Ecosystem Planning and Coordination, and the Office of Environmental Education. The executive coordinator for ecosystem management may also be delegated authority by the secretary to act on behalf of the secretary; this authority may include the responsibility to oversee the inland navigation districts.

(c) The other special offices not supervised by the executive coordinator for ecosystem management shall report to the secretary; however, the secretary may assign them, for daily coordination purposes, to report through a senior manager other than the secretary.

(d) There shall be six administrative districts involved in regulatory matters of waste management, water facilities, wetlands, and air resources, which shall be headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary. Divisions of the department may have one assistant or two deputy division directors, as required to facilitate effective operation.

The managers of all divisions and offices specifically named in this section and the directors of the six administrative districts are exempt from part II of chapter 110 and are included in the Senior Management Service in accordance with s. 110.205(2)(i). No other deputy secretaries or senior management positions at or above the division level, except those established in chapter 110, may be created without specific legislative authority.

(6) The following divisions of the Department of Environmental Protection are established:

(a) Division of Administrative and Technical Services.

(b) Division of Air Resource Management.

(c) Division of Water *Resource Management* ~~Facilities~~.

(d) Division of Law Enforcement.

(e) Division of *Resource Assessment and Management* ~~Marine Resources~~.

(e)~~(f)~~ Division of Waste Management.

(f)~~(g)~~ Division of Recreation and Parks.

(g)~~(h)~~ Division of State Lands, the director of which is to be appointed by the secretary of the department, subject to confirmation by the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

~~(i) Division of Environmental Resource Permitting.~~

In order to ensure statewide and intradepartmental consistency, the department's divisions shall direct the district offices and bureaus on matters of interpretation and applicability of the department's rules and programs.

(7) Law enforcement officers of the Department of Environmental Protection who meet the provisions of s. 943.13 are constituted law enforcement officers of this state with full power to investigate and arrest for any violation of the laws of this state, and the rules of the department and the Board of Trustees of the Internal Improvement Trust Fund. The general laws applicable to investigations, searches, and arrests by peace officers of this state apply to such law enforcement officers.

(8) Records and documents of the Department of Environmental Protection shall be retained by the department as specified in record retention schedules established under the general provisions of chapters 119 and 257. Further, the department is authorized to:

(a) Destroy, or otherwise dispose of, those records and documents in conformity with the approved retention schedules.

(b) Photograph, microphotograph, or reproduce such records and documents on film, as authorized and directed by the approved retention schedules, whereby each page will be exposed in exact conformity with the original records and documents retained in compliance with the provisions of this section. Photographs or microphotographs in the form of film or print of any records, made in compliance with the provisions of this section, shall have the same force and effect as the originals thereof would have and shall be treated as originals for the purpose of their admissibility in evidence. Duly certified or authenticated reproductions of such photographs or microphotographs shall be admitted in evidence equally with the original photographs or microphotographs. The impression of the seal of the Department of Environmental Protection on a certificate made by the department and signed by the Secretary of Environmental Protection entitles the certificate to be received in all courts and in all proceedings in this state and is prima facie evidence of all factual matters set forth in the certificate. A certificate may relate to one or more records as set forth in the certificate or in a schedule attached to the certificate.

(9) The Department of Environmental Protection may require that bond be given by any employee of the department, payable to the Governor of the state and the Governor's successor in office, for the use and benefit of those whom it concerns, in such penal sums and with such good and sufficient surety or sureties as are approved by the department, conditioned upon the faithful performance of the duties of the employee.

(10)~~(7)~~ There is created as a part of the Department of Environmental Protection an Environmental Regulation Commission. The commission shall be composed of seven residents of this state appointed by the Governor, subject to confirmation by the Senate. The commission shall include one, but not more than two, members from each water management district who have resided in the district for at least 1 year, and the

remainder shall be selected from the state at large. Membership shall be representative of agriculture, the development industry, local government, the environmental community, lay citizens, and members of the scientific and technical community who have substantial expertise in the areas of the fate and transport of water pollutants, toxicology, epidemiology, geology, biology, environmental sciences, or engineering. The Governor shall appoint the chair, and the vice chair shall be elected from among the membership. The members serving on the commission on July 1, 1995, shall continue to serve on the commission for the remainder of their current terms. All appointments thereafter shall continue to be for 4-year terms. The Governor may at any time fill a vacancy for the unexpired term. The members of the commission shall serve without compensation, but shall be paid travel and per diem as provided in s. 112.061 while in the performance of their official duties. Administrative, personnel, and other support services necessary for the commission shall be furnished by the department.

Section 9. Subsection (2) of section 20.14, Florida Statutes, is amended to read:

20.14 Department of Agriculture and Consumer Services.—There is created a Department of Agriculture and Consumer Services.

(2) The following divisions of the Department of Agriculture and Consumer Services are established:

(a) Administration.

(b) Agricultural Environmental Services.

(c) Animal Industry.

(d) Aquaculture.

(e)~~(d)~~ Consumer Services.

(f)~~(e)~~ Dairy Industry.

(g)~~(f)~~ Food Safety.

(h)~~(g)~~ Forestry.

(i)~~(h)~~ Fruit and Vegetables.

(j)~~(i)~~ Marketing and Development.

(k)~~(j)~~ Plant Industry.

(l)~~(k)~~ Standards.

Section 10. *Except where otherwise specified in law, all revenues derived from the sale of permits and licenses pursuant to chapter 370, Florida Statutes, and all federal funds received by the State of Florida as a match to the aforementioned state revenues, and revenues received pursuant to s. 327.25 and s. 380.0558 (4) and (5), Florida Statutes, are to be appropriated by the Legislature to the Fish and Wildlife Conservation Commission, to be used for the purposes specified in law, except for the following:*

(1) Revenues derived from the sale of the resident or nonresident clam licenses authorized by Chapter 94-419, Laws of Florida, which shall be appropriated to the General Inspection Trust Fund of the Department of Agriculture and Consumer Services,

(2) Revenues derived from the imposition of the Apalachicola Bay Oyster Harvesting License authorized in s. 370.06(5) and lease fees authorized in s. 370.16(4), Florida Statutes, 1998 Supplement, and revenues received pursuant to ss. 253.69(4) and 253.71(2), Florida Statutes, which shall be appropriated to the General Inspection Trust Fund of the Department of Agriculture and Consumer Services,

(3) Revenues derived from the imposition of the Apalachicola Bay Oyster Surcharge authorized in section 370.07(3), Florida Statutes, 1998 Supplement, which shall be appropriated to the General Inspection Trust Fund of the Department of Agriculture and Consumer Services, and

(4) That portion of vessel registration fees used for quality control purposes pursuant to the provisions of section 327.28, (1)(d) Florida Statutes, which shall be appropriated to the General Inspection Trust Fund of the Department of Agriculture and Consumer Services.

Section 11. *Except where otherwise specified in law, all revenues derived from the sale of permits and licenses pursuant to chapter 372, Florida Statutes, and all federal funds received by the State of Florida as a match to the aforementioned state revenues, are to be appropriated by the Legislature to the Fish and Wildlife Conservation Commission, to be used for the purposes specified in law.*

Section 12. *In fiscal year 2000-2001, the total amount of funds expended by the Fish and Wildlife Conservation Commission for all recurring budget categories combined may not exceed 95 percent of the total recurring budget appropriated for fiscal year 1999-2000 to the Fish and Wildlife Conservation Commission.*

Section 13. *(1) The Secretary of the Department of Environmental Protection and the Executive Director of the Fish and Wildlife Conservation Commission shall each appoint three staff members to a transition advisory working group to review and determine the following:*

(a) The appropriate number of administrative, attorney, auditing and operational support positions and the related sources of funding to be transferred from the Department of Environmental Protection's Office of the General Counsel, Division of Administrative and Technical Services, former Office of the Director of the Division of Marine Resources, and Division of Law Enforcement to the Fish and Wildlife Conservation Commission.

1. No more than 60 positions may be transferred to provide legal services, administrative services, and operational support services, including communications equipment involving the National Crime Information System (NCIS) and the Florida Crime Information System (FCIS) which were previously provided to the programs transferred by sections four and five of this act.

(b) The development of a recommended plan addressing the transfer of, or where appropriate, the shared use of building, regional offices, and other facilities used or owned by the Department of Environmental Protection or the Game and Fresh Water Fish Commission to conduct activities for which the commission is responsible as of July 1, 1999.

1. To assist in the development of the portion of the recommended plan addressing the transfer or shared use of facilities used currently by the Bureau of Marine Resource Regulation and Development at the Department of Environmental Protection, the Secretary of the Department of Agriculture and Consumer Services is authorized to appoint three staff members to transition advisory working group.

(2) For fiscal year 1999-2000, the Governor shall appoint one senior staff person from the Office of Planning and Budgeting to:

(a) Convene and chair the meetings of the transition advisory group, and

(b)1. To assist the transition advisory working group with any operating budget adjustments as necessary, including any adjustments in administrative and technical staff remaining with the Department of Environmental Protection, including in the Division of Law Enforcement, to implement the requirements of this act. Adjustments made to the operating budgets of the Department of Environmental Protection or the commission in the implementation of this act must be made in consultation with the appropriate substantive and fiscal committee staffs of the House of Representatives and the Florida Senate.

(2) The revisions to the FY 1999-00 approved operating budget which are necessary to reflect the organizational changes directed by this legislation shall be implemented pursuant to section 216.292(11), Florida Statutes, and are subject to the notification and review process outlined in section 216.177, Florida Statutes. Subsequent adjustments between agencies that are determined necessary by the Department of Environmental Protection or Fish and Wildlife Conservation Commission, and approved by the Executive Office of the Governor, may also be authorized and are subject to the notification and review process outlined in section 216.177, Florida Statutes. The appropriate substantive committees of the House and Senate shall also be notified of the proposed revisions authorized by this section to ensure consistency with legislative policy and intent.

Section 14. *The executive director of the Fish and Wildlife Conservation Commission and the secretary of the Department of Environmental*

Protection shall develop and adopt an operating agreement and an annual work plan to accomplish responsibilities shared between the agencies.

(1) The operating agreement shall be completed by no later than January 31, 2000, and shall detail commission law enforcement responsibilities for emergency response. Until the operating plan has been completed and adopted, the department may call upon the commission for emergency response and the commission is directed to respond to said requests.

(2) The work plan shall be submitted by August 1, 1999, to the Governor, the Speaker of the House of Representatives, and the President of the Senate and may include recommendations for facilitating department law enforcement and emergency response needs, the research priorities of the Florida Marine Research Institute, and the needs of other appropriate department programs.

(3) A memorandum of agreement will be developed between the Department of Environmental Protection and the Fish and Wildlife Conservation Commission which will detail the responsibilities of the Florida Marine Research Institute to the department, to include, at a minimum, the following services:

(a) Environmental monitoring and assessment.

(b) Restoration research and development of restoration technology.

(c) Technical support and response for oil spills, ship groundings, major marine species die offs, hazardous spills, and natural disasters.

Section 15. Subsection (1) of section 206.606, Florida Statutes, 1998 Supplement, as amended by chapter 98-114, Laws of Florida, is amended to read:

206.606 Distribution of certain proceeds.—

(1) Moneys collected pursuant to ss. 206.41(1)(g) and 206.87(1)(e) shall be deposited in the Fuel Tax Collection Trust Fund. Such moneys, after deducting the service charges imposed by s. 215.20, the refunds granted pursuant to s. 206.41, and the administrative costs incurred by the department in collecting, administering, enforcing, and distributing the tax, which administrative costs may not exceed 2 percent of collections, shall be distributed monthly to the State Transportation Trust Fund, except that:

(a) *$6.30* ~~$7.55~~ million shall be transferred to the Department of Environmental Protection in each fiscal year *and*~~. The transfers must be made in equal monthly amounts beginning on July 1 of each fiscal year. $1.25 million of the amount transferred shall be deposited annually in the Marine Resources Conservation Trust Fund and must be used by the department to fund special projects to provide recreational channel marking, public launching facilities, and other boating-related activities. The department shall annually determine where unmet needs exist for boating-related activities, and may fund such activities in counties where, due to the number of vessel registrations, insufficient financial resources are available to meet total water resource needs. The remaining proceeds of the annual transfer shall be~~ deposited in the Aquatic Plant Control Trust Fund *to* ~~and must~~ be used for aquatic plant management, including nonchemical control of aquatic weeds, research into nonchemical controls, and enforcement activities. Beginning in fiscal year 1993-1994, the department shall allocate at least $1 million of such funds to the eradication of melaleuca.

(b) *$2.5* ~~$1.25~~ million shall be transferred to the State Game Trust Fund in the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission in each fiscal year *and used for recreational boating activities, and fresh water fisheries management and research*. The transfers must be made in equal monthly amounts beginning on July 1 of each fiscal year. *The commission shall annually determine where unmet needs exist for boating-related activities, and may fund such activities in counties where, due to the number of vessel registrations, sufficient financial resources are unavailable.*

1. A minimum of $1.25 million shall be used to fund local projects to provide recreational channel marking, public launching facilities, aquatic plant control, and other local boating related activities. In funding the projects, the commission shall give priority consideration as follows:

a. Unmet needs in counties with populations of 100,000 or less.

b. Unmet needs in coastal counties with a high level of boating related activities from individuals residing in other counties.

2. The remaining $1.25 million may be used for recreational boating activities, and freshwater fisheries management and research.

3. The commission is authorized to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement a Florida Boating Improvement Program similar to the program administered by the Department of Environmental Protection and established in Rule 62-D.5031 - 62-D.5036, of the Florida Administrative Code to determine projects eligible for funding under this subsection.

On February 1 of each year, the commission shall file an annual report with the President of the Senate and the Speaker of the House of Representatives outlining the status of its Florida Boating Improvement Program, including the projects funded, and a list of counties whose needs are unmet due to insufficient financial resources from vessel registration fees.~~, and must be used for recreational boating activities of a type consistent with projects eligible for funding under the Florida Boating Improvement Program administered by the Department of Environmental Protection, and freshwater fisheries management and research.~~

(c) 0.65 percent of moneys collected pursuant to s. 206.41(1)(g) shall be transferred to the Agricultural Emergency Eradication Trust Fund.

Section 16. Paragraph (b) of subsection (1) of section 320.08058, Florida Statutes, 1998 Supplement, as amended by section 7 of chapter 98-414, Laws of Florida, is amended to read:

320.08058 Specialty license plates.—

(1) MANATEE LICENSE PLATES.—

(b) The manatee license plate annual use fee must be deposited into the Save the Manatee Trust Fund, created within the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~. The funds deposited in the Save the Manatee Trust Fund may be used only for manatee-related environmental education; manatee research; facilities, as provided in s. 370.12*(4)*(~~5~~)(b); and manatee protection and recovery.

Section 17. Subsection (19) of section 320.08058, Florida Statutes, 1998 Supplement, is amended to read:

320.08058 Specialty license plates.—

(19) SEA TURTLE LICENSE PLATES.—

(a) The department shall develop a Sea Turtle license plate as provided in this section. The word "Florida" must appear at the top of the plate, the words "Helping Sea Turtles Survive" must appear at the bottom of the plate, and the image of a sea turtle must appear in the center of the plate.

(b) The annual use fees shall be deposited in the Marine Resources Conservation Trust Fund in the *Fish and Wildlife Conservation Commission* ~~Florida Department of Environmental Protection~~. The first $500,000 in annual revenue shall be used by the Florida Marine Turtle Protection Program to conduct sea turtle protection, research, and recovery programs. The remaining annual use proceeds shall be used by the *commission* ~~Department of Environmental Protection~~ for sea turtle conservation activities, except that up to 30 percent of the remaining annual use fee proceeds shall be annually *disbursed* ~~dispersed~~ through the marine turtle grants program as provided in s. 370.12(1)(h).

Section 18. Present subsection (5) of section 327.02, Florida Statutes, 1998 Supplement, is redesignated as subsection (6), present subsection (6) is repealed, subsection (7) is amended, and new subsection (5) is added to that section to read:

327.02 Definitions of terms used in this chapter and in chapter 328.—As used in this chapter and in chapter 328, unless the context clearly requires a different meaning, the term:

(5) "Commission" means the Fish and Wildlife Conservation Commission.

(7) "Division" means the Division of Law Enforcement of the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~.

Section 19. Paragraphs (b) and (c) of subsection (2) and subsection (17) of section 327.25, Florida Statutes, are amended to read:

327.25 Classification; registration; fees and charges; surcharge; disposition of fees; fines; marine turtle stickers.—

(2) ANTIQUE VESSEL REGISTRATION FEE.—

(b) The registration number for an antique vessel shall be *permanently attached to each side of the forward half of the vessel* ~~affixed on the forward half of the hull or on the port side of the windshield~~ according to ss. 327.11 and 327.14.

(c) The Department of Highway Safety and Motor Vehicles may issue a decal identifying the vessel as an antique vessel. The decal shall be *displayed as provided in ss. 327.11 and 327.14* ~~placed within 3 inches of the registration number~~.

(17) MARINE TURTLE STICKER.—The Department of *Highway Safety and Motor Vehicles* ~~Environmental Protection~~ shall offer for sale with vessel registrations a waterproof sticker in the shape of a marine turtle at an additional cost of $5, the proceeds of which shall be deposited in the Marine Resources Conservation Trust Fund to be used for marine turtle protection, research, and recovery efforts pursuant to the provisions of s. 370.12(1).

Section 20. Section 327.26, Florida Statutes, is amended to read:

327.26 Stickers or emblems for the Save the Manatee Trust Fund.—The *commission* ~~department~~ shall prepare stickers or emblems signifying support for the Save the Manatee Trust Fund which shall be given to persons who contribute to the Save the Manatee Trust Fund as provided in s. 327.25. The *commission* ~~department~~ may accept stickers or emblems donated by any governmental or nongovernmental entity for the purposes of this section.

Section 21. Subsection (2) of section 327.28, Florida Statutes, is amended to read:

327.28 Marine Resources Conservation Trust Fund; vessel registration funds; appropriation and distribution.—

(2) All funds collected pursuant to s. 370.06(2) shall be deposited in the Marine Resources Conservation Trust Fund. Such funds shall be used to pay the cost of implementing the saltwater products license program. Additional proceeds from the licensing revenue shall be distributed among the following program functions:

~~(a) No more than 15 percent nor less than the amount deposited in the former Marine Fisheries Commission Trust Fund pursuant to this subsection in fiscal year 1987-1988 shall go to the Marine Fisheries Commission for its operations;~~

(a)~~(b)~~ No more than 15 percent shall go to *marine* law enforcement;

(b)~~(c)~~ No more than 25 percent shall go to the Florida Saltwater Products Promotion Trust Fund within the Department of Agriculture and Consumer Services for the purpose of providing marketing and extension services including industry information and education; and

(c)~~(d)~~ The remainder~~, but at least 45 percent,~~ shall go to the *Fish and Wildlife Conservation Commission* ~~Division of Marine Resources~~, for use in marine research and statistics development, including quota management.

Section 22. Subsection (2) of section 327.30, Florida Statutes, is amended to read:

327.30 Collisions, accidents, and casualties.—

(2) In the case of collision, accident, or other casualty involving a vessel in or upon or entering into or exiting from the water, including capsizing, collision with another vessel or object, sinking, personal injury requiring medical treatment beyond immediate first aid, death, disappearance of any person from on board under circumstances which indicate the possibility of death or injury, or damage to any vessel or other property in an apparent aggregate amount of at least $500, the operator shall without delay, by the quickest means available give notice of the accident to one of the following agencies: the Division of Law Enforcement *of the Fish and Wildlife Conservation Commission*; ~~the Game and Fresh Water Fish Commission;~~ the sheriff of the county within which the accident occurred; or the police chief of the municipality within which the accident occurred, if applicable.

Section 23. Subsection (5) of section 327.35215, Florida Statutes, 1998 Supplement, is amended to read:

327.35215 Penalty for failure to submit to test.—

(5) Moneys collected by the clerk of the court pursuant to this section shall be disposed of in the following manner:

(a) If the arresting officer was employed or appointed by a state law enforcement agency except *as a wildlife enforcement officer or a freshwater fisheries enforcement officer of* the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the moneys shall be deposited into the Marine Resources Conservation Trust Fund.

(b) If the arresting officer was employed or appointed by a county or municipal law enforcement agency, the moneys shall be deposited into the law enforcement trust fund of that agency.

(c) If the arresting officer was employed or appointed by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission *as a wildlife enforcement officer or a freshwater fisheries enforcement officer*, the money shall be deposited into the State Game Trust Fund.

Section 24. Section 327.395, Florida Statutes, is amended to read:

327.395 Boating safety identification cards.—

(1) Until October 1, 2001, a person born after September 30, 1980, and on or after October 1, 2001, a person 21 years of age or younger may not operate a vessel powered by a motor of 10 horsepower or greater unless such person has in his or her possession aboard the vessel photographic identification and a boater safety identification card issued by the *commission* ~~department~~ which shows that he or she has:

(a) Completed a *commission-approved* ~~department-approved~~ boater education course that meets the minimum 8-hour instruction requirement established by the National Association of State Boating Law Administrators;

(b) Passed a course equivalency examination approved by the *commission* ~~department~~; or

(c) Passed a temporary certificate examination developed or approved by the *commission* ~~department~~.

(2) Any person may obtain a boater safety identification card by complying with the requirements of this section.

(3) The *commission* ~~department~~ may appoint liveries, marinas, or other persons as its agents to administer the course, course equivalency examination, or temporary certificate examination and issue identification cards under guidelines established by the *commission* ~~department~~. An agent must charge the $2 examination fee, which must be forwarded to the *commission* ~~department~~ with proof of passage of the examination and may charge and keep a $1 service fee.

(4) An identification card issued to a person who has completed a boating education course or a course equivalency examination is valid for life. A card issued to a person who has passed a temporary certification examination is valid for 12 months from the date of issuance.

(5) A person is exempt from subsection (1) if he or she:

(a) Is licensed by the United States Coast Guard to serve as master of a vessel.

(b) Operates a vessel only on a private lake or pond.

(c) Is accompanied in the vessel by a person who is exempt from this section or who holds an identification card in compliance with this section, is 18 years of age or older, and is attendant to the operation of the vessel and responsible for any violation that occurs during the operation.

(d) Is a nonresident who has in his or her possession proof that he or she has completed a boater education course or equivalency examination in another state which meets or exceeds the requirements of subsection (1).

(e) Is exempted by rule of the *commission* ~~department~~.

(6) A person who violates this section is guilty of a noncriminal infraction, punishable as provided in s. 327.73.

(7) The *commission* ~~department~~ shall design forms and adopt rules to administer this section. Such rules shall include provision for educational and other public and private entities to offer the course and administer examinations.

(8) The *commission* ~~department~~ shall institute and coordinate a statewide program of boating safety instruction and certification to ensure that boating courses and examinations are available in each county of the state.

(9) The *commission* ~~department~~ is authorized to establish and to collect a $2 examination fee to cover administrative costs.

(10) The commission is authorized to adopt rules pursuant to chapter 120 to implement the provisions of this section.

Section 25. Section 327.41, Florida Statutes, is amended to read:

327.41 Uniform waterway regulatory markers.—

(1) The *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ shall adopt rules and regulations *pursuant to chapter 120* establishing a uniform system of regulatory markers for the Florida Intracoastal Waterway, compatible with the system of regulatory markers prescribed by the United States Coast Guard, and shall give due regard to the System of Uniform Waterway Markers approved by the Advisory Panel of State Officials to the Merchant Marine Council, United States Coast Guard.

(2) Any county or municipality which has been granted a restricted area designation, pursuant to s. 327.46, for a portion of the Florida Intracoastal Waterway within its jurisdiction may apply to the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ for permission to place regulatory markers within the restricted area.

(3) Application for placing regulatory markers on the Florida Intracoastal Waterway shall be made to the Division of Marine Resources, accompanied by a map locating the approximate placement of the markers, a statement of the specification of the markers, a statement of purpose of the markers, and a statement of the city or county responsible for the placement and upkeep of the markers.

(4) No person or municipality, county, or other governmental entity shall place any regulatory markers in, on, or over the Florida Intracoastal Waterway without a permit from the Division of Marine Resources.

(5) Aquaculture leaseholds shall be marked as required by this section, and the *commission* ~~department~~ may approve alternative marking requirements as a condition of the lease pursuant to s. 253.68. The provisions of this section notwithstanding, no permit shall be required for the placement of markers required by such a lease.

(6) The commission is authorized to adopt rules pursuant to chapter 120 to implement the provisions of this section.

Section 26. Section 327.43, Florida Statutes, is amended to read:

327.43 Silver Glen Run and Silver Glen Springs; navigation channel; anchorage buoys; violations.—

(1) The *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ is hereby directed to mark a navigation channel within Silver Glen Run and Silver Glen Springs, located on the western shore of Lake George on the St. Johns River.

(2) The *commission* ~~department~~ is further directed to establish permanent anchorage buoys within Silver Glen Run and Silver Glen Springs.

(3) Vessel anchorage or mooring shall only be allowed utilizing permanently established anchorage buoys. No vessel shall anchor or otherwise attach, temporarily or permanently, to the bottom within Silver Glen Run or Silver Glen Springs.

(4) Any violation of this act shall constitute a violation of the boating laws of this state and shall be punishable by issuance of a uniform boating citation as provided in s. 327.74. Any person who refuses to post a bond or accept and sign a uniform boating citation, as provided in s. 327.73(3), commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 27. Subsection (1) of section 327.46, Florida Statutes, is amended to read:

327.46 Restricted areas.—

(1) The *commission* ~~department~~ shall have the authority for establishing, by rule *pursuant to chapter 120*, restricted areas on the waters of the state for any purpose deemed necessary for the safety of the public, including, but not limited to, boat speeds and boat traffic where such restrictions are deemed necessary based on boating accidents, visibility, tides, congestion, or other navigational hazards. Each such restricted area shall be developed in consultation and coordination with the governing body of the county or municipality in which the restricted area is located and, where required, with the United States Army Corps of Engineers. Restricted areas shall be established in accordance with procedures under chapter 120.

Section 28. *Section 258.398, Florida Statutes, is repealed.*

Section 29. Section 327.48, Florida Statutes, is amended to read:

327.48 Regattas, races, marine parades, tournaments, or exhibitions.—Any person directing the holding of a regatta, tournament, or marine parade or exhibition shall secure a permit from the Coast Guard when such event is held in navigable waters of the United States. A person directing any such affair in any county shall notify the sheriff of the county *or*~~,~~ the *Fish and Wildlife Conservation Commission* ~~Game and Fresh Water Fish Commission, or the department~~ at least 15 days prior to any event in order that appropriate arrangements for safety and navigation may be assured. Any person or organization sponsoring a regatta or boat race, marine parade, tournament, or exhibition shall be responsible for providing adequate protection to the participants, spectators, and other users of the water.

Section 30. Subsections (1) and (3) of section 327.70, Florida Statutes, are amended to read:

327.70 Enforcement of this chapter and chapter 328.—

(1) This chapter and chapter 328 shall be enforced by the Division of Law Enforcement of the *Fish and Wildlife Conservation* ~~department and its officers, the Game and Fresh Water Fish~~ Commission and its officers, the sheriffs of the various counties and their deputies, and any other authorized law enforcement officer, all of whom may order the removal of vessels deemed to be an interference or a hazard to public safety, enforce the provisions of this chapter and chapter 328, or cause any inspections to be made of all vessels in accordance with this chapter and chapter 328.

(3) The *Fish and Wildlife Conservation Commission* ~~department~~ or any other law enforcement agency may make any investigation necessary to secure information required to carry out and enforce the provisions of this chapter and chapter 328.

Section 31. Section 327.71, Florida Statutes, is amended to read:

327.71 Exemption.—The *commission* ~~department~~ may, if it finds that federal law imposes less restrictive requirements than provided herein or if it determines that boating safety will not be adversely affected, issue temporary exemptions from any provision of this chapter or rules established hereunder, on such terms and conditions as it considers appropriate.

Section 32. Subsections (1) and (3) of section 327.731, Florida Statutes, 1998 Supplement, are amended to read:

327.731 Mandatory education for violators.—

(1) Every person convicted of a criminal violation of this chapter, every person convicted of a noncriminal infraction under this chapter if the infraction resulted in a reportable boating accident, and every person convicted of two noncriminal infractions as defined in s. 327.73(1)(h) through (k), (m) through (p), (s), and (t), said infractions occurring within a 12-month period, must:

(a) Enroll in, attend, and successfully complete, at his or her own expense, a boating safety course that meets minimum standards established by the *commission* ~~department~~ by rule; however, the *commission* ~~department~~ may provide by rule *pursuant to chapter 120* for waivers of the attendance requirement for violators residing in areas where classroom presentation of the course is not available;

(b) File with the *commission* ~~department~~ within 90 days proof of successful completion of the course;

(c) Refrain from operating a vessel until he or she has filed the proof of successful completion of the course with the *commission* ~~department~~.

Any person who has successfully completed an approved boating course shall be exempt from these provisions upon showing proof to the *commission* ~~department~~ as specified in paragraph (b).

(3) The *commission* ~~department~~ shall print on the reverse side of the defendant's copy of the boating citation a notice of the provisions of this section. Upon conviction, the clerk of the court shall notify the defendant that it is unlawful for him or her to operate any vessel until he or she has complied with this section, but failure of the clerk of the court to provide such a notice shall not be a defense to a charge of unlawful operation of a vessel under subsection (2).

Section 33. Subsections (1), (2), (4), (6), and (10) of section 327.74, Florida Statutes, are amended to read:

327.74 Uniform boating citations.—

(1) The *commission* ~~department~~ shall prepare, and supply to every law enforcement agency in this state which enforces the laws of this state regulating the operation of vessels, an appropriate form boating citation containing a notice to appear (which shall be issued in prenumbered books with citations in quintuplicate) and meeting the requirements of this chapter or any laws of this state regulating boating, which form shall be consistent with the state's county court rules and the procedures established by the *commission* ~~department~~.

(2) Courts, enforcement agencies, and the *commission* ~~department~~ are jointly responsible to account for all uniform boating citations in accordance with the procedures promulgated by the *commission* ~~department~~.

(4) The chief administrative officer of every law enforcement agency shall require the return to him or her of the *commission* ~~department~~ record copy of every boating citation issued by an officer under his or her supervision to an alleged violator of any boating law or ordinance and all copies of every boating citation which has been spoiled or upon which any entry has been made and not issued to an alleged violator.

(6) The chief administrative officer shall transmit, on a form approved by the *commission* ~~department~~, the *commission* ~~department~~ record copy of the uniform boating citation to the *commission* ~~department~~ within 5 days after submission of the original and one copy to the court. A copy of such transmittal shall also be provided to the court having jurisdiction for accountability purposes.

(10) Upon final disposition of any alleged offense for which a uniform boating citation has been issued, the court shall, within ten days, certify said disposition to the *commission* ~~department~~.

Section 34. Section 327.803, Florida Statutes, is amended to read:

327.803 Boating Advisory Council.—

(1) The Boating Advisory Council is created within the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ and shall be composed of 16 members. The ~~initial~~ members ~~shall be appointed before August 1, 1994, and must~~ include:

(a) One representative from the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~, who shall serve as the chair of the council.

(b) One representative each from the *Department of Environmental Protection* ~~Game and Fresh Water Fish Commission~~, the United States Coast Guard Auxiliary, the United States Power Squadron, and the inland navigation districts.

(c) One representative of manatee protection interests, one representative of the marine industries, two representatives of water-related environmental groups, one representative of marine manufacturers, one representative of commercial vessel owners or operators, one representative of sport boat racing, and two representatives of the boating public, each of whom shall be nominated by the *executive director of the Fish and Wildlife Conservation Commission* ~~Secretary of Environmental Protection~~ and appointed by the Governor to serve staggered 2-year terms.

(d) One member of the House of Representatives, who shall be appointed by the Speaker of the House of Representatives.

(e) One member of the Senate, who shall be appointed by the President of the Senate.

(2) The council shall meet at the call of the chair, at the request of a majority of its membership, or at such times as may be prescribed by rule.

(3) The purpose of the council is to make recommendations to the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ and the Department of Community Affairs regarding issues affecting the boating community, including, but not limited to, issues related to:

(a) Boating safety education.

(b) Boating-related facilities, including marinas and boat testing facilities.

(c) Boat usage.

~~However, it is not the purpose of the council to make recommendations to the Marine Fisheries Commission.~~

(4) Members of the council shall serve without compensation.

Section 35. Section 327.804, Florida Statutes, is amended to read:

327.804 Compilation of statistics on boating accidents and violations.—The *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ shall compile statistics on boating accidents and boating violations of the age groups of persons affected by chapter 96-187, Laws of Florida.

Section 36. Section 327.90, Florida Statutes, is amended to read:

327.90 Transactions by electronic or telephonic means.—The *commission* ~~department~~ is authorized to accept any application provided for under this chapter by electronic or telephonic means.

Section 37. Paragraph (c) of subsection (2) of section 328.01, Florida Statutes, is amended to read:

328.01 Application for certificate of title.—

(2)

(c) In making application for an initial title, the owner of a homemade vessel shall establish proof of ownership by submitting with the application:

1. A notarized statement of the builder or its equivalent, whichever is acceptable to the Department of Highway Safety and Motor Vehicles, if the vessel is less than 16 feet in length; or

2. A certificate of inspection from the *Fish and Wildlife Conservation* ~~Division of Law Enforcement of the Department of Environmental Protection or the Game and Fresh Water Fish~~ Commission and a notarized statement of the builder or its equivalent, whichever is acceptable to the Department of Highway Safety and Motor Vehicles, if the vessel is 16 feet or more in length.

Section 38. Subsection (1) of section 339.281, Florida Statutes, is amended to read:

339.281 Damage to transportation facility by vessel; marine accident report; investigative authorities; penalties.—

(1) Whenever any vessel has caused damage to a transportation facility, the managing owner, agent, or master of such vessel shall immediately, or as soon thereafter as possible, report the same to the nearest *Fish and Wildlife Conservation Commission officer* ~~Florida Marine Patrol~~, the sheriff of the county wherein such accident occurred, ~~the Game and Fresh Water Fish Commission,~~ or the Florida Highway Patrol, who shall immediately go to the scene of the accident and, if necessary, board the vessel subsequent to the accident in pursuance of its investigation. The law enforcement agency investigating the accident shall submit a copy of its report to the department.

Section 39. Section 370.025, Florida Statutes, 1998 Supplement, is amended to read:

370.025 Marine fisheries; policy and standards.—

(1) The Legislature hereby declares the policy of the state to be management and preservation of its renewable marine fishery resources, based upon the best available information, emphasizing protection and enhancement of the marine and estuarine environment in such a manner as to provide for optimum sustained benefits and use to all the people of this state for present and future generations.

(2) The commission is instructed to make recommendations annually to the Governor and the Legislature regarding marine fisheries research priorities and funding. All administrative and enforcement responsibilities which are unaffected by the specific provisions of this act are the responsibility of the commission.

(3)~~(2)~~ All rules relating to saltwater fisheries adopted by the *commission* ~~department pursuant to this chapter or adopted by the Marine Fisheries Commission and approved by the Governor and Cabinet as the Board of Trustees of the Internal Improvement Trust Fund~~ shall be consistent with the following standards:

(a) The paramount concern of conservation and management measures shall be the continuing health and abundance of the marine fisheries resources of this state.

(b) Conservation and management measures shall be based upon the best information available, including biological, sociological, economic, and other information deemed relevant by the commission.

(c) Conservation and management measures shall permit reasonable means and quantities of annual harvest, consistent with maximum practicable sustainable stock abundance on a continuing basis.

(d) When possible and practicable, stocks of fish shall be managed as a biological unit.

(e) Conservation and management measures shall assure proper quality control of marine resources that enter commerce.

(f) State marine fishery management plans shall be developed to implement management of important marine fishery resources.

(g) Conservation and management decisions shall be fair and equitable to all the people of this state and carried out in such a manner that no individual, corporation, or entity acquires an excessive share of such privileges.

(h) Federal fishery management plans and fishery management plans of other states or interstate commissions should be considered when developing state marine fishery management plans. Inconsistencies should be avoided unless it is determined that it is in the best interest of the fisheries or residents of this state to be inconsistent.

(4) Pursuant to s. 9, Art. IV of the State Constitution, the commission has full constitutional rulemaking authority over marine life, and listed species as defined in s. 372.072(3), except for:

(a) Endangered or threatened marine species for which rulemaking shall be done pursuant to chapter 120; and

(b) The authority to regulate fishing gear in residential, manmade saltwater canals which is retained by the Legislature and specifically not delegated to the commission.

(c) Marine aquaculture products produced by an individual certified under s. 597.004. This exception does not apply to snook, prohibited and restricted marine species identified by rule of the commission, and rulemaking authority granted pursuant to s. 370.027(4).

Section 40. *Subsections (1), (2), and (3) of section 370.027, Florida Statutes, 1998 Supplement, are repealed.*

Section 41. Subsections (4) and (5) of section 370.06, Florida Statutes, 1998 Supplement, are amended to read:

370.06 Licenses.—

(4) SPECIAL ACTIVITY LICENSES.—

(a) A special activity license is required for any person to use gear or equipment not authorized in this chapter or rule of the *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission for harvesting saltwater species. In accordance with this chapter, s. 16, Art. X of the State Constitution, and rules of the ~~Marine Fisheries~~ commission, the *commission* ~~department~~ may issue special activity licenses for the use of nonconforming gear or equipment, including, but not limited to, trawls, seines and entangling nets, traps, and hook and line gear, to be used in harvesting saltwater species for scientific and governmental purposes, and, where allowable, for innovative fisheries. The *commission* ~~department~~ may prescribe by rule application requirements and terms, conditions, and restrictions to be incorporated into each special activity license. This subsection does not apply to gear or equipment used by certified marine aquaculturists *as provided for in s. 597.004* to harvest marine aquaculture products.

(b) The *commission* ~~department~~ is authorized to issue special activity licenses in accordance with this section and s. 370.31, to permit the importation *and*~~,~~ possession~~, and aquaculture~~ of *wild* anadromous sturgeon. The special activity license shall provide for specific management practices to ~~prevent the release and escape of cultured anadromous sturgeon and to~~ protect indigenous populations of saltwater species.

(c) The Department *of Agriculture and Consumer Services* is authorized to issue special activity licenses, in accordance with s. 370.071, to permit the harvest or cultivation of oysters, clams, mussels, and crabs when such activities relate to quality control, sanitation, public health regulations, innovative technologies for aquaculture activities, or the protection of shellfish resources provided in this chapter~~, unless such authority is delegated to the Department of Agriculture and Consumer Services, pursuant to a memorandum of understanding~~.

(d) The conditions and specific management practices established in this section may be incorporated into permits and authorizations issued pursuant to chapter 253, chapter 373, chapter 403, or this chapter, when incorporating such provisions is in accordance with the aquaculture permit consolidation procedures. No separate issuance of a special activity license is required when conditions and specific management practices are incorporated into permits or authorizations under this paragraph. Implementation of this section to consolidate permitting actions does not constitute rules within the meaning of s. 120.52.

(e) The *commission* ~~department~~ is authorized to issue special activity licenses in accordance with *s.* ~~ss. 370.071,~~ 370.101~~,~~ and this section; aquaculture permit consolidation procedures in s. 370.26*(2)*~~(3)(a)~~; and rules of the ~~Marine Fisheries~~ commission to permit the capture and possession of saltwater species protected by law and used as stock for artificial cultivation and propagation.

(f) The *commission* ~~department~~ is authorized to adopt rules to govern the administration of special activities licenses as provided in this chapter and rules of the ~~Marine Fisheries~~ commission. Such rules may prescribe application requirements and terms, conditions, and restrictions for any such special activity license requested pursuant to this section.

(5) APALACHICOLA BAY OYSTER HARVESTING LICENSE.—

(a) For purposes of this section, the following definitions shall apply:

1. "Person" means an individual.

2. "Resident" means any person who has:

a. Continuously resided in this state for 6 months immediately preceding the making of his or her application for an Apalachicola Bay oyster harvesting license; or

b. Established a domicile in this state and evidenced that domicile as provided in s. 222.17.

(b) No person shall harvest oysters from the Apalachicola Bay without a valid Apalachicola Bay oyster harvesting license issued by the Department *of Agriculture and Consumer Services*. This requirement shall not apply to anyone harvesting noncommercial quantities of oysters in accordance with chapter 46-27, Florida Administrative Code, or to any person less than 18 years old.

(c) Any person wishing to obtain an Apalachicola Bay oyster harvesting license shall submit an annual fee for the license during a 45-day period from May 17 to June 30 of each year preceding the license year for which the license is valid. Failure to pay the annual fee within the required time period shall result in a $500 late fee being imposed before issuance of the license.

(d) The Department *of Agriculture and Consumer Services* shall collect an annual fee of $100 from residents and $500 from nonresidents for the issuance of an Apalachicola Bay oyster harvesting license. The license year shall begin on July 1 of each year and end on June 30 of the following year. The license shall be valid only for the licensee. Only bona fide residents of Florida may obtain a resident license pursuant to this subsection.

(e) Each person who applies for an Apalachicola Bay oyster harvesting license shall, before receiving the license, attend an educational seminar of not more than 16 hours length, developed and conducted jointly by the Apalachicola National Estuarine Research Reserve, the ~~department's~~ Division of Law Enforcement *of the Fish and Wildlife Conservation Commission*, and the *Department of Agriculture and Consumer Services*' ~~department's~~ Apalachicola District Shellfish Environmental Assessment Laboratory. The seminar shall address, among other things, oyster biology, conservation of the Apalachicola Bay, sanitary care of oysters, small business management, and water safety. The seminar shall be offered five times per year, and each person attending shall receive a certificate of participation to present when obtaining an Apalachicola Bay oyster harvesting license.

(f) Each person, while harvesting oysters in Apalachicola Bay, shall have in possession a valid Apalachicola Bay oyster harvesting license, or proof of having applied for a license within the required time period, and shall produce such license or proof of application upon request of any law enforcement officer.

(g) Each person who obtains an Apalachicola Bay oyster harvesting license shall prominently display the license number upon any vessel the person owns which is used for the taking of oysters, in numbers which are at least 10 inches high and 1 inch wide, so that the permit number is readily identifiable from the air and water. Only one vessel displaying a given number may be used at any time. A licensee may harvest oysters from the vessel of another licensee.

(h) Any person holding an Apalachicola Bay oyster harvesting license shall receive credit for the license fee against the saltwater products license fee.

(i) The proceeds from Apalachicola Bay oyster harvesting license fees shall be deposited in the *General Inspection* ~~Marine Resources Conservation~~ Trust Fund and, less reasonable administrative costs, shall be used or distributed by the Department *of Agriculture and Consumer Services* for the following purposes in Apalachicola Bay:

1. Relaying and transplanting live oysters.

2. Shell planting to construct or rehabilitate oyster bars.

3. Education programs for licensed oyster harvesters on oyster biology, aquaculture, boating and water safety, sanitation, resource conservation, small business management, marketing, and other relevant subjects.

4. Research directed toward the enhancement of oyster production in the bay and the water management needs of the bay.

(j) Any person who violates any of the provisions of paragraphs (b) and (d)-(g) commits a misdemeanor of the second degree, punishable as provided in ss. 775.082 and 775.083. Nothing in this subsection shall limit the application of existing penalties.

(k) Any oyster harvesting license issued pursuant to this subsection must be in compliance with the rules of the Fish and Wildlife Conservation Commission regulating gear or equipment, harvest seasons, size and bag limits, and the taking of saltwater species.

Section 42. Section 370.0608, Florida Statutes, 1998 Supplement, is amended to read:

370.0608 Deposit of license fees; allocation of federal funds.—

(1) All license fees collected pursuant to s. 370.0605 shall be deposited into the Marine Resources Conservation Trust Fund, to be used as follows:

(a) Not more than 5 percent of the total fees collected shall be ~~for the Marine Fisheries Commission to be~~ used to carry out the responsibilities of the *Fish and Wildlife Conservation* Commission and to provide for the award of funds to marine research institutions in this state for the purposes of enabling such institutions to conduct worthy marine research projects.

(b) Not less than 2.5 percent of the total fees collected shall be used for aquatic education purposes.

(c)1. The remainder of such fees shall be used by the department for the following program functions:

a. Not more than 5 percent of the total fees collected, for administration of the licensing program and for information and education.

b. Not more than 30 percent of the total fees collected, for law enforcement.

c. Not less than 27.5 percent of the total fees collected, for marine research.

d. Not less than 30 percent of the total fees collected, for fishery enhancement, including, but not limited to, fishery statistics development, artificial reefs, and fish hatcheries.

2. The Legislature shall annually appropriate to the *commission* ~~Department of Environmental Protection~~ from the General Revenue Fund for the activities and programs specified in subparagraph 1. at least the same amount of money as was appropriated to the Department *of Environmental Protection* from the General Revenue Fund for such activities and programs for fiscal year 1988-1989, and the amounts appropriated to the *commission* ~~department~~ for such activities and programs from the Marine Resources Conservation Trust Fund shall be in addition to the amount appropriated to the *commission* ~~department~~ for such activities and programs from the General Revenue Fund. The proceeds from recreational saltwater fishing license fees paid by fishers shall only be appropriated to the *commission* ~~Department of Environmental Protection~~.

(2) ~~The Department of Environmental Protection and the Game and Fresh Water Fish Commission shall develop and maintain a memorandum of understanding to provide for the equitable allocation of federal aid available to Florida pursuant to the Sport Fish Restoration Administration Funds.~~ Funds available from the Wallop-Breaux Aquatic Resources Trust Fund shall be distributed *by the commission* between the *Division of Freshwater Fisheries and the Division of Marine Fisheries* ~~department and the commission~~ in proportion to the numbers of resident fresh and saltwater anglers as determined by the most current data on license sales. Unless otherwise provided by federal law, ~~the department and~~ the commission, at a minimum, shall provide the following:

(a) Not less than 5 percent or more than 10 percent of the funds allocated to *the commission* ~~each agency~~ shall be expended for an aquatic resources education program; and

(b) Not less than 10 percent of the funds allocated to *the commission* ~~each agency~~ shall be expended for acquisition, development, renovation, or improvement of boating facilities.

(3) All license fees collected pursuant to s. 370.0605 shall be transferred to the Marine Resources Conservation Trust Fund within 7 days following the last business day of the week in which the license fees were received by the commission. One-fifth of the total proceeds derived from the sale of 5-year licenses and replacement 5-year licenses, and all interest derived therefrom, shall be available for appropriation annually.

Section 43. Section 370.063, Florida Statutes, is amended to read:

370.063 Special recreational crawfish license.—There is created a special recreational crawfish license, to be issued to qualified persons as provided by this section for the recreational harvest of crawfish (spiny lobster) beginning August 5, 1994.

(1) The special recreational crawfish license shall be available to any individual crawfish trap number holder who also possesses a saltwater products license during the 1993-1994 license year. ~~For the 1994-1995 license year and for each license year thereafter,~~ A person issued a special recreational crawfish license may not also possess a trap number.

(2) ~~Beginning August 5, 1994,~~ The special recreational crawfish license is required in order to harvest crawfish from state territorial waters in quantities in excess of the regular recreational bag limit but not in excess of a special bag limit *as* ~~to be~~ established by the Marine Fisheries Commission for these harvesters before the 1994-1995 license year. Such special bag limit does not apply during the 2-day sport season established by the *Fish and Wildlife Conservation* Commission.

(3) The holder of a special recreational crawfish license must also possess the recreational crawfish stamp required by s. 370.14(11) and the license required by s. 370.0605.

(4) As a condition precedent to the issuance of a special recreational crawfish license, the applicant must agree to file quarterly reports with the *Fish and Wildlife Conservation Commission* ~~Division of Marine Resources of the Department of Environmental Protection,~~ in such form as the *commission* ~~division~~ requires, detailing the amount of the licenseholder's crawfish (spiny lobster) harvest in the previous quarter, including the harvest of other recreational harvesters aboard the licenseholder's vessel.

(5) The *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ shall issue special recreational crawfish licenses ~~beginning in 1994 for the 1994-1995 license year~~. The fee for each such license is $100 per year. Each license issued in *any* ~~1994 for the 1994-1995~~ license year must be renewed by June 30 of each subsequent year by the initial individual holder thereof. Noncompliance with the reporting requirement in subsection (4) or with the special recreational bag limit established under subsection (6) constitutes grounds for which the *commission* ~~department~~ may refuse to renew the license for a subsequent license year. The number of such licenses outstanding in any one license year may not exceed the number issued for the 1994-1995 license year. A license is not transferable by any method. Licenses that are not renewed expire and may be reissued by the *commission in the subsequent* ~~department beginning in the 1995-1996~~ license year to new applicants otherwise qualified under this section.

(6) To promote conservation of the spiny lobster (crawfish) resource, consistent with equitable distribution and availability of the resource, the ~~Marine Fisheries~~ commission shall establish a spiny lobster management plan incorporating the special recreational crawfish license, including, but not limited to, the establishment of a special recreational bag limit for the holders of such license as required by subsection (2). Such special recreational bag limit must not be less than twice the higher of the daily recreational bag limits.

(7) The proceeds of the fees collected under this section must be deposited in the Marine Resources Conservation Trust Fund and used as follows:

(a) Thirty-five percent for research and the development of reliable recreational catch statistics for the crawfish (spiny lobster) fishery.

(b) *Twenty* ~~Forty-five~~ percent ~~to be used by the Department of Environmental Protection~~ for administration ~~and enforcement~~ of this section.

(c) *Forty-five* ~~Twenty~~ percent to be used ~~by the Marine Fisheries Commission~~ for *enforcement* ~~the purposes~~ of this section.

~~(8) The Department of Environmental Protection may adopt rules to carry out the purpose and intent of the special recreational lobster license program.~~

Section 44. Section 370.071, Florida Statutes, is amended to read:

370.071 Shellfish processors; regulation.—

(1) The Department *of Agriculture and Consumer Services, hereinafter referred to as department,* is authorized to adopt by rule regulations, specifications, and codes relating to sanitary practices for catching, cultivating, handling, processing, packaging, preserving, canning, smoking, and storing of oysters, clams, mussels, and crabs. The department is also authorized to license aquaculture facilities used to culture oysters, clams, mussels, and crabs when such activities relate to quality control, sanitary, and public health practices pursuant to this section and s. 370.06(4). The department is also authorized to license or certify facilities used for processing oysters, clams, mussels, and crabs, to suspend or revoke such licenses or certificates upon satisfactory evidence of any violation of rules adopted pursuant to this section, and to seize and destroy any adulterated or misbranded shellfish products as defined by rule.

(2) A shellfish processing plant certification license is required to operate any facility in which oysters, clams, mussels, or crabs are processed, including but not limited to: an oyster, clam, or mussel cannery; a shell stock dealership; an oyster, clam, or mussel shucking plant; an oyster, clam, or mussel repacking plant; an oyster, clam, or mussel controlled purification plant; or a crab or soft-shell crab processing or shedding plant.

(3) The department may suspend or revoke any shellfish processing plant certification license upon satisfactory evidence that the licensee has violated any regulation, specification, or code adopted under this section and may seize and destroy any shellfish product which is defined by rule to be an adulterated or misbranded shellfish product.

Section 45. Section 370.12, Florida Statutes, 1998 Supplement, is amended to read:

370.12 Marine animals; regulation.—

(1) PROTECTION OF MARINE TURTLES.—

(a) This subsection may be cited as the "Marine Turtle Protection Act."

(b) The Legislature intends, pursuant to the provisions of this subsection, to ensure that the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ has the appropriate authority and resources to implement its responsibilities under the recovery plans of the United States Fish and Wildlife Service for the following species of marine turtle:

1. Atlantic loggerhead turtle (Caretta caretta caretta).

2. Atlantic green turtle (Chelonis mydas mydas).

3. Leatherback turtle (Dermochelys coriacea).

4. Atlantic hawksbill turtle (Eretmochelys imbricata imbricata).

5. Atlantic ridley turtle (Lepidochelys kempi).

(c)1. Unless otherwise provided by the federal Endangered Species Act or its implementing regulations, no person may take, possess, disturb, mutilate, destroy, cause to be destroyed, sell, offer for sale, transfer, molest, or harass any marine turtle or its nest or eggs at any time. For purposes of this subsection, "take" means an act which actually kills or injures marine turtles, and includes significant habitat modification

or degradation that kills or injures marine turtles by significantly impairing essential behavioral patterns, such as breeding, feeding, or sheltering.

2. Unless otherwise provided by the federal Endangered Species Act or its implementing regulations, no person, firm, or corporation may take, kill, disturb, mutilate, molest, harass, or destroy any marine turtle.

3. No person, firm, or corporation may possess any marine turtle, their nests, eggs, hatchlings, or parts thereof unless it is in possession of a special permit or loan agreement from the *commission* ~~department~~ enabling the holder to possess a marine turtle or parts thereof for scientific, educational, or exhibitional purposes, or for conservation activities such as relocating nests, eggs, or animals away from construction sites. Notwithstanding any other provisions of general or special law to the contrary, the *commission* ~~department~~ may issue such authorization to any properly accredited person for the purpose of marine turtle conservation upon such terms, conditions, and restrictions as it may prescribe by rule *adopted pursuant to chapter 120*. The *commission* ~~department~~ shall have the authority to adopt rules *pursuant to chapter 120* to permit the possession of marine turtles pursuant to this paragraph. For the purposes of this subsection, a "properly accredited person" is defined as:

a. Students of colleges or universities whose studies with saltwater animals are under the direction of their teacher or professor;

b. Scientific or technical faculty of public or private colleges or universities;

c. Scientific or technical employees of private research institutions and consulting firms;

d. Scientific or technical employees of city, county, state, or federal research or regulatory agencies;

e. Members in good standing or recognized and properly chartered conservation organizations, the Audubon Society, or the Sierra Club;

f. Persons affiliated with aquarium facilities or museums, or contracted as an agent therefor, which are open to the public with or without an admission fee; or

g. Persons without specific affiliations listed above, but who are recognized by the *commission* ~~department~~ for their contributions to marine conservation such as scientific or technical publications, or through a history of cooperation with the *commission* ~~department~~ in conservation programs such as turtle nesting surveys, or through advanced educational programs such as high school marine science centers.

(d) Any application for a Department *of Environmental Protection* permit or other type of approval for an activity that affects marine turtles or their nests or habitat shall be subject to conditions and requirements for marine turtle protection as part of the permitting or approval process.

(e) The Department *of Environmental Protection* may condition the nature, timing, and sequence of construction of permitted activities to provide protection to nesting marine turtles and hatchlings and their habitat pursuant to the provisions of s. 161.053(5). When the department is considering a permit for a beach restoration, beach renourishment, or inlet sand transfer project and the applicant has had an active marine turtle nest relocation program or the applicant has agreed to and has the ability to administer a program, the department must not restrict the timing of the project. Where appropriate, the department, *in accordance with the applicable rules of the Fish and Wildlife Conservation Commission,* shall require as a condition of the permit that the applicant relocate and monitor all turtle nests that would be affected by the beach restoration, beach renourishment, or sand transfer activities. Such relocation and monitoring activities shall be conducted in a manner that ensures successful hatching. This limitation on the department's authority applies only on the Atlantic coast of Florida.

(f) The department shall recommend denial of a permit application if the activity would result in a "take" as defined in this subsection, unless, as provided for in the federal Endangered Species Act and its implementing regulations, such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

(g) The department shall give special consideration to beach preservation and beach nourishment projects that restore habitat of endangered marine turtle species. Nest relocation shall be considered for all such projects in urbanized areas. When an applicant for a beach restoration, beach renourishment, or inlet sand transfer project has had an active marine turtle nest relocation program or the applicant has agreed to have and has the ability to administer a program, the department in issuing a permit for a project must not restrict the timing of the project. Where appropriate, the department, *in accordance with the applicable rules of the Fish and Wildlife Conservation Commission,* shall require as a condition of the permit that the applicant relocate and monitor all turtle nests that would be affected by the beach restoration, beach renourishment, or sand transfer activities. Such relocation and monitoring activities shall be conducted in a manner that ensures successful hatching. This limitation on the department's authority applies only on the Atlantic coast of Florida.

(h) The *Fish and Wildlife Conservation Commission* ~~department~~ shall provide grants to coastal local governments, educational institutions, and Florida-based nonprofit organizations to conduct marine turtle research, conservation, and education activities within the state. The *commission* ~~department~~ shall adopt by rule *pursuant to chapter 120* procedures for submitting grant applications and criteria for allocating available funds. The criteria must include the scope of the proposed activity, the relevance of the proposed activity to the recovery plans for marine turtles, the demand and public support for the proposed activity, the duration of the proposed activity, the availability of alternative funding, and the estimated cost of the activity. The *executive director* ~~secretary~~ of the *commission* ~~department~~ shall appoint a committee of at least five members, including at least two nongovernmental representatives, to consider and choose grant recipients from proposals submitted by eligible entities. Committee members shall not receive any compensation from the *commission* ~~department~~.

(2) PROTECTION OF MANATEES OR SEA COWS.—

(a) This subsection shall be known and may be cited as the "Florida Manatee Sanctuary Act."

(b) The State of Florida is hereby declared to be a refuge and sanctuary for the manatee, the "Florida state marine mammal."

(c) Whenever the *Fish and Wildlife Conservation Commission* ~~department~~ is satisfied that the interest of science will be subserved, and that the application for a permit to possess a manatee or sea cow (Trichechus manatus) is for a scientific or propagational purpose and should be granted, and after concurrence by the United States Department of the Interior, the *commission* ~~Division of Marine Resources~~ may grant to any person making such application a special permit to possess a manatee or sea cow, which permit shall specify the exact number which shall be maintained in captivity.

(d) Except as may be authorized by the terms of a valid state permit issued pursuant to paragraph (c) or by the terms of a valid federal permit, it is unlawful for any person at any time, by any means, or in any manner intentionally or negligently to annoy, molest, harass, or disturb or attempt to molest, harass, or disturb any manatee; injure or harm or attempt to injure or harm any manatee; capture or collect or attempt to capture or collect any manatee; pursue, hunt, wound, or kill or attempt to pursue, hunt, wound, or kill any manatee; or possess, literally or constructively, any manatee or any part of any manatee.

(e) Any gun, net, trap, spear, harpoon, boat of any kind, aircraft, automobile of any kind, other motorized vehicle, chemical, explosive, electrical equipment, scuba or other subaquatic gear, or other instrument, device, or apparatus of any kind or description used in violation of any provision of paragraph (d) may be forfeited upon conviction. The foregoing provisions relating to seizure and forfeiture of vehicles, vessels, equipment, or supplies do not apply when such vehicles, vessels, equipment, or supplies are owned by, or titled in the name of, innocent parties; and such provisions shall not vitiate any valid lien, retain title contract, or chattel mortgage on such vehicles, vessels, equipment, or supplies if such lien, retain title contract, or chattel mortgage is property of public record at the time of the seizure.

(f) In order to protect manatees or sea cows from harmful collisions with motorboats or from harassment, the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ shall adopt

rules under chapter 120 regarding the expansion of existing, or construction of new, marine facilities and mooring or docking slips, by the addition or construction of five or more powerboat slips, and regulating the operation and speed of motorboat traffic, only where manatee sightings are frequent and it can be generally assumed, based on available scientific information, that they inhabit these areas on a regular or continuous basis:

1. In Lee County: the entire Orange River, including the Tice Florida Power and Light Corporation discharge canal and adjoining waters of the Caloosahatchee River within 1 mile of the confluence of the Orange and Caloosahatchee Rivers.

2. In Brevard County: those portions of the Indian River within three-fourths of a mile of the Orlando Utilities Commission Delespine power plant effluent and the Florida Power and Light Frontenac power plant effluents.

3. In Indian River County: the discharge canals of the Vero Beach Municipal Power Plant and connecting waters within 1¼ miles thereof.

4. In St. Lucie County: the discharge of the Henry D. King Municipal Electric Station and connecting waters within 1 mile thereof.

5. In Palm Beach County: the discharges of the Florida Power and Light Riviera Beach power plant and connecting waters within 1½ miles thereof.

6. In Broward County: the discharge canal of the Florida Power and Light Port Everglades power plant and connecting waters within 1½ miles thereof and the discharge canal of the Florida Power and Light Fort Lauderdale power plant and connecting waters within 2 miles thereof. For purposes of ensuring the physical safety of boaters in a sometimes turbulent area, the area from the easternmost edge of the authorized navigation project of the intracoastal waterway east through the Port Everglades Inlet is excluded from this regulatory zone.

7. In Citrus County: headwaters of the Crystal River, commonly referred to as King's Bay, and the Homosassa River.

8. In Volusia County: Blue Springs Run and connecting waters of the St. Johns River within 1 mile of the confluence of Blue Springs and the St. Johns River; and Thompson Creek, Strickland Creek, Dodson Creek, and the Tomoka River.

9. In Hillsborough County: that portion of the Alafia River from the main shipping channel in Tampa Bay to U.S. Highway 41.

10. In Sarasota County: the Venice Inlet and connecting waters within 1 mile thereof, including Lyons Bay, Donna Bay, Roberts Bay, and Hatchett Creek, excluding the waters of the intracoastal waterway and the right-of-way bordering the centerline of the intracoastal waterway.

11. In Collier County: within the Port of Islands, within section 9, township 52 south, range 28 east, and certain unsurveyed lands, all east-west canals and the north-south canals to the southerly extent of the intersecting east-west canals which lie southerly of the centerline of U.S. Highway 41.

12. In Manatee County: that portion of the Manatee River east of the west line of section 17, range 19 east, township 34 south; the Braden River south of the north line and east of the west line of section 29, range 18 east, township 34 south; Terra Ceia Bay and River, east of the west line of sections 26 and 35 of range 17 east, township 33 south, and east of the west line of section 2, range 17 east, township 34 south; and Bishop Harbor east of the west line of section 13, range 17 east, township 33 south.

13. In Dade County: those portions of Black Creek lying south and east of the water control dam, including all boat basins and connecting canals within 1 mile of the dam.

(g) The *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ shall adopt rules *pursuant to chapter 120* regulating the operation and speed of motorboat traffic only where manatee sightings are frequent and it can be generally assumed that they inhabit these areas on a regular or continuous basis within that portion of the Indian River between the St. Lucie Inlet in Martin County and the Jupiter Inlet in Palm Beach County. In addition, the *commission* ~~department~~ shall adopt rules *pursuant to chapter 120* regulating the operation and speed of motorboat traffic only where manatee sightings are frequent and it can be generally assumed that they inhabit these areas on a regular or continuous basis within the Loxahatchee River in Palm Beach and Martin Counties, including the north and southwest forks thereof. A limited lane or corridor providing for reasonable motorboat speeds may be identified and designated within this area.

(h) The *commission* ~~department~~ shall adopt rules *pursuant to chapter 120* regulating the operation and speed of motorboat traffic only where manatee sightings are frequent and it can be generally assumed that they inhabit these areas on a regular or continuous basis within the Withlacoochee River and its tributaries in Citrus and Levy Counties. The specific areas to be regulated include the Withlacoochee River and the U.S. 19 bridge westward to a line between U.S. Coast Guard markers number 33 and number 34 at the mouth of the river, including all side channels and coves along that portion of the river; Bennets' Creek from its beginning to its confluence with the Withlacoochee River; Bird's Creek from its beginning to its confluence with the Withlacoochee River; and the two dredged canal systems on the north side of the Withlacoochee River southwest of Yankeetown. A limited lane or corridor providing for reasonable motorboat speeds may be identified and designated within this area.

(i) If any new power plant is constructed or other source of warm water discharge is discovered within the state which attracts a concentration of manatees or sea cows, the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ is directed to adopt rules *pursuant to chapter 120* regulating the operation and speed of motorboat traffic within the area of such discharge. Such rules shall designate a zone which is sufficient in size, and which shall remain in effect for a sufficient period of time, to protect the manatees or sea cows.

(j) It is the intent of the Legislature through adoption of this paragraph to allow the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ to post and regulate boat speeds only where manatee sightings are frequent and it can be generally assumed that they inhabit these areas on a regular or continuous basis. It is not the intent of the Legislature to permit the *commission* ~~department~~ to post and regulate boat speeds generally in the above-described inlets, bays, rivers, creeks, thereby unduly interfering with the rights of fishers, boaters, and water skiers using the areas for recreational and commercial purposes. Limited lanes or corridors providing for reasonable motorboat speeds may be identified and designated within these areas.

(k) The *commission* ~~department~~ shall adopt rules *pursuant to chapter 120* regulating the operation and speed of motorboat traffic all year around within Turkey Creek and its tributaries and within Manatee Cove in Brevard County. The specific areas to be regulated consist of:

1. A body of water which starts at Melbourne-Tillman Drainage District structure MS-1, section 35, township 28 south, range 37 east, running east to include all natural waters and tributaries of Turkey Creek, section 26, township 28 south, range 37 east, to the confluence of Turkey Creek and the Indian River, section 24, township 28 south, range 37 east, including all lagoon waters of the Indian River bordered on the west by Palm Bay Point, the north by Castaway Point, the east by the four immediate spoil islands, and the south by Cape Malabar, thence northward along the shoreline of the Indian River to Palm Bay Point.

2. A triangle-shaped body of water forming a cove (commonly referred to as Manatee Cove) on the east side of the Banana River, with northern boundaries beginning and running parallel to the east-west cement bulkhead located 870 feet south of SR 520 Relief Bridge in Cocoa Beach and with western boundaries running in line with the City of Cocoa Beach channel markers 121 and 127 and all waters east of these boundaries in section 34, township 24 south, range 37 east; the center coordinates of this cove are 28°20′14″ north, 80°35′17″ west.

~~(l) The Legislature recognizes that, while the manatee or sea cow is designated a marine mammal by federal law, many of the warm water wintering areas are in freshwater springs and rivers which are under the primary state law enforcement jurisdiction of the Florida Game and Fresh Water Fish Commission. The law enforcement provisions of this section shall be carried out jointly by the department and the commission, with the department serving as the lead agency. The specific areas of jurisdictional responsibility are to be established between the department and the commission by interagency agreement.~~

(l)~~(m)~~ The *commission* ~~department~~ shall promulgate regulations *pursuant to chapter 120* relating to the operation and speed of motor boat traffic in port waters with due regard to the safety requirements of such traffic and the navigational hazards related to the movement of commercial vessels.

(m)~~(n)~~ The *commission* ~~department~~ may designate by rule *adopted pursuant to chapter 120* other portions of state waters where manatees are frequently sighted and it can be assumed that manatees inhabit such waters periodically or continuously. Upon designation of such waters, the *commission* ~~department~~ shall adopt rules *pursuant to chapter 120* to regulate motorboat speed and operation which are necessary to protect manatees from harmful collisions with motorboats and from harassment. The *commission* ~~department~~ may adopt rules *pursuant to chapter 120* to protect manatee habitat, such as seagrass beds, within such waters from destruction by boats or other human activity. Such rules shall not protect noxious aquatic plants subject to control under s. 369.20.

(n)~~(o)~~ The *commission* ~~department~~ may designate, by rule *adopted pursuant to chapter 120*, limited areas as a safe haven for manatees to rest, feed, reproduce, give birth, or nurse undisturbed by human activity. Access by motor boat to private residences, boat houses, and boat docks through these areas by residents, and their authorized guests, who must cross one of these areas to have water access to their property is permitted when the motorboat is operated at idle speed, no wake.

(o)~~(p)~~ Except in the marked navigation channel of the Florida Intracoastal Waterway as defined in s. 327.02 and the area within 100 feet of such channel, a local government may regulate, by ordinance, motorboat speed and operation on waters within its jurisdiction where manatees are frequently sighted and can be generally assumed to inhabit periodically or continuously. However, such an ordinance may not take effect until it has been reviewed and approved by the *commission* ~~department~~. If the *commission* ~~department~~ and a local government disagree on the provisions of an ordinance, a local manatee protection committee must be formed to review the technical data of the *commission* ~~department~~ and the United States Fish and Wildlife Service, and to resolve conflicts regarding the ordinance. The manatee protection committee must be comprised of:

1. A representative of the *commission* ~~department~~;

2. A representative of the county;

3. A representative of the United States Fish and Wildlife Service;

4. A representative of a local marine-related business;

5. A representative of the Save the Manatee Club;

6. A local fisher;

7. An affected property owner; and

8. A representative of the Florida Marine Patrol.

If local and state regulations are established for the same area, the more restrictive regulation shall prevail.

(p)~~(q)~~ The *commission* ~~department~~ shall evaluate the need for use of fenders to prevent crushing of manatees between vessels (100′ or larger) and bulkheads or wharves in counties where manatees have been crushed by such vessels. For areas in counties where evidence indicates that manatees have been crushed between vessels and bulkheads or wharves, the *commission* ~~department~~ shall:

1. Adopt rules *pursuant to chapter 120* requiring use of fenders for construction of future bulkheads or wharves; and

2. Implement a plan and time schedule to require retrofitting of existing bulkheads or wharves consistent with port bulkhead or wharf repair or replacement schedules.

The fenders shall provide sufficient standoff from the bulkhead or wharf under maximum operational compression to ensure that manatees cannot be crushed between the vessel and the bulkhead or wharf.

(q)~~(r)~~ Any violation of a restricted area established by this subsection, or established by rule *pursuant to chapter 120* or ordinance pursuant to this subsection, shall be considered a violation of the boating laws of this state and shall be charged on a uniform boating citation as provided in s. 327.74, except as otherwise provided in paragraph (s). Any person who refuses to post a bond or accept and sign a uniform boating citation shall, as provided in s. 327.73(3), be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(r)~~(s)~~ Except as otherwise provided in this paragraph, any person violating the provisions of this subsection or any rule or ordinance adopted pursuant to this subsection shall be guilty of a misdemeanor, punishable as provided in s. 370.021(2)(a) or (b).

1. Any person operating a vessel in excess of a posted speed limit shall be guilty of a civil infraction, punishable as provided in s. 327.73, except as provided in subparagraph 2.

2. This paragraph does not apply to persons violating restrictions governing "No Entry" zones or "Motorboat Prohibited" zones, who, if convicted, shall be guilty of a misdemeanor, punishable as provided in s. 370.021(2)(a) or (b), or, if such violation demonstrates blatant or willful action, may be found guilty of harassment as described in paragraph (d).

(3) PROTECTION OF MAMMALIAN DOLPHINS (PORPOISES).—It is unlawful to catch, attempt to catch, molest, injure, kill, or annoy, or otherwise interfere with the normal activity and well-being of, mammalian dolphins (porpoises), except as may be authorized as a federal permit.

(4) ANNUAL FUNDING OF PROGRAMS FOR MARINE ANIMALS.—

(a) Each fiscal year the Save the Manatee Trust Fund shall be available to fund an impartial scientific benchmark census of the manatee population in the state. Weather permitting, the study shall be conducted annually by the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ and the results shall be made available to the President of the Senate, the Speaker of the House of Representatives, and the Governor and Cabinet for use in the evaluation and development of manatee protection measures. In addition, the Save the Manatee Trust Fund shall be available for annual funding of activities of public and private organizations and those of the *commission* ~~department~~ intended to provide manatee and marine mammal protection and recovery effort; manufacture and erection of informational and regulatory signs; production, publication, and distribution of educational materials; participation in manatee and marine mammal research programs, including carcass salvage and other programs; programs intended to assist the recovery of the manatee as an endangered species, assist the recovery of the endangered or threatened marine mammals, and prevent the endangerment of other species of marine mammals; and other similar programs intended to protect and enhance the recovery of the manatee and other species of marine mammals. The *commission* ~~department~~ shall annually solicit advisory recommendations from the Save the Manatee Committee affiliated with the Save the Manatee Club, as identified and recognized in Executive Order 85-19, on the use of funds from the Save the Manatee Trust Fund.

(b) Each fiscal year moneys in the Save the Manatee Trust Fund shall also be used, pursuant to s. 327.28(1)(b), to reimburse the cost of activities related to manatee rehabilitation by facilities that rescue, rehabilitate, and release manatees as authorized pursuant to the Fish and Wildlife Service of the United States Department of the Interior. Such facilities must be involved in the actual rescue and full-time acute care veterinarian-based rehabilitation of manatees. The cost of activities includes, but is not limited to, costs associated with expansion, capital outlay, repair, maintenance, and operations related to the rescue, treatment, stabilization, maintenance, release, and monitoring of manatees. Moneys distributed through contractual agreement to each facility for manatee rehabilitation shall be proportionate to the number of manatees under acute care rehabilitation and those released during the previous fiscal year. However, the reimbursement may not exceed the total amount available pursuant to ss. 327.25(7) and 327.28(1)(b) for the purposes provided in this paragraph. Prior to receiving reimbursement for the expenses of rescue, rehabilitation, and release, a facility that qualifies under state and federal regulations shall submit a plan to the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ for assisting the *commission* ~~department~~ and the Department of Highway Safety and Motor Vehicles in marketing the manatee specialty license plates. At a minimum, the plan shall include provisions for

graphics, dissemination of brochures, recorded oral and visual presentation, and maintenance of a marketing exhibit. The plan shall be updated annually and the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ shall inspect each marketing exhibit at least once each year to ensure the quality of the exhibit and promotional material. Each facility that receives funds for manatee rehabilitation shall annually provide the *commission* ~~department~~ a written report, within 30 days after the close of the state fiscal year, documenting the efforts and effectiveness of the facility's promotional activities.

(c) By December 1 each year, the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ shall provide the President of the Senate and the Speaker of the House of Representatives a written report, enumerating the amounts and purposes for which all proceeds in the Save the Manatee Trust Fund for the previous fiscal year are expended, in a manner consistent with those recovery tasks enumerated within the manatee recovery plan as required by the Endangered Species Act.

(d) When the federal and state governments remove the manatee from status as an endangered or threatened species, the annual allocation may be reduced.

Section 46. Subsections (2), (3), (8), (9), (10), and (11) of section 370.26, Florida Statutes, 1998 Supplement, are amended to read:

370.26 Aquaculture definitions; marine aquaculture products, producers, and facilities.—

(2) The Department of Environmental Protection shall encourage the development of aquaculture and the production of aquaculture products. The department shall develop a process consistent with this section that would consolidate permits, general permits, ~~special activity licenses,~~ and other regulatory requirements to streamline the permitting process and result in effective regulation of aquaculture activities. This process shall provide for a single application and application fee for marine aquaculture activities which are regulated by the department. Procedures to consolidate permitting actions under this section do not constitute rules within the meaning of s. 120.52.

(3) The Department of Agriculture and Consumer Services shall act as a clearinghouse for aquaculture applications, and act as a liaison between the *Fish and Wildlife Conservation Commission* ~~Division of Marine Resources~~, the Division of State Lands, the Department of Environmental Protection district offices, other divisions within the Department of Environmental Protection, and the water management districts. The Department of Agriculture and Consumer Services shall be responsible for regulating marine aquaculture producers, except as specifically provided herein.

(8) The department shall*:*

(a) Coordinate with the Aquaculture Review Council, the Aquaculture Interagency Coordinating Council, and the Department of Agriculture and Consumer Services when developing criteria for aquaculture general permits.

(b) Permit experimental technologies to collect and evaluate data necessary to reduce or mitigate environmental concerns.

(c) Provide technical expertise and promote the transfer of information that would be beneficial to the development of aquaculture.

(9) The *Fish and Wildlife Conservation Commission* ~~department~~ shall encourage the development of aquaculture in the state through the following:

(a) Providing assistance in developing technologies applicable to aquaculture activities, evaluating practicable production alternatives, and providing management agreements to develop innovative culture practices.

~~(b) Permitting experimental technologies to collect and evaluate data necessary to reduce or mitigate environmental concerns.~~

~~(c) Providing technical expertise and promoting the transfer of information that would be beneficial to the development of aquaculture.~~

(b)~~(d)~~ Facilitating aquaculture research on life histories, stock enhancement, and alternative species, and providing research results that would assist in the evaluation, development, and commercial production of candidate species for aquaculture, including:

1. Providing eggs, larvae, fry, and fingerlings to aquaculturists when excess cultured stocks are available from the *commission's* ~~department's~~ facilities and the culture activities are consistent with the *commission's* ~~department's~~ stock enhancement projects. Such stocks may be obtained by reimbursing the *commission* ~~department~~ for the cost of production on a per-unit basis. Revenues resulting from the sale of stocks shall be deposited into the trust fund used to support the production of such stocks.

2. Conducting research programs to evaluate candidate species when funding and staff are available.

3. Encouraging the private production of marine fish and shellfish stocks for the purpose of providing such stocks for statewide stock enhancement programs. When such stocks become available, the *commission* ~~department~~ shall reduce or eliminate duplicative production practices that would result in direct competition with private commercial producers.

4. Developing a working group, in cooperation with the Department of Agriculture and Consumer Services, the Aquaculture Review Council, and the Aquaculture Interagency Coordinating Council, to plan and facilitate the development of private marine fish and nonfish hatcheries and to encourage private/public partnerships to promote the production of marine aquaculture products.

(c)~~(e)~~ *Coordinating with* ~~Cooperating with the Game and Fresh Water Fish Commission and~~ public and private research institutions within the state to advance the aquaculture production and sale of sturgeon as a food fish.

(10) The *Fish and Wildlife Conservation Commission* ~~department~~ shall coordinate with the Aquaculture Review Council and the Department of Agriculture and Consumer Services to establish and implement grant programs to provide funding for projects and programs that are identified in the state's aquaculture plan, pending legislative appropriations. The *commission* ~~department~~ and the Department of Agriculture and Consumer Services shall establish and implement a grant program to make grants available to qualified nonprofit, educational, and research entities or local governments to fund infrastructure, planning, practical and applied research, development projects, production economic analysis, and training and stock enhancement projects, and to make grants available to counties, municipalities, and other state and local entities for applied aquaculture projects that are directed to economic development, pending legislative appropriations.

(11) The *Fish and Wildlife Conservation Commission* ~~department~~ shall provide assistance to the Department of Agriculture and Consumer Services in the development of an aquaculture plan for the state.

Section 47. Section 372.072, Florida Statutes, is amended to read:

372.072 Endangered and Threatened Species Act.—

(1) SHORT TITLE.—This section may be cited as the "Florida Endangered and Threatened Species Act ~~of 1977~~."

(2) DECLARATION OF POLICY.—The Legislature recognizes that the State of Florida harbors a wide diversity of fish and wildlife and that it is the policy of this state to conserve and wisely manage these resources, with particular attention to those species defined by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the Department of Environmental Protection, or the United States Department of Interior, or successor agencies, as being endangered or threatened. As Florida has more endangered and threatened species than any other continental state, it is the intent of the Legislature to provide for research and management to conserve and protect these species as a natural resource.

(3) DEFINITIONS.—As used in this section:

(a) "Fish and wildlife" means any member of the animal kingdom, including, but not limited to, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate.

(b) "Endangered species" means any species of fish and wildlife naturally occurring in Florida, whose prospects of survival are in jeopardy

due to modification or loss of habitat; overutilization for commercial, sporting, scientific, or educational purposes; disease; predation; inadequacy of regulatory mechanisms; or other natural or manmade factors affecting its continued existence.

(c) "Threatened species" means any species of fish and wildlife naturally occurring in Florida which may not be in immediate danger of extinction, but which exists in such small populations as to become endangered if it is subjected to increased stress as a result of further modification of its environment.

(4) INTERAGENCY COORDINATION.—

(a)~~1.~~ The ~~Game and Fresh Water Fish~~ commission shall be responsible for research and management of freshwater and upland species, *and for research and management of marine species*.

~~2. The Department of Environmental Protection shall be responsible for research and management of marine species.~~

(b) Recognizing that citizen awareness is a key element in the success of this plan, the ~~Game and Fresh Water Fish~~ commission~~, the Department of Environmental Protection,~~ and the Office of Environmental Education of the Department of Education are encouraged to work together to develop a public education program with emphasis on, but not limited to, both public and private schools.

(c) The ~~Department of Environmental Protection, the Marine Fisheries Commission, or the Game and Fresh Water Fish~~ commission, in consultation with the Department of Agriculture and Consumer Services, ~~the Department of Commerce,~~ the Department of Community Affairs, or the Department of Transportation, may establish reduced speed zones along roads, streets, and highways to protect endangered species or threatened species.

(5) ANNUAL REPORT.—The director of the ~~Game and Fresh Water Fish~~ commission~~, in consultation with the Secretary of Environmental Protection,~~ shall, at least 30 days prior to each annual session of the Legislature, transmit to the Governor and Cabinet, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the appropriate Senate and House committees, a revised and updated plan for management and conservation of endangered and threatened species, including criteria for research and management priorities; a description of the educational program; statewide policies pertaining to protection of endangered and threatened species; additional legislation which may be required; and the recommended level of funding for the following year, along with a progress report and budget request.

Section 48. Section 372.0725, Florida Statutes, is amended to read:

372.0725 Killing or wounding of any species designated as endangered, threatened, or of special concern; criminal penalties.—It is unlawful for a person to intentionally kill or wound any fish or wildlife of a species designated by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission as endangered, threatened, or of special concern, or to intentionally destroy the eggs or nest of any such fish or wildlife, except as provided for in the rules of the ~~Game and Fresh Water Fish~~ commission~~, the Department of Environmental Protection, or the Marine Fisheries Commission~~. Any person who violates this provision with regard to an endangered or threatened species is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 49. Section 372.073, Florida Statutes, is amended to read:

372.073 Endangered and Threatened Species Reward Program.—

(1) There is established within the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission the Endangered and Threatened Species Reward Program, to be funded from the Nongame Wildlife Trust Fund. The commission may post rewards to persons responsible for providing information leading to the arrest and conviction of persons illegally killing or wounding or wrongfully possessing any of the endangered and threatened species listed on the official Florida list of such species maintained by the commission or the arrest and conviction of persons who violate s. 372.667 or s. 372.671. Additional funds may be provided by donations from interested individuals and organizations. The reward program is to be administered by the commission. The commission shall establish a schedule of rewards.

(2) The commission may expend funds only for the following purposes:

(a) The payment of rewards to persons, other than law enforcement officers, commission personnel, and members of their immediate families, for information as specified in subsection (1); or

(b) The promotion of public recognition and awareness of the Endangered and Threatened Species Reward Program.

Section 50. Paragraph (a) of subsection (2) and subsection (6) of section 370.093, Florida Statutes, 1998 Supplement, are amended to read:

370.093 Illegal use of nets.—

(2)(a) Beginning July 1, 1998, it is also unlawful to take or harvest, or to attempt to take or harvest, any marine life in Florida waters with any net, as defined in subsection (3) and any attachments to such net, that combined are larger than 500 square feet and have not been expressly authorized for such use by rule of the *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission ~~under s. 370.027~~. The use of currently legal shrimp trawls and purse seines outside nearshore and inshore Florida waters shall continue to be legal until the commission implements rules regulating those types of gear.

(6) The *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission is granted authority to adopt rules pursuant to *s.* ~~ss.~~ 370.025 ~~and 370.027~~ implementing this section and the prohibitions and restrictions of s. 16, Art. X of the State Constitution.

Section 51. Subsection (2) and paragraph (a) of subsection (4) of section 376.11, Florida Statutes, 1998 Supplement, are amended to read:

376.11 Florida Coastal Protection Trust Fund.—

(2) The Florida Coastal Protection Trust Fund is established, to be used by the department *and the Fish and Wildlife Conservation Commission* as a nonlapsing revolving fund for carrying out the purposes of ss. 376.011-376.21. To this fund shall be credited all registration fees, penalties, judgments, damages recovered pursuant to s. 376.121, other fees and charges related to ss. 376.011-376.21, and the excise tax revenues levied, collected, and credited pursuant to ss. 206.9935(1) and 206.9945(1)(a). Charges against the fund shall be in accordance with this section.

(4) Moneys in the Florida Coastal Protection Trust Fund shall be disbursed for the following purposes and no others:

(a) Administrative expenses, personnel expenses, and equipment costs of the department *and the Fish and Wildlife Conservation Commission* related to the enforcement of ss. 376.011-376.21 subject to s. 376.185.

Section 52. *Section 20.325, Florida Statutes, is repealed.*

Section 53. *Section 370.026, Florida Statutes, is repealed.*

Section 54. *Notwithstanding chapter 60K-5, Florida Administrative Code, or state law to the contrary, employees transferring from the Department of Environmental Protection, the Florida Game and Fresh Water Fish Commission, and the Marine Fisheries Commission, to fill positions transferred to the Fish and Wildlife Conservation Commission, shall also transfer any accrued annual leave, sick leave, regular compensatory leave and special compensatory leave balances.*

Section 55. Notwithstanding chapter 60K-5, Administrative Code, or state law to the contrary, employees transferring from the Department of Environmental Protection to fill positions transferred to the Department of Agriculture and Consumer Services shall also transfer any accrued annual leave, sick leave, regular compensatory leave and special compensatory leave balances.

Section 56. Notwithstanding the provisions of subsection (2) of section 20.255, Florida Statutes, the Secretary of the Department of Environmental Protection is authorized to restructure and reorganize the department to increase efficiency in carrying out the agency's statutory mission and objectives. The Secretary shall report to the Governor, the

Speaker of the House, and the President of the Senate no later than December 1, 1999, on the department's organizational structure. The report must contain recommended statutory changes needed to accomplish the department's new structure.

Section 57. *The Division of Statutory Revision of the Office of Legislative Services is directed to prepare a reviser's bill for introduction at the 2000 Regular Session of the Legislature to change "Game and Fresh Water Fish Commission" to "Fish and Wildlife Conservation Commission" and to make such further changes as are necessary to conform the Florida Statutes to the organizational changes created by this act.*

Section 58. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are declared severable.*

Section 59. Subsection (1) of section 370.0603, Florida Statutes, is amended to read:

370.0603 Marine Resources Conservation Trust Fund; purposes.—

(1) The Marine Resources Conservation Trust Fund within the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ shall serve as a broad-based depository for funds from various marine-related activities and shall be administered by the *commission* ~~department~~ for the purposes of:

(a) Funding for marine research.

(b) Funding for fishery enhancement, including, but not limited to, fishery statistics development, artificial reefs, and fish hatcheries.

(c) Funding for marine law enforcement.

(d) Funding for administration of licensing programs for recreational fishing, saltwater products sales, and related information and education activities.

(e) Funding for the operations of the *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission.

(f) Funding for titling and registration of vessels.

(g) Funding for marine turtle protection, research, and recovery activities from revenues that are specifically credited to the trust fund for these purposes.

(h) Funding activities for rehabilitation of oyster harvesting areas from which special oyster surcharge fees are collected, including relaying and transplanting live oysters.

Section 60. Subsections (1) thru (3), (5) thru (18) and (20) thru (28), of Section 370.16, Florida Statutes, 1998 Supplement, are amended to read:

370.16 Oysters and shellfish; regulation.—

(1) LEASE, APPLICATION FORM; NOTICE TO RIPARIAN OWNER; LANDS LEASED TO BE COMPACT.—When any qualified person desires to lease a part of the bottom or bed of any of the water of this state, for the purpose of growing oysters or clams, as provided for in this section, he or she shall present to the *Department of Environmental Protection* ~~Division of Marine Resources~~ a written application setting forth the name and address of the applicant, a reasonably definite description of the location and amount of land covered by water desired, and shall pray that the application be filed; that the water bottoms be surveyed and a plat or map of the survey thereof be made if no plat or map of such bottoms should have been so made thereto; and that the water bottoms described be leased to the applicant under the provisions of this section. Such applicant shall accompany with his or her written application a sufficient sum to defray the estimated expenses of the survey; thereupon the *department* ~~division~~ shall file such application and shall direct the same surveyed and platted forthwith at the expense of the applicant. When applications are made by two or more persons for the same lands, they shall be leased to the applicant who first filed application for same; but to all applications for leases of any of the bottoms of said waters owned under the riparian acts of the laws of Florida, heretofore enacted, notice of such application shall be given the riparian owner, when known, and, when not known, notice of such application shall be given by publication for 4 weeks in some newspaper published in the county in which the water bottoms lie; and when there is no newspaper published in such county, then by posting the notice for 4 weeks at the courthouse door of the county, and preference shall be given to the riparian owners under the terms and conditions herein created, when the riparian owner makes application for such water bottoms for the purpose of planting oysters or clams before the same are leased to another. The lands leased shall be as compact as possible, taking into consideration the shape of the body of water and the condition of the bottom as to hardness, or soft mud or sand, or other conditions which would render the bottoms desirable or undesirable for the purpose of oyster or clam cultivation.

(2) SURVEYS, PLATS, AND MAPS OF REEFS.—The *Department of Environmental Protection* ~~Division of Marine Resources~~ shall accept, adopt, and use official reports, surveys, and maps of oyster, clam, or other shellfish grounds made under the direction of any authority of the United States as prima facie evidence of the natural oyster and clam reefs, for the purpose and intent of this chapter. The *department* ~~said division~~ may also make surveys of any natural oyster or clam reefs when it deems such surveys necessary and where such surveys are made pursuant to an application for a lease, the cost thereof may be charged to the applicant as a part of the cost of his or her application.

(3) EXECUTION OF LEASES; LESSEE TO STAKE OFF BOUNDARIES; PENALTY FOR FAILURE TO COMPLY WITH REGULATIONS.—As soon as the survey has been made and the plat or map thereof filed with the *Department of Environmental Protection* ~~Division of Marine Resources~~ and the cost thereof paid by the applicant, the *department* ~~division~~ may execute in duplicate a lease of the water bottoms to the applicant. One duplicate, with a plat or map of the water bottoms so leased, shall be delivered to the applicant, and the other, with a plat or map of the bottom so leased, shall be retained by the *department* ~~division~~ and registered in a lease book which shall be kept exclusively for that purpose by the *department* ~~division~~; thereafter the lessees shall enjoy the exclusive use of the lands and all oysters and clams, shell, and cultch grown or placed thereon shall be the exclusive property of such lessee as long as he or she shall comply with the provisions of this chapter. The *department* ~~division~~ shall require the lessee to stake off and mark the water bottoms leased, by such ranges, monuments, stakes, buoys, etc., so placed and made as not to interfere with the navigation, as it may deem necessary to locate the same to the end that the location and limits of the lands embraced in such lease be easily and accurately found and fixed, and such lessee shall keep the same in good condition during the open and closed oyster or clam season. All leases shall be marked according to the standards derived from the uniform waterway markers for safety and navigation as described in s. 327.40. The *department* ~~division~~ may stipulate in each individual lease contract the types, shape, depth, size, and height of marker or corner posts. Failure on the part of the lessee to comply with the orders of the *department* ~~division~~ to this effect within the time fixed by it, and to keep the markers, etc., in good condition during the open and closed oyster or clam season, shall subject such lessee to a fine not exceeding $100 for each and every such offense. All lessees shall cause the area of the leased water bottoms and the names of the lessees to be shown by signs as may be determined by the *department* ~~division~~, if so required.

(5) INCREASE OF RENTALS AFTER 10 YEARS.—After 10 years from the execution of the lease, the rentals shall be increased to a minimum of $1 per acre per annum. The department shall assess rental value on the leased water bottoms, taking into consideration their value as oyster-growing or clam-growing water bottoms, their nearness to factories, transportation, and other conditions adding value thereto and placing such valuation upon them in shape of annual rental to be paid thereunder as said condition shall warrant.

(6) LEASES TRANSFERABLE, ETC.—The leases shall be inheritable and transferable, in whole or in part, and shall also be subject to mortgage, pledge, or hypothecation and shall be subject to seizure and sale for debts as any other property, rights, and credits in this state, and this provision shall also apply to all buildings, betterments, and improvements thereon. Leases granted under this section cannot be transferred, by sale or barter, in whole or in part, without the written, express acquiescence of the *Department of Environmental Protection* ~~Division of Marine Resources~~, and such a transferee shall pay a $50 transfer fee before *department* ~~division~~ acquiescence may be given. No lease or part

of a lease may be transferred by sale or barter until the lease has been in existence at least 2 years and has been cultivated according to the statutory standards found in paragraph (4)(e), except as otherwise provided by regulation adopted by the *department* ~~Division of Marine Resources~~. No such inheritance or transfer shall be valid or of any force or effect whatever unless evidenced by an authentic act, judgment, or proper judicial deed, registered in the office of the *department* ~~division~~ in a book to be provided for said purpose. The *department* ~~division~~ shall keep proper indexes so that all original leases and all subsequent changes and transfers can be easily and accurately ascertained.

(7) PAYMENT OF RENT; FORFEITURE FOR NONPAYMENT; NOTICE, ETC.—All leases shall stipulate for the payment of the annual rent in advance on or before January 1 of each year, and the further stipulation that the failure of the tenant to pay the rent punctually on or before that day, or within 30 days thereafter shall ipso facto, and upon demand, terminate and cancel said lease and forfeit to the state all the works, improvements, betterments, oysters, and clams on the leased water bottoms, and authorize the *Department of Environmental Protection* ~~Division of Marine Resources~~ to at once enter on said water bottom and take possession thereof, and such water bottom shall then be open for lease as herein provided; and the *department* ~~division~~ shall within 10 days thereafter enter such termination, cancellation, and forfeiture on its books and shall give such public notice thereof, and of the fact that the water bottoms are open to lease, as it shall deem proper; provided, that the *department* ~~division~~ may, in its discretion, waive such termination, cancellation, and forfeiture when the rent due, with 10 percent additional, and all costs and expenses growing out of such failure to pay, be tendered to it within 60 days after the same became due; provided, that in all cases of cancellation of lease, the *department* ~~division~~ shall, after 60 days' notice by publication in some newspaper published in the state, having a general statewide circulation, which notice shall contain a full description of the leased waters and beds and any parts thereof, sell such lease to the highest and best bidder; and all moneys received over and above the rents due to the state, under the terms of the lease and provisions herein, and costs and expenses growing out of such failure to pay, shall be paid to the lessee forfeiting his or her rights therein. No leased water bottoms shall be forfeited for nonpayment of rent under the provisions of this section, unless there shall previously have been mailed by the said *department* ~~division~~ to the last known address of such tenant according to the books of said *department* ~~division~~, 30 days' notice of the maturity of such lease. Whenever any leased water bottoms are forfeited for nonpayment of rent, and there is a plat or survey thereof in the archives of the *department* ~~division~~, when such bedding grounds are re-leased, no new survey thereof shall be made, but the original stakes, monuments, and bounds shall be preserved, and the new lease shall be based upon the original survey. This subsection shall also apply to all costs and expenses taxed against a lessee by the *department* ~~division~~ under this section.

(8) CANCELLATION OF LEASES TO NATURAL REEFS.—Any person, within 6 months from and after the execution of any lease to water bottoms, may file a petition with the *Department of Environmental Protection* ~~Division of Marine Resources~~ for the purpose of determining whether a natural oyster or clam reef having an area of not less than 100 square yards existed within the leased area on the date of the lease, with sufficient natural or maternal oysters or clams thereon (not including coon oysters) to have constituted a stratum sufficient to have been resorted to by the public generally for the purpose of gathering the same to sell for a livelihood. The petition shall be in writing addressed to the ~~Division of Marine Resources of the~~ Department of Environmental Protection, verified under oath, stating the location and approximate area of the natural reef and the claim or interest of the petitioner therein and requesting the cancellation of the lease to the said natural reef. No petition may be considered unless it is accompanied by a deposit of $10 to defray the expense of examining into the matter. The petition may include several contemporaneous natural reefs of oysters or clams. Upon receipt of such petition, the *department* ~~division~~ shall cause an investigation to be made into the truth of the allegations of the petition, and, if found untrue, the $10 deposit shall be retained by the *department* ~~division~~ to defray the expense of the investigation, but should the allegations of the petition be found true and the leased premises to contain a natural oyster or clam reef, as above described, the said $10 shall be returned to the petitioner and the costs and expenses of the investigation taxed against the lessee and the lease canceled to the extent of the natural reef and the same shall be marked with buoys and stakes and notices placed thereon showing the same to be a public reef, the cost of the markers and notices to be taxed against the lessee.

(9) WHEN NATURAL REEFS MAY BE INCLUDED IN LEASE.—When an application for oyster or clam bedding grounds is filed and upon survey of such bedding ground, it should develop that the area applied for contains natural oyster or clam reefs or beds less in size than 100 square yards, or oyster or clam reefs or bars of greater size, but not of sufficient quantity to constitute a stratum, and it should further be made to appear to the *Department of Environmental Protection* ~~Division of Marine Resources~~ by the affidavit of the applicant, together with such other proof as the *department* ~~division~~ may require, that the natural reef, bed, or bar could not be excluded, and the territory applied for properly protected or policed, the *department* ~~division~~ may, if it deems it for the best interest of the state and the oyster industry so to do, permit the including of such natural reefs, beds, or bars; and it shall fix a reasonable value on the same, to be paid by the applicant for such bedding ground; provided, that no such natural reefs shall be included in any lease hereafter granted to the bottom or bed of waters of this state contiguous to Franklin County. There shall be no future oyster leases issued in Franklin County except for purposes of oyster aquaculture activities approved under ss. 253.67-253.75. However, such aquaculture leases shall be for an area not larger than 1 acre and shall not be transferred or subleased. Only the flexible belt system or off-bottom methods may be used for aquaculture on these lease areas, and no cultch materials shall be placed on the bottom of the lease areas. Under no circumstances shall mechanical dredging devices be used to harvest oysters on such lease areas. Oyster aquaculture leases issued in Franklin County shall be issued only to Florida residents.

(10) SETTLEMENT OF BOUNDARY DISPUTES; REVIEW.—The *Department of Environmental Protection* ~~Division of Marine Resources~~ shall determine and settle all disputes as to boundaries between lessees of bedding grounds. The *department* ~~division~~ shall, in all cases, be the judge as to whether any particular bottom is or is not a natural reef or whether it is suitable for bedding oysters or clams.

(11) TRESPASS ON LEASED BEDS; GATHERING OYSTERS AND CLAMS BETWEEN SUNSET AND SUNRISE FROM NATURAL REEFS, ETC.—Any person who willfully takes oysters, shells, cultch, or clams bedded or planted by a licensee under this chapter, or grantee under the provisions of heretofore existing laws, or riparian owner who may have heretofore planted the same on his or her riparian bottoms, or any oysters or clams deposited by anyone making up a cargo for market, or who willfully carries or attempts to carry away the same without permission of the owner thereof, or who willfully or knowingly removes, breaks off, destroys, or otherwise injures or alters any stakes, bounds, monuments, buoys, notices, or other designations of any natural oyster or clam reefs or beds or private bedding or propagating grounds, or who willfully injures, destroys, or removes any other protection around any oyster or clam beds, or who willfully moves any bedding ground stakes, buoys, marks, or designations, placed by the *department* ~~division~~, or who gathers oysters or clams between sunset and sunrise from the natural reefs or from private bedding grounds, is guilty of a violation of this section.

(12) PROTECTION OF OYSTER AND CLAM REEFS AND SHELLFISH.—

(a) The *Department of Environmental Protection* ~~Division of Marine Resources~~ shall improve, enlarge, and protect the natural oyster and clam reefs of this state to the extent it may deem advisable and the means at its disposal will permit.

(b) The *Fish and Wildlife Conservation Commission* ~~division~~ shall ~~also~~, to the same extent, assist in protecting shellfish aquaculture products produced on leased or granted reefs in the hands of lessees or grantees from the state. Harvesting shellfish is prohibited within a distance of 25 feet outside lawfully marked lease boundaries or within setback and access corridors within specifically designated high-density aquaculture lease areas and aquaculture use zones.

(c) The *department, in cooperation with the commission,* ~~division~~ shall provide the Legislature ~~annually~~ with recommendations *as needed* for the development and the proper protection of the rights of the state and private holders therein with respect to the oyster and clam business.

(13) STAKING OFF WATER BOTTOMS OR BEDDING OYSTERS WITHOUT OBTAINING LEASE.—Any person staking off the water bottoms of this state, or bedding oysters on the bottoms of the waters of this state, without previously leasing same as required by law shall be

guilty of a violation of this section, and shall acquire no rights by reason of such staking off. This provision does not apply to grants heretofore made under the provisions of any heretofore existing laws or to artificial beds made heretofore by a riparian owner or his or her grantees on the owner's riparian bottoms.

(14) SHELLFISH HARVESTING SEASONS; DAYS: SPECIAL PROVISIONS RELATING TO APALACHICOLA BAY.—

(a) The *Fish and Wildlife Conservation Commission* ~~Marine Fisheries Commission~~ shall consider setting the shellfish harvesting seasons in the Apalachicola Bay as follows:

1. The open season shall be from October 1 to July 31 of each year.

2. The entire bay, including private leased or granted grounds, shall be closed to shellfish harvesting from August 1 to September 30 of each year for the purpose of oyster relaying and transplanting and shell planting.

(b) If the commission changes the harvesting seasons by rule as set forth in this subsection, for 3 years after the rule takes effect, the *commission* ~~department~~ shall monitor the impacts of the new harvesting schedule on the bay and on local shellfish harvesters to determine whether the new harvesting schedule should be discontinued, retained, or modified. In monitoring the new schedule and in preparing its report, the *commission* ~~department~~ shall consider the following:

1. Whether the bay benefits ecologically from being closed to shellfish harvesting from August 1 to September 30 of each year.

2. Whether the new harvesting schedule enhances the enforcement of shellfish harvesting laws in the bay.

3. Whether the new harvesting schedule enhances natural shellfish production, oyster relay and planting programs, and shell planting programs in the bay.

4. Whether the new harvesting schedule has more than a short-term adverse economic impact, if any, on local shellfish harvesters.

(c) The *Fish and Wildlife Conservation Commission* ~~Marine Fisheries Commission~~ by rule shall consider restricting harvesting on shellfish grants or leases to the same days of the week as harvesting on public beds.

(15) REMOVING OYSTERS, CLAMS, OR MUSSELS FROM NATURAL REEFS; LICENSES, ETC., PENALTY.—

(a) It is unlawful to use a dredge or any means or implement other than hand tongs in removing oysters from the natural or artificial state reefs. This restriction shall apply to all areas of the Apalachicola Bay for all shellfish harvesting, excluding private grounds leased or granted by the state prior to July 1, 1989, if the lease or grant specifically authorizes the use of implements other than hand tongs for harvesting. Except in the Apalachicola Bay, upon the payment of $25 annually, for each vessel or boat using a dredge or machinery in the gathering of clams or mussels, a special activity license may be issued by the *Fish and Wildlife Conservation Commission* ~~division~~ pursuant to s. 370.06 for such use to such person.

(b) Special activity licenses issued to harvest shellfish by dredge or other mechanical means from privately held shellfish leases or grants in Apalachicola Bay shall include, but not be limited to, the following conditions:

1. The use of any mechanical harvesting device other than ordinary hand tongs for taking shellfish for any purpose from public shellfish beds in Apalachicola Bay shall be unlawful.

2. The possession of any mechanical harvesting device on the waters of Apalachicola Bay from 5 p.m. until sunrise shall be unlawful.

3. Leaseholders or grantees shall telephonically notify the *Fish and Wildlife Conservation Commission* ~~Division of Law Enforcement and the Division of Marine Resources~~ no less than 48 hours prior to each day's use of a dredge or scrape in order to arrange for a *commission* ~~Marine Patrol~~ officer to be present on the lease or grant area while a dredge or scrape is used on the lease or grant. Under no circumstances may a dredge or scrape be used without a *commission* ~~Marine Patrol~~ officer present.

4. Only two dredges or scrapes per lease or grant may be possessed or operated at any time.

5. Each vessel used for the transport or deployment of a dredge or scrape shall prominently display the lease or grant number or numbers, in numerals which are at least 12 inches high and 6 inches wide, in such a manner that the lease or grant number or numbers are readily identifiable from both the air and the water. The *commission* ~~department~~ shall apply other statutes, rules, or conditions necessary to protect the environment and natural resources from improper transport, deployment, and operation of a dredge or scrape. Any violation of this paragraph or of any other statutes, rules, or conditions referenced in the special activity license shall be considered a violation of the license and shall result in revocation of the license and forfeiture of the bond submitted to the *commission* ~~department~~ as a prerequisite to the issuance of this license.

(c) Oysters may be harvested from natural or public or private leased or granted grounds by common hand tongs or by hand, by scuba diving, free diving, leaning from vessels, or wading. In the Apalachicola Bay, this provision shall apply to all shellfish.

(16) FISHING FOR RELAYING OR TRANSPLANTING PURPOSES.—

(a) Designation of areas for the taking of oysters and clams to be planted on leases, grants, and public areas is to be made by qualified personnel of the *Fish and Wildlife Conservation Commission* ~~Division of Marine Resources~~. Oysters, clams, and mussels may be taken for relaying or transplanting at any time during the year so long as, in the opinion of the *commission* ~~division~~, the public health will not be endangered. The amount of oysters, clams, and mussels to be obtained for relaying or transplanting, the area relayed or transplanted to, and relaying or transplanting time periods will be established in each case by the *commission* ~~division~~.

(b) Application for a special activity license issued pursuant to s. 370.06 for obtaining oysters, clams, or mussels for relaying from closed shellfish harvesting areas to shellfish or aquaculture leases in open areas or certified controlled purification plants or transplanting sublegal-sized oysters, clams, or mussels to shellfish aquaculture leases for growout or cultivation purposes must be made to the *commission* ~~division~~. In return, the *commission* ~~division~~ may assign an area and a period of time for the oysters, clams, or mussels to be relayed or transplanted to be taken. All relaying and transplanting operations shall take place under the surveillance of the *commission* ~~division~~.

(c) Relayed oysters, clams, or mussels shall not be subsequently harvested for any reason without written permission or public notice from the *commission* ~~division~~, if oysters, clams, or mussels were relayed from areas not approved by the *commission* ~~division~~ as shellfish harvesting areas.

(17) LICENSES; OYSTER, CLAM, AND MUSSEL CANNERIES.—Every person as a condition precedent to the operation of any oyster, clam, or mussel canning factory in this state shall obtain a license pursuant to s. 370.071 and pay a license fee of $50.

(18) FALSE RETURNS AS TO OYSTERS OR CLAMS HANDLED.—Each packer, canner, corporation, firm, commission person, or dealer in fish shall, on the first day of each month, make a return under oath to the *Fish and Wildlife Conservation Commission* ~~Division of Marine Resources~~, as to the number of oysters, clams, and shellfish purchased, caught, or handled during the preceding month. Whoever is found guilty of making any false affidavit to any such report is guilty of perjury and punished as provided by law, and any person who fails to make such report shall be punished by a fine not exceeding $500 or by imprisonment in the county jail not exceeding 6 months.

(20) WATER PATROL FOR COLLECTION OF TAX.—

(a) The *Fish and Wildlife Conservation Commission* ~~Division of Law Enforcement~~ may establish and maintain necessary patrols of the salt waters of Florida, with authority to use such force as may be necessary to capture any vessel or person violating the provisions of the laws relating to oysters and clams, and may establish ports of entry at convenient locations where the severance or privilege tax levied on oysters and

clams may be collected or paid and may make such rules and regulations as it may deem necessary for the enforcement of such tax.

(b) Each person in any way dealing in shellfish shall keep a record, on blanks or forms prescribed by the *commission* ~~Division of Marine Resources~~, of all oysters, clams, and shellfish taken, purchased, used, or handled by him or her, with the name of the persons from whom purchased, if purchased, together with the quantity and the date taken or purchased, and shall exhibit this account at all times when requested so to do by the *commission* ~~division~~ or any conservation agent; and he or she shall, on the first day of each month, make a return under oath to the *commission* ~~division~~ as to the number of oysters, clams, and shellfish purchased, caught, or handled during the preceding month. The *commission* ~~division~~ may require detailed returns whenever it deems them necessary.

(21) SEIZURE OF VESSELS AND CARGOES VIOLATING OYSTER AND CLAM LAWS, ETC.—Vessels, with their cargoes, violating the provisions of the laws relating to oysters and clams may be seized by anyone duly and lawfully authorized to make arrests under this section or by any sheriff or the sheriff's deputies, and taken into custody, and when not arrested by the sheriff or the sheriff's deputies, delivered to the sheriff of the county in which the seizure is made, and shall be liable to forfeiture, on appropriate proceedings being instituted by the *Fish and Wildlife Conservation Commission* ~~Division of Marine Resources~~, before the courts of that county. In such case the cargo shall at once be disposed of by the sheriff, for account of whom it may concern. Should the master or any of the crew of said vessel be found guilty of using dredges or other instruments in fishing oysters on natural reefs contrary to law, or fishing on the natural oyster or clam reefs out of season, or unlawfully taking oysters or clams belonging to a lessee, such vessel shall be declared forfeited by the court, and ordered sold and the proceeds of the sale shall be deposited with the Treasurer to the credit of the General Revenue Fund; any person guilty of such violations shall not be permitted to have any license provided for in this chapter within a period of 1 year from the date of conviction. Pending proceedings such vessel may be released upon the owner furnishing bond, with good and solvent security in double the value of the vessel, conditioned upon its being returned in good condition to the sheriff to abide the judgment of the court.

(22) OYSTER AND CLAM REHABILITATION.—The board of county commissioners of the several counties may appropriate and expend such sums as it may deem proper for the purpose of planting or transplanting oysters, clams, oyster shell, clam shell, or cultch or to perform such other acts for the enhancement of the oyster and clam industries of the state, out of any sum in the county treasury not otherwise appropriated.

(23) DREDGING OF DEAD SHELLS PROHIBITED.—The dredging of dead shell deposits is prohibited in the state.

(24) COOPERATION WITH UNITED STATES FISH AND WILDLIFE SERVICE.—The *Fish and Wildlife Conservation Commission* ~~Division of Marine Resources~~ shall cooperate with the United States Fish and Wildlife Service, under existing federal laws, rules, and regulations, and is authorized to accept donations, grants, and matching funds from the Federal Government in order to carry out its oyster resource and development responsibilities. The *commission* ~~division~~ is further authorized to accept any and all donations including funds, oysters, or oyster shells.

(25) OYSTER AND CLAM SHELLS PROPERTY OF *DEPARTMENT* ~~DIVISION~~.—

(a) Except for oysters used directly in the half-shell trade, 50 percent of all shells from oysters and clams shucked commercially in the state shall be and remain the property of the *Department of Environmental Protection* ~~Division of Marine Resources~~ when such shells are needed and required for rehabilitation projects and planting operations, *in cooperation with the Fish and Wildlife Conservation Commission,* when sufficient resources and facilities exist for handling and planting said shell, and when the collection and handling of such shell is practical and useful, except that bona fide holders of leases and grants may retain 75 percent of such shell as they produce for planting purposes by obtaining a special activity license from the *commission* ~~division~~ pursuant to s. 370.06. Storage, transportation, and planting of shells so retained by lessees and grantees shall be carried out under the surveillance of agents of the *Fish and Wildlife Conservation Commission* ~~division~~ and be subject to such reasonable time limits as the *department* ~~division~~ may fix. In the event of an accumulation of an excess of shells, the *department* ~~division~~ is authorized to sell shells only to private growers for use in oyster or clam cultivation on bona fide leases and grants. No profit shall accrue to the *department* ~~division~~ in these transactions, and shells are to be sold for the estimated moneys spent by the *department* ~~division~~ to gather and stockpile the shells. Planting of shells obtained from the *department* ~~division~~ by purchase shall be subject to the surveillance of the *Fish and Wildlife Conservation Commission* ~~division~~ if the *department* ~~division~~ chooses to exercise its right of supervision. Any shells not claimed and used by private oyster cultivators 10 years after shells are gathered and stockpiled may be sold at auction to the highest bidder for any private use.

(b) Whenever the *department* ~~division~~ determines that it is unfeasible to collect oyster or clam shells, the shells become the property of the producer.

(c) Whenever oyster or clam shells are owned by the *department* ~~division~~ and it is not useful or feasible to use them in the rehabilitation projects, and when no leaseholder has exercised his or her option to acquire them, the *department* ~~division~~ may sell such shells for the highest price obtainable. The shells thus sold may be used in any manner and for any purpose at the discretion of the purchaser.

(d) Moneys derived from the sale of shell shall be deposited in the *Land Acquisition* ~~Marine Resources Conservation~~ Trust Fund for shellfish programs.

(e) The *department* ~~division~~ shall annually publish notice, in a newspaper serving the county, of its intention to collect the oyster and clam shells and shall notify, by certified mail, each shucking establishment from which shells are to be collected. The notice shall contain the period of time the *department* ~~division~~ intends to collect the shells in that county and the collection purpose.

(26) OYSTER CULTURE.—The *Fish and Wildlife Conservation Commission* ~~Division of Marine Resources~~ shall protect all oyster beds, oyster grounds, and oyster reefs from damage or destruction resulting from improper cultivation, propagation, planting, or harvesting and control the pollution of the waters over or surrounding oyster grounds, beds, or reefs, and to this end the Department of Health and Rehabilitative Services is authorized and directed to lend its cooperation to the *commission* ~~division~~, to make available to it its laboratory testing facilities and apparatus. The *commission* ~~division~~ may also do and perform all acts and things within its power and authority necessary to the performance of its duties.

(27) HEALTH PERMITS.—

(a) Any person engaged in harvesting, handling, or processing oysters for commercial use shall be required to obtain a health permit from the county health department or from a private physician.

(b) No person shall be employed or remain employed in a certified oyster house without the possession of the required health permit.

(c) For the purpose of this subsection, “commercial use” shall be a quantity of more than 4 bushels, or more than 2 gallons, of shucked oysters, per person or per boat, or any number or quantity of oysters if the oysters are to be sold.

(28) REQUIREMENTS FOR OYSTER VESSELS.—

(a) All vessels used for the harvesting, gathering, or transporting of oysters for commercial use shall be constructed and maintained to prevent contamination or deterioration of oysters. To this end, all such vessels shall be provided with false bottoms and bulkheads fore and aft to prevent oysters from coming in contact with any bilge water. No dogs or other animals shall be allowed at any time on vessels used to harvest or transport oysters. A violation of any provision of this subsection shall result in at least the revocation of the violator's license.

(b) For the purpose of this subsection, “commercial use” shall be a quantity of more than 4 bushels, or more than 2 gallons, of shucked oysters, per person or per boat, or any number or quantity of oysters if the oysters are to be sold.

Section 61. Subsection (5) of section 932.7055, Florida Statutes, 1998 Supplement, is amended to read:

932.7055 Disposition of liens and forfeited property.—

(5) If the seizing agency is a state agency, all remaining proceeds shall be deposited into the General Revenue Fund. However, if the seizing agency is:

(a) The Department of Law Enforcement, the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act shall be deposited into the Forfeiture and Investigative Support Trust Fund as provided in s. 943.362 or into the department's Federal Law Enforcement Trust Fund as provided in s. 943.365, as applicable.

(b) The Department of Environmental Protection, the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act shall be deposited into the *Forfeited Property Trust Fund* ~~Marine Resources Conservation Trust Fund to be used for law enforcement purposes as provided in ss. 370.021 and 370.061~~ or into the department's Federal Law Enforcement Trust Fund as provided in s. 20.2553, as applicable.

(c) The Division of Alcoholic Beverages and Tobacco, the proceeds accrued pursuant to the Florida Contraband Forfeiture Act shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund or into the department's Federal Law Enforcement Trust Fund as provided in s. 561.027, as applicable.

(d) The Department of Highway Safety and Motor Vehicles, the proceeds accrued pursuant to the Florida Contraband Forfeiture Act shall be deposited into the Department of Highway Safety and Motor Vehicles Law Enforcement Trust Fund as provided in s. 932.705(1)(a) or into the department's Federal Law Enforcement Trust Fund as provided in s. 932.705(1)(b), as applicable.

(e) The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act shall be deposited into the State Game Trust Fund as provided in ss. 372.73, 372.9901, and 372.9904, *into the Marine Resources Conservation Trust Fund as provided in s. 370.061,* or into the commission's Federal Law Enforcement Trust Fund as provided in s. 372.107, as applicable.

(f) A state attorney's office acting within its judicial circuit, the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act shall be deposited into the State Attorney's Forfeiture and Investigative Support Trust Fund to be used for the investigation of crime and prosecution of criminals within the judicial circuit.

(g) A school board security agency employing law enforcement officers, the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act shall be deposited into the School Board Law Enforcement Trust Fund.

(h) One of the State University System police departments acting within the jurisdiction of its employing state university, the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act shall be deposited into that state university's special law enforcement trust fund.

(i) The Department of Agriculture and Consumer Services, the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act shall be deposited into the Agricultural Law Enforcement Trust Fund or into the department's Federal Law Enforcement Trust Fund as provided in s. 570.205, as applicable.

(j) The Department of Military Affairs, the proceeds accrued from federal forfeiture sharing pursuant to 21 U.S.C. ss. 881(e)(1)(A) and (3), 18 U.S.C. s. 981(e)(2), and 19 U.S.C. s. 1616a shall be deposited into the Armory Board Trust Fund and used for purposes authorized by such federal provisions based on the department's budgetary authority or into the department's Federal Law Enforcement Trust Fund as provided in s. 250.175, as applicable.

Section 62. Subsection (1) of section 20.055, Florida Statutes, 1998 Supplement, is amended to read:

20.055 Agency inspectors general.—

(1) For the purposes of this section:

(a) "State agency" means each department created pursuant to this chapter, and also includes the Executive Office of the Governor, the Department of Military Affairs, the Parole Commission, the Board of Regents, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the Public Service Commission, and the state courts system.

(b) "Agency head" means the Governor, a Cabinet officer, a secretary as defined in s. 20.03(5), or an executive director as defined in s. 20.03(6). It also includes the chair of the Public Service Commission and the Chief Justice of the State Supreme Court.

Section 63. Subsection (1) of section 23.21, Florida Statutes, is amended to read:

23.21 Definitions.—For purposes of this part:

(1) "Department" means a principal administrative unit within the executive branch of state government, as defined in chapter 20, and includes the State Board of Administration, the Executive Office of the Governor, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the Parole Commission, the Agency for Health Care Administration, the Board of Regents, the State Board of Community Colleges, the Justice Administrative Commission, the Capital Collateral Representative, and separate budget entities placed for administrative purposes within a department.

Section 64. Paragraph (b) of subsection (1) of section 120.52, Florida Statutes, is amended to read:

120.52 Definitions.—As used in this act:

(1) "Agency" means:

(b) Each state officer and state department, departmental unit described in s. 20.04, commission, regional planning agency, board, multicounty special district with a majority of its governing board comprised of nonelected persons, and authority, including, but not limited to, the Commission on Ethics and the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission when acting pursuant to statutory authority derived from the Legislature, educational units, and those entities described in chapters 163, 298, 373, 380, and 582 and s. 186.504, except any legal entity or agency created in whole or in part pursuant to chapter 361, part II, an expressway authority pursuant to chapter 348, or any legal or administrative entity created by an interlocal agreement pursuant to s. 163.01(7), unless any party to such agreement is otherwise an agency as defined in this subsection.

(c) Each other unit of government in the state, including counties and municipalities, to the extent they are expressly made subject to this act by general or special law or existing judicial decisions.

Section 65. Subsection (5) of section 120.81, Florida Statutes, is amended to read:

120.81 Exceptions and special requirements; general areas.—

(5) HUNTING AND FISHING REGULATION.—Agency action which has the effect of altering established hunting or fishing seasons, or altering established annual harvest limits for saltwater fishing if the procedure for altering such harvest limits is set out by rule of the *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission, is not a rule as defined by this chapter, provided such action is adequately noticed in the area affected through publishing in a newspaper of general circulation or through notice by broadcasting by electronic media.

Section 66. Subsection (6) of section 163.3244, Florida Statutes, is amended to read:

163.3244 Sustainable communities demonstration project.—

(6) The secretary of the Department of Environmental Protection, the Secretary of Community Affairs, the Secretary of Transportation, the Commissioner of Agriculture, the executive director of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, and the executive directors of the five water management districts shall have the authority to enter into agreements with landowners, developers, busi-

nesses, industries, individuals, and governmental agencies as may be necessary to effectuate the provisions of this section.

Section 67. Subsection (6) of section 186.003, Florida Statutes, 1998 Supplement, is amended to read:

186.003 Definitions.—As used in ss. 186.001-186.031 and 186.801-186.911, the term:

(6) "State agency" means each executive department, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the Parole Commission, and the Department of Military Affairs.

Section 68. Subsection (1) of section 186.005, Florida Statutes, is amended to read:

186.005 Designation of departmental planning officer.—

(1) The head of each executive department and the Public Service Commission, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the Parole Commission, and the Department of Military Affairs shall select from within such agency a person to be designated as the planning officer for such agency. The planning officer shall be responsible for coordinating with the Executive Office of the Governor and with the planning officers of other agencies all activities and responsibilities of such agency relating to planning.

Section 69. Subsection (1) of section 229.8058, Florida Statutes, is amended to read:

229.8058 Advisory Council on Environmental Education; establishment; responsibilities.—

(1) There is created within the Legislature the Advisory Council on Environmental Education. The council shall have 14 voting members, including:

(a) Two members of the Senate, appointed by the President of the Senate.

(b) Two members of the House of Representatives, appointed by the Speaker of the House of Representatives.

(c) Five members appointed by the Governor.

(d) A representative of the Department of Education.

(e) A representative of the Department of Environmental Protection.

(f) A representative of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

(g) A representative of the Executive Office of the Governor.

(h) The chair of the Environmental Education Foundation.

Section 70. Subsection (6) of section 240.155, Florida Statutes, is amended to read:

240.155 Campus master plans and campus development agreements.—

(6) Before a campus master plan is adopted, a copy of the draft master plan must be sent for review to the host and any affected local governments, the state land planning agency, the Department of Environmental Protection, the Department of Transportation, the Department of State, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, and the applicable water management district and regional planning council. These agencies must be given 90 days after receipt of the campus master plans in which to conduct their review and provide comments to the Board of Regents. The commencement of this review period must be advertised in newspapers of general circulation within the host local government and any affected local government to allow for public comment. Following receipt and consideration of all comments, and the holding of at least two public hearings within the host jurisdiction, the Board of Regents shall adopt the campus master plan. It is the intent of the Legislature that the Board of Regents comply with the notice requirements set forth in s. 163.3184(15) to ensure full public participation in this planning process. Campus master plans developed under this section are not rules and are not subject to chapter 120 except as otherwise provided in this section.

Section 71. Subsection (1) of section 252.365, Florida Statutes, is amended to read:

252.365 Designation of emergency coordination officers.—

(1) The head of each executive department, the executive director of each water management district, the Public Service Commission, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, and the Department of Military Affairs shall select from within such agency a person to be designated as the emergency coordination officer for the agency and an alternate.

Section 72. Section 253.05, Florida Statutes, is amended to read:

253.05 Prosecuting officers to assist in protecting state lands.—State attorneys, other prosecuting officers of the state or county, wildlife officers of the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission, conservation officers, together with the Secretary of Environmental Protection, and county sheriffs and their deputies shall see that the lands owned by the state, as described in ss. 253.01 and 253.03, shall not be the object of damage, trespass, depredation, or unlawful use by any person. The said officers and their deputies shall, upon information that unlawful use is being made of state lands, report the same, together with the information in their possession relating thereto, to the Board of Trustees of the Internal Improvement Trust Fund and shall cooperate with the said board in carrying out the purposes of ss. 253.01-253.04 and this section. State attorneys and other prosecuting officers of the state or any county, upon request of the Governor or Board of Trustees of the Internal Improvement Trust Fund, shall institute and maintain such legal proceedings as may be necessary to carry out the purpose of said sections.

Section 73. Subsection (1) of section 253.45, Florida Statutes, is amended to read:

253.45 Sale or lease of phosphate, clay, minerals, etc., in or under state lands.—

(1) The Board of Trustees of the Internal Improvement Trust Fund may sell or lease any phosphate, earth or clay, sand, gravel, shell, mineral, metal, timber or water, or any other substance similar to the foregoing, in, on, or under, any land the title to which is vested in the state, the Department of Management Services, the Department of Environmental Protection, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the State Board of Education, or any other state board, department, or agency; provided that the board of trustees may not grant such a sale or lease on the land of any other state board, department, or agency without first obtaining approval therefrom. No sale or lease provided for in this section shall be allowed on hard-surfaced beaches that are used for bathing or driving and areas contiguous thereto out to a mean low-water depth of 3 feet and landward to the nearest paved public road. Any sale or lease provided for in this section shall be conducted by competitive bidding as provided for in ss. 253.52, 253.53, and 253.54. The proceeds of such sales or leases are to be credited to the board of trustees, board, department, or agency which has title or control of the land involved.

Section 74. Section 253.75, Florida Statutes, is amended to read:

253.75 Studies and recommendations by the department and the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission; designation of recommended traditional and other use zones; supervision of aquaculture operations.—

(1) Prior to the granting of any lease under this act, the board shall request a recommendation by the department, when the application relates to tidal bottoms, and by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, when the application relates to bottom land covered by fresh water. Such recommendations shall be based on such factors as an assessment of the probable effect of the proposed leasing arrangement on the lawful rights of riparian owners, navigation, commercial and sport fishing, and the conservation of fish or other wildlife or other natural resources, including beaches and shores.

(2) The department and the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall both have the following respon-

sibilities with respect to submerged land and water column falling within their respective jurisdictions:

(a) To undertake, or cause to be undertaken, the studies and surveys necessary to support their respective recommendations to the board;

(b) To institute procedures for supervising the aquaculture activities of lessees holding under this act and reporting thereon from time to time to the board; and

(c) To designate in advance areas of submerged land and water column owned by the state for which they recommend reservation for uses that may possibly be inconsistent with the conduct of aquaculture activities. Such uses shall include, but not be limited to, recreational, commercial and sport fishing and other traditional uses, exploration for petroleum and other minerals, and scientific instrumentation. The existence of such designated areas shall be considered by the board in granting leases under this act.

Section 75. Subsection (3) of section 253.7829, Florida Statutes, is amended to read:

253.7829 Management plan for retention or disposition of former Cross Florida Barge Canal lands; authority to manage lands until disposition.—

(3)(a) Before taking any action to control the rhesus monkey population located in Marion County, the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission shall conduct a study of the options available to them to deal with control of the rhesus monkeys located within a 10-mile radius of the convergence of the Oklawaha and Silver Rivers. The options studied shall include but not be limited to:

1. Developing a management plan to allow the monkeys to remain in their present locations.

2. Relocating all or some of the monkeys to appropriate private state or federal lands in the United States.

3. Sterilizing all or some of the monkeys, regardless of whether they remain in their present location or are relocated.

4. Euthanizing all or some of the monkeys.

(b) During the time the study is being conducted, the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission may control monkeys that constitute a threat to visitors to such area. Such control includes, but is not limited to, the right to deny public access to any area where the monkeys are known to congregate. The *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission shall post adequate warning signs in areas to which the public is denied access.

(c) The *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission may consult with any other local or state agency while conducting the study and may subcontract with any such agency to complete the study.

(d) The study of the options shall be delivered to the Board of Trustees of the Internal Improvement Trust Fund.

(e) Nothing in this subsection affects the signed agreement between the department and the Silver Springs Attraction regarding the relocation of rhesus monkeys from Silver River State Park to the attraction, and such agreement continues to be valid.

Section 76. Subsection (3) of section 255.502, Florida Statutes, 1998 Supplement, is amended to read:

255.502 Definitions; ss. 255.501-255.525.—As used in this act, the following words and terms shall have the following meanings unless the context otherwise requires:

(3) "Agency" means any department created by chapter 20, the Executive Office of the Governor, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the Parole Commission, the State Board of Administration, the Department of Military Affairs, or the Legislative Branch or the Judicial Branch of state government.

Section 77. Subsection (2) of section 258.157, Florida Statutes, is amended to read:

258.157 Prohibited acts in Savannas State Reserve.—

(2) It is unlawful for any person, except a law enforcement or conservation officer, to have in his or her possession any firearm while within the Savannas except when in compliance with regulations established by the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission applying to lands within the described boundaries.

Section 78. Subsection (4) of section 258.397, Florida Statutes, is amended to read:

258.397 Biscayne Bay Aquatic Preserve.—

(4) RULES.—

(a) The board of trustees shall adopt and enforce reasonable rules and regulations to carry out the provisions of this section and specifically to provide:

1. Additional preserve management criteria as may be necessary to accommodate special circumstances.

2. Regulation of human activity within the preserve in such a manner as not to interfere unreasonably with lawful and traditional public uses of the preserve, such as fishing (both sport and commercial), boating, and swimming.

(b) Other uses of the preserve, or human activity within the preserve, although not originally contemplated, may be permitted by the board of trustees, but only subsequent to a formal finding of compatibility with the purposes of this section.

(c) Fishing involving the use of seines or nets is prohibited in the preserve, except when the fishing is for shrimp or mullet and such fishing is otherwise permitted by state law or rules promulgated by the *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission. As used in this paragraph, the terms "seines" or "nets" shall not include landing nets, cast nets, or bully nets.

Section 79. Paragraph (a) of subsection (7) of section 258.501, Florida Statutes, is amended to read:

258.501 Myakka River; wild and scenic segment.—

(7) MANAGEMENT COORDINATING COUNCIL.—

(a) Upon designation, the department shall create a permanent council to provide interagency and intergovernmental coordination in the management of the river. The coordinating council shall be composed of one representative appointed from each of the following: the department, the Department of Transportation, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the Department of Community Affairs, the Division of Forestry of the Department of Agriculture and Consumer Services, the Division of Historical Resources of the Department of State, the Tampa Bay Regional Planning Council, the Southwest Florida Water Management District, the Southwest Florida Regional Planning Council, Manatee County, Sarasota County, Charlotte County, the City of Sarasota, the City of North Port, agricultural interests, environmental organizations, and any others deemed advisable by the department.

Section 80. Subsection (1) of section 259.036, Florida Statutes, is amended to read:

259.036 Management review teams.—

(1) To determine whether conservation, preservation, and recreation lands titled in the name of the Board of Trustees of the Internal Improvement Trust Fund are being managed for the purposes for which they were acquired and in accordance with a land management plan adopted pursuant to s. 259.032, the board of trustees, acting through the Department of Environmental Protection, shall cause periodic management reviews to be conducted as follows:

(a) The department shall establish a regional land management review team composed of the following members:

1. One individual who is from the county or local community in which the parcel or project is located and who is selected by the county commission in the county which is most impacted by the acquisition.

2. One individual from the Division of Recreation and Parks of the department.

3. One individual from the Division of Forestry of the Department of Agriculture and Consumer Services.

4. One individual from the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

5. One individual from the department's district office in which the parcel is located.

6. A private land manager mutually agreeable to the state agency representatives.

7. A member of the local soil and water conservation district board of supervisors.

8. A member of a conservation organization.

(b) The staff of the Division of State Lands shall act as the review team coordinator for the purposes of establishing schedules for the reviews and other staff functions. The Legislature shall appropriate funds necessary to implement land management review team functions.

Section 81. Paragraph (a) of subsection (2) of section 282.1095, Florida Statutes, is amended to read:

282.1095 State agency law enforcement radio system.—

(2)(a) The Joint Task Force on State Agency Law Enforcement Communications shall consist of eight members, as follows:

1. A representative of the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation who shall be appointed by the secretary of the department.

2. A representative of the Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles who shall be appointed by the executive director of the department.

3. A representative of the Department of Law Enforcement who shall be appointed by the executive director of the department.

4. A representative of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission who shall be appointed by the executive director of the commission.

5. A representative of the Division of Law Enforcement of the Department of Environmental Protection who shall be appointed by the secretary of the department.

6. A representative of the Department of Corrections who shall be appointed by the secretary of the department.

7. A representative of the Division of State Fire Marshal of the Department of Insurance who shall be appointed by the State Fire Marshal.

8. A representative of the Department of Transportation who shall be appointed by the secretary of the department.

Section 82. Subsections (3) and (7) of section 282.404, Florida Statutes, are amended to read:

282.404 Geographic information board; definition; membership; creation; duties; advisory council; membership; duties.—

(3) The board consists of the Director of Planning and Budgeting within the Executive Office of the Governor, the executive director of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the executive director of the Department of Revenue, and the State Cadastral Surveyor, as defined in s. 177.503, or their designees, and the heads of the following agencies, or their designees: the Department of Agriculture and Consumer Services, the Department of Community Affairs, the Department of Environmental Protection, the Department of Transportation, and the Board of Professional Surveyors and Mappers. The Governor shall appoint to the board one member each to represent the counties, municipalities, regional planning councils, water management districts, and county property appraisers. The Governor shall initially appoint two members to serve 2-year terms and three members to serve 4-year terms. Thereafter, the terms of all appointed members must be 4 years and the terms must be staggered. Members may be appointed to successive terms and incumbent members may continue to serve the board until a new appointment is made.

(7) The Geographic Information Advisory Council consists of one member each from the Office of Planning and Budgeting within the Executive Office of the Governor, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the Department of Revenue, the Department of Agriculture and Consumer Services, the Department of Community Affairs, the Department of Environmental Protection, the Department of Transportation, the State Cadastral Surveyor, the Board of Professional Surveyors and Mappers, counties, municipalities, regional planning councils, water management districts, and property appraisers, as appointed by the corresponding member of the board, and the State Geologist. The Governor shall appoint to the council one member each, as recommended by the respective organization, to represent the Department of Children and Family Services, the Department of Health, the Florida Survey and Mapping Society, Florida Region of the American Society of Photogrammetry and Remote Sensing, Florida Association of Cadastral Mappers, the Florida Association of Professional Geologists, Florida Engineering Society, Florida Chapter of the Urban and Regional Information Systems Association, the forestry industry, the State University System survey and mapping academic research programs, and State University System geographic information systems academic research programs; and two members representing utilities, one from a regional utility, and one from a local or municipal utility. These persons must have technical expertise in geographic information issues. The Governor shall initially appoint six members to serve 2-year terms and six members to serve 4-year terms. Thereafter, the terms of all appointed members must be 4 years and must be staggered. Members may be appointed to successive terms, and incumbent members may continue to serve the council until a successor is appointed. Representatives of the Federal Government may serve as ex officio members without voting rights.

Section 83. Subsection (2) of section 285.09, Florida Statutes, is amended to read:

285.09 Rights of Miccosukee and Seminole Tribes with respect to hunting, fishing, and frogging.—

(2) In addition, members of the Miccosukee Tribe may take wild game and fish for subsistence purposes and take frogs for personal consumption as food or for commercial purposes at any time within their reservation and the area leased to the Miccosukee Tribe pursuant to the actions of the Board of Trustees of the Internal Improvement Trust Fund on April 8, 1981. The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission may restrict, for wildlife management purposes, the exercise of these rights in the area leased. Prior to placing restrictions upon hunting, fishing, and frogging for subsistence purposes, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall totally restrict nonsubsistence uses for the particular species.

Section 84. Section 285.10, Florida Statutes, is amended to read:

285.10 No license or permit fees required; identification card required.—Indians may exercise the hunting, fishing, and frogging rights granted to them in those areas specified by s. 285.09 without payment of licensing or permitting fees. Each Indian exercising such rights shall be required to have an identification card issued without cost by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission through the chairs of the Miccosukee Tribe and Seminole Tribe. Each Indian is required to have the identification card on his or her person at all times when exercising such rights and shall exhibit it to officers of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission upon the request of such officers.

Section 85. Subsection (1) of section 288.021, Florida Statutes, is amended to read:

288.021 Economic development liaison.—

(1) The heads of the Department of Transportation, the Department of Environmental Protection and an additional member appointed by the secretary of the department, the Department of Labor and Employment Security, the Department of Education, the Department of Community Affairs, the Department of Management Services, and the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall designate a high-level staff member from within such agency to serve as the economic development liaison for the agency. This person shall report to the agency head and have general knowledge both of the state's permitting and other regulatory functions and of the state's economic goals, policies, and programs. This person shall also be the primary point of contact for the agency with the Office of Tourism, Trade, and Economic Development on issues and projects important to the economic development of Florida, including its rural areas, to expedite project review, to ensure a prompt, effective response to problems arising with regard to permitting and regulatory functions, and to work closely with the other economic development liaisons to resolve interagency conflicts.

Section 86. Subsections (8) and (9) of section 288.975, Florida Statutes, 1998 Supplement, are amended to read:

288.975 Military base reuse plans.—

(8) At the request of a host local government, the Office of Tourism, Trade, and Economic Development shall coordinate a presubmission workshop concerning a military base reuse plan within the boundaries of the host jurisdiction. Agencies that shall participate in the workshop shall include any affected local governments; the Department of Environmental Protection; the Office of Tourism, Trade, and Economic Development; the Department of Community Affairs; the Department of Transportation; the Department of Health; the Department of Children and Family Services; the Department of Agriculture and Consumer Services; the Department of State; the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission; and any applicable water management districts and regional planning councils. The purposes of the workshop shall be to assist the host local government to understand issues of concern to the above listed entities pertaining to the military base site and to identify opportunities for better coordination of planning and review efforts with the information and analyses generated by the federal environmental impact statement process and the federal community base reuse planning process.

(9) If a host local government elects to use the optional provisions of this act, it shall, no later than 12 months after notifying the agencies of its intent pursuant to subsection (3) either:

(a) Send a copy of the proposed military base reuse plan for review to any affected local governments; the Department of Environmental Protection; the Office of Tourism, Trade, and Economic Development; the Department of Community Affairs; the Department of Transportation; the Department of Health; the Department of Children and Family Services; the Department of Agriculture and Consumer Services; the Department of State; the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission; and any applicable water management districts and regional planning councils, or

(b) Petition the secretary of the Department of Community Affairs for an extension of the deadline for submitting a proposed reuse plan. Such an extension request must be justified by changes or delays in the closure process by the federal Department of Defense or for reasons otherwise deemed to promote the orderly and beneficial planning of the subject military base reuse. The secretary of the Department of Community Affairs may grant extensions to the required submission date of the reuse plan.

Section 87. Subsection (1) of section 316.640, Florida Statutes, is amended to read:

316.640 Enforcement.—The enforcement of the traffic laws of this state is vested as follows:

(1) STATE.—

(a)1.a. The Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles, the Division of Law Enforcement of the *Fish and Wildlife Conservation Commission* ~~Game and Fresh Water Fish Commission~~, the Division of Law Enforcement of the Department of Environmental Protection, and law enforcement officers of the Department of Transportation each have authority to enforce all of the traffic laws of this state on all the streets and highways thereof and elsewhere throughout the state wherever the public has a right to travel by motor vehicle.

b. University police officers shall have authority to enforce all of the traffic laws of this state when such violations occur on or about any property or facilities that are under the guidance, supervision, regulation, or control of the State University System, except that traffic laws may be enforced off-campus when hot pursuit originates on-campus.

c. Community college police officers shall have the authority to enforce all the traffic laws of this state only when such violations occur on any property or facilities that are under the guidance, supervision, regulation, or control of the community college system.

d. Police officers employed by an airport authority shall have the authority to enforce all of the traffic laws of this state only when such violations occur on any property or facilities that are owned or operated by an airport authority.

e. The Office of Agricultural Law Enforcement of the Department of Agriculture and Consumer Services shall have the authority to enforce traffic laws of this state only as authorized by the provisions of chapter 570. However, nothing in this section shall expand the authority of the Office of Agricultural Law Enforcement at its agricultural inspection stations to issue any traffic tickets except those traffic tickets for vehicles illegally passing the inspection station.

f. School safety officers shall have the authority to enforce all of the traffic laws of this state when such violations occur on or about any property or facilities which are under the guidance, supervision, regulation, or control of the district school board.

2. An agency of the state as described in subparagraph 1. is prohibited from establishing a traffic citation quota. A violation of this subparagraph is not subject to the penalties provided in chapter 318.

3. Any disciplinary action taken or performance evaluation conducted by an agency of the state as described in subparagraph 1. of a law enforcement officer's traffic enforcement activity must be in accordance with written work-performance standards. Such standards must be approved by the agency and any collective bargaining unit representing such law enforcement officer. A violation of this subparagraph is not subject to the penalties provided in chapter 318.

(b)1. The Department of Transportation has authority to enforce on all the streets and highways of this state all laws applicable within its authority.

2.a. The Department of Transportation shall develop training and qualifications standards for toll enforcement officers whose sole authority is to enforce the payment of tolls pursuant to s. 316.1001. Nothing in this subparagraph shall be construed to permit the carrying of firearms or other weapons, nor shall a toll enforcement officer have arrest authority.

b. For the purpose of enforcing s. 316.1001, governmental entities, as defined in s. 334.03, which own or operate a toll facility may employ independent contractors or designate employees as toll enforcement officers; however, any such toll enforcement officer must successfully meet the training and qualifications standards for toll enforcement officers established by the Department of Transportation.

Section 88. Subsections (5), (18), (19), and (25) of section 320.08058, Florida Statutes, 1998 Supplement, are amended to read:

320.08058 Specialty license plates.—

(5) FLORIDA PANTHER LICENSE PLATES.—

(a) The department shall develop a Florida panther license plate as provided in this section. Florida panther license plates must bear the design of a Florida panther and the colors that department approves. In small letters, the word “Florida” must appear at the bottom of the plate.

(b) The department shall distribute the Florida panther license plate annual use fee in the following manner:

1. Eighty-five percent must be deposited in the Florida Panther Research and Management Trust Fund in the *Fish and Wildlife Conserva-*

tion ~~Game and Fresh Water Fish~~ Commission to be used for education and programs to protect the endangered Florida panther.

2. Fifteen percent, but no less than $300,000, must be deposited in the Florida Communities Trust Fund to be used pursuant to the Florida Communities Trust Act.

(c) A person or corporation that purchases 10,000 or more panther license plates shall pay an annual use fee of $5 per plate and an annual processing fee of $2 per plate, in addition to the applicable license tax required under s. 320.08.

(18) LARGEMOUTH BASS LICENSE PLATES.—

(a) The department shall develop a Largemouth Bass license plate as provided in this section to commemorate the official freshwater fish of this state. The word "Florida" must appear at the top of the plate, the words "Go Fishing" must appear at the bottom of the plate, and a representation of a largemouth bass must appear to the left of the numerals.

(b) The annual use fees shall be distributed to the State Game Trust Fund and used by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission to fund current conservation programs that maintain current levels of protection and management of this state's fish and wildlife resources, including providing hunting, fishing, and nonconsumptive wildlife opportunities.

(25) CONSERVE WILDLIFE LICENSE PLATES.—

(a) The department shall develop a Conserve Wildlife license plate. Conserve Wildlife license plates shall bear the colors and design approved by the department. The word "Florida" shall appear at the top of the plate, and the words "Conserve Wildlife" shall appear at the bottom of the plate. The plate design shall include the likeness of a Florida black bear.

(b) The proceeds of the Conserve Wildlife license plate annual use fee shall be forwarded to the Wildlife Foundation of Florida, Inc., a citizen support organization created pursuant to s. 372.0215.

1. Notwithstanding s. 320.08062, up to 10 percent of the proceeds from the annual use fee may be used for marketing the Conserve Wildlife license plate and administrative costs directly related to the management and distribution of the proceeds.

2. The remaining proceeds from the annual use fee shall be used for programs and activities of the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission that contribute to the health and well-being of Florida black bears and other wildlife diversity.

Section 89. Present subsection (5) of section 327.02, Florida Statutes, 1998 Supplement, is redesignated as subsection (6), present subsection (6) is repealed, subsection (7) is amended, and new subsection (5) is added to that section to read:

327.02 Definitions of terms used in this chapter and in chapter 328.—As used in this chapter and in chapter 328, unless the context clearly requires a different meaning, the term:

(5) "Commission" means the Fish and Wildlife Conservation Commission.

(7) "Division" means the Division of Law Enforcement of the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~.

Section 90. Paragraph (a) of subsection (2) of section 341.352, Florida Statutes, is amended to read:

341.352 Certification hearing.—

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

1. The franchisee.

2. The Department of Commerce.

3. The Department of Environmental Protection.

4. The Department of Transportation.

5. The Department of Community Affairs.

6. The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

7. Each water management district.

8. Each local government.

9. Each regional planning council.

10. Each metropolitan planning organization.

Section 91. Subsection (3) of section 369.20, Florida Statutes, 1998 Supplement, is amended to read:

369.20 Florida Aquatic Weed Control Act.—

(3) It shall be the duty of the department to guide and coordinate the activities of all public bodies, authorities, agencies, and special districts charged with the control or eradication of aquatic weeds and plants. It may delegate all or part of such functions to the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

Section 92. Subsection (9) of section 369.22, Florida Statutes, 1998 Supplement, is amended to read:

369.22 Nonindigenous aquatic plant control.—

(9) The department may delegate various nonindigenous aquatic plant control and maintenance functions to the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission. The commission shall, in accepting commitments to engage in nonindigenous aquatic plant control and maintenance activities, be subject to the rules of the department, except that the commission shall regulate, control, and coordinate the use of any fish for aquatic weed control in fresh waters of the state. In addition, the commission shall render technical and other assistance to the department in order to carry out most effectively the purposes of s. 369.20. However, nothing herein shall diminish or impair the regulatory authority of the commission with respect to the powers granted to it by s. 9, Art. IV of the State Constitution.

Section 93. Paragraph (b) of subsection (3) of section 369.25, Florida Statutes, is amended to read:

369.25 Aquatic plants; definitions; permits; powers of department; penalties.—

(3) The department has the following powers:

(b) To establish by rule lists of aquatic plant species regulated under this section, including those exempted from such regulation, provided the Department of Agriculture and Consumer Services and the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission approve such lists prior to the lists becoming effective.

Section 94. Section 370.01, Florida Statutes, 1998 Supplement, is amended to read:

370.01 Definitions.—In construing these statutes, where the context does not clearly indicate otherwise, the word, phrase, or term:

(1) "Authorization" means a number issued by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, or its authorized agent, which serves in lieu of a license or permits and affords the privilege purchased for a specified period of time.

(2) "Beaches" and "shores" shall mean the coastal and intracoastal shoreline of this state bordering upon the waters of the Atlantic Ocean, the Gulf of Mexico, the Straits of Florida, and any part thereof, and any other bodies of water under the jurisdiction of the State of Florida, between the mean high-water line and as far seaward as may be necessary to effectively carry out the purposes of this act.

(3) "Closed season" shall be that portion of the year wherein the laws or rules of Florida forbid the taking of particular species of game or varieties of fish.

(4) "Coastal construction" includes any work or activity which is likely to have a material physical effect on existing coastal conditions or natural shore processes.

(5) "Commission" shall mean the Fish and Wildlife Conservation Commission.

(6)~~(5)~~ "Common carrier" shall include any person, firm, or corporation, who undertakes for hire, as a regular business, to transport persons or commodities from place to place offering his or her services to all such as may choose to employ the common carrier and pay his or her charges.

(7)~~(6)~~ "Coon oysters" are oysters found growing in bunches along the shore between high-water mark and low-water mark.

(8)~~(7)~~ "Department" shall mean the Department of Environmental Protection.

(9)~~(8)~~ "Erosion control," "beach preservation," and "hurricane protection" shall include any activity, work, program, project, or other thing deemed necessary by the ~~Division of Marine Resources of the~~ Department of Environmental Protection to effectively preserve, protect, restore, rehabilitate, stabilize, and improve the beaches and shores of this state, as defined above.

(10)~~(9)~~ "Exhibit" means to present or display upon request.

(11)~~(10)~~ "Finfish" means any member of the classes Agnatha, Chondrichthyes, or Osteichthyes.

(12)~~(11)~~ "Food fish" shall include mullet, trout, redfish, sheepshead, pompano, mackerel, bluefish, red snapper, grouper, black drum, jack crevalle, and all other fish generally used for human consumption.

(13)~~(12)~~ "Guide" shall include any person engaged in the business of guiding hunters or hunting parties, fishers or fishing parties, for compensation.

(14)~~(13)~~ "Marine fish" means any saltwater species of finfish of the classes Agnatha, Chondrichthyes, and Osteichthyes, and marine invertebrates in the classes Gastropoda, Bivalvia, and Crustacea, or the phylum Echinodermota, but does not include nonliving shells or Echinoderms.

(15)~~(14)~~ A "natural oyster or clam reef" or "bed" or "bar" shall be considered and defined as an area containing not less than 100 square yards of the bottom where oysters or clams are found in a stratum.

(16)~~(15)~~ "Nonresident alien" shall mean those individuals from other nations who can provide documentation from the Immigration and Naturalization Service evidencing permanent residency status in the United States. For the purposes of this chapter, a "nonresident alien" shall be considered a "nonresident."

(17)~~(16)~~ "Open season" shall be that portion of the year wherein the laws of Florida for the preservation of fish and game permit the taking of particular species of game or varieties of fish.

(18)~~(17)~~ "Reef bunch oysters" are oysters found growing on the bars or reefs in the open bay and exposed to the air between high and low tide.

19~~(18)~~ "Resident" or "resident of Florida" includes citizens of the United States who have continuously resided in this state, next preceding the making of their application for hunting, fishing, or other license, for the following period of time, to wit: For 1 year in the state and 6 months in the county when applied to all fish and game laws not related to freshwater fish and game.

(20)~~(19)~~ "Resident alien" shall mean those persons who have continuously resided in this state for at least 1 year and 6 months in the county and can provide documentation from the Immigration and Naturalization Service evidencing permanent residency status in the United States. For the purposes of this chapter, a "resident alien" shall be considered a "resident."

(21)~~(20)~~ "Restricted species" means any species of saltwater products ~~for~~ which the state by law, or the *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission by rule, has found it necessary to so designate. The term includes a species of saltwater products designated by the commission as restricted within a geographical area or during a particular time period of each year. Designation as a restricted species does not confer the authority to sell a species pursuant to s. 370.06 if the law or rule prohibits the sale of the species.

(22)~~(21)~~ "Salt water," except where otherwise provided by law, shall be all of the territorial waters of Florida excluding all lakes, rivers, canals, and other waterways of Florida from such point or points where the fresh and salt waters commingle to such an extent as to become unpalatable because of the saline content, or from such point or points as may be fixed for conservation purposes by the ~~Division of Marine Resources of the~~ Department of Environmental Protection and the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, with the consent and advice of the board of county commissioners of the county or counties to be affected.

(23)~~(22)~~ "Saltwater fish" shall include all classes of pisces, shellfish, sponges, and crustacea indigenous to salt water.

(24)~~(23)~~ "Saltwater license privileges," except where otherwise provided by law, means any license, endorsement, certificate, or permit issued pursuant to this chapter.

(25)~~(24)~~ "Saltwater products" means any species of saltwater fish, marine plant, or echinoderm, except shells, and salted, cured, canned, or smoked seafood.

(26)~~(25)~~ "Shellfish" shall include oysters, clams, and whelks.

(27)~~(26)~~ "Transport" shall include shipping, transporting, carrying, importing, exporting, receiving or delivering for shipment, transportation or carriage or export.

Section 95. Section 370.021, Florida Statutes, 1998 Supplement, is amended to read:

370.021 Administration; rules, publications, records; penalties; injunctions.—

~~(1) RULES.—The Department of Environmental Protection has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring powers or duties upon it. The director of each division shall submit to the department suggested rules and regulations for that division. Any person violating or otherwise failing to comply with any of the rules and regulations adopted as aforesaid is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, unless otherwise provided by law.~~

(1)~~(2)~~ PENALTIES.—Unless otherwise provided by law, any person, firm, or corporation who is convicted for violating any provision of this chapter, ~~any rule of the department adopted pursuant to this chapter,~~ or any rule of the *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission *adopted pursuant to this chapter,* shall be punished:

(a) Upon a first conviction, by imprisonment for a period of not more than 60 days or by a fine of not less than $100 nor more than $500, or by both such fine and imprisonment.

(b) On a second or subsequent conviction within 12 months, by imprisonment for not more than 6 months or by a fine of not less than $250 nor more than $1,000, or by both such fine and imprisonment.

(2)~~(3)~~ MAJOR VIOLATIONS.—In addition to the penalties provided in paragraphs *(1)(a) and (b)* ~~(2)(a) and (b)~~, the court shall assess additional penalties against any person, firm, or corporation convicted of major violations as follows:

(a) For a violation involving more than 100 illegal blue crabs, crawfish, or stone crabs, an additional penalty of $10 for each illegal blue crab, crawfish, stone crab, or part thereof.

(b) For a violation involving the taking or harvesting of shrimp from a nursery or other prohibited area, an additional penalty of $10 for each pound of illegal shrimp or part thereof.

(c) For a violation involving the taking or harvesting of oysters from nonapproved areas or the taking or possession of unculled oysters, an additional penalty of $10 for each bushel of illegal oysters.

(d) For a violation involving the taking or harvesting of clams from nonapproved areas, an additional penalty of $100 for each 500 count bag of illegal clams.

(e) For a violation involving the taking, harvesting, or possession of any of the following species, which are endangered, threatened, or of special concern:

1. Shortnose sturgeon (Acipenser brevirostrum);

2. Atlantic sturgeon (Acipenser oxyrhynchus);

3. Common snook (Centropomus undecimalis);

4. Atlantic loggerhead turtle (Caretta caretta caretta);

5. Atlantic green turtle (Chelonia mydas mydas);

6. Leatherback turtle (Dermochelys coriacea);

7. Atlantic hawksbill turtle (Eretmochelys imbricata imbracata);

8. Atlantic ridley turtle (Lepidochelys kempi); or

9. West Indian manatee (Trichechus manatus latirostris),

an additional penalty of $100 for each unit of marine life or part thereof.

(f) For a second or subsequent conviction within 24 months for any violation of the same law or rule involving the taking or harvesting of more than 100 pounds of any finfish, an additional penalty of $5 for each pound of illegal finfish.

(g) For any violation involving the taking, harvesting, or possession of more than 1,000 pounds of any illegal finfish, an additional penalty equivalent to the wholesale value of the illegal finfish.

(h) The proceeds from the penalties assessed pursuant to this subsection shall be deposited into the Marine Resources Conservation Trust Fund to be used for marine fisheries research or into the *commission's* ~~department's~~ Federal Law Enforcement Trust Fund as provided in *s. 372.107* ~~s. 20.2553~~, as applicable.

(i) Permits issued to any person, firm, or corporation by the *commission* ~~department~~ to take or harvest saltwater products, or any license issued pursuant to s. 370.06 or s. 370.07 may be suspended or revoked by the *commission* ~~department~~, pursuant to the provisions and procedures of s. 120.60, for any major violation prescribed in this subsection:

1. Upon a second conviction for a violation which occurs within 12 months after a prior violation, for up to 60 days.

2. Upon a third conviction for a violation which occurs within 24 months after a prior violation, for up to 180 days.

3. Upon a fourth conviction for a violation which occurs within 36 months after a prior violation, for a period of 6 months to 3 years.

(j) Upon the arrest and conviction for a major violation involving stone crabs, the licenseholder must show just cause why his or her license should not be suspended or revoked. For the purposes of this paragraph, a "major violation" means a major violation as prescribed for illegal stone crabs; any single violation involving possession of more than 25 stone crabs during the closed season or possession of 25 or more whole-bodied or egg-bearing stone crabs; any violation for trap molestation, trap robbing, or pulling traps at night; or any combination of violations in any 3-consecutive-year period wherein more than 75 illegal stone crabs in the aggregate are involved.

(k) Upon the arrest and conviction for a major violation involving crawfish, the licenseholder must show just cause why his or her license should not be suspended or revoked. For the purposes of this paragraph, a "major violation" means a major violation as prescribed for illegal crawfish; any single violation involving possession of more than 25 crawfish during the closed season or possession of more than 25 wrung crawfish tails or more than 25 egg-bearing or stripped crawfish; any violation for trap molestation, trap robbing, or pulling traps at night; or any combination of violations in any 3-consecutive-year period wherein more than 75 illegal crawfish in the aggregate are involved.

(l) Upon the arrest and conviction for a major violation involving blue crabs, the licenseholder shall show just cause why his or her saltwater products license should not be suspended or revoked. This paragraph shall not apply to an individual fishing with no more than five traps. For the purposes of this paragraph, a "major violation" means a major violation as prescribed for illegal blue crabs, any single violation wherein 50 or more illegal blue crabs are involved; any violation for trap molestation, trap robbing, or pulling traps at night; or any combination of violations in any 3-consecutive-year period wherein more than 100 illegal blue crabs in the aggregate are involved.

(m) Upon the conviction for a major violation involving finfish, the licenseholder must show just cause why his or her saltwater products license should not be suspended or revoked. For the purposes of this paragraph, a major violation is prescribed for the taking and harvesting of illegal finfish, any single violation involving the possession of more than 100 pounds of illegal finfish, or any combination of violations in any 3-consecutive-year period wherein more than 200 pounds of illegal finfish in the aggregate are involved.

(n) Upon final disposition of any alleged offense for which a citation for any violation of this chapter or the rules of the *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission has been issued, the court shall, within 10 days, certify the disposition to the *commission* ~~department~~.

Notwithstanding the provisions of s. 948.01, no court may suspend, defer, or withhold adjudication of guilt or imposition of sentence for any major violation prescribed in this subsection.

(3)~~(4)~~ PENALTIES FOR USE OF ILLEGAL NETS.—

(a) It shall be a major violation pursuant to subsection (3) and shall be punished as provided below for any person, firm, or corporation to be simultaneously in possession of any species of mullet in excess of the recreational daily bag limit and any gill or other entangling net as defined in s. 16(c), Art. X of the State Constitution. Simultaneous possession under this provision shall include possession of mullet and gill or other entangling nets on separate vessels or vehicles where such vessels or vehicles are operated in coordination with one another including vessels towed behind a main vessel. This subsection does not prohibit a resident of this state from transporting on land, from Alabama to this state, a commercial quantity of mullet together with a gill net if:

1. The person possesses a valid commercial fishing license that is issued by the State of Alabama and that allows the person to use a gill net to legally harvest mullet in commercial quantities from Alabama waters.

2. The person possesses a trip ticket issued in Alabama and filled out to match the quantity of mullet being transported, and the person is able to present such trip ticket immediately upon entering this state.

3. The mullet are to be sold to a wholesale saltwater products dealer located in Escambia County or Santa Rosa County, which dealer also possesses a valid seafood dealer's license issued by the State of Alabama. The dealer's name must be clearly indicated on the trip ticket.

4. The mullet being transported are totally removed from any net also being transported.

(b) In addition to being subject to the other penalties provided in this chapter, any violation of s. 16, Art. X of the State Constitution, paragraph (b), or any rules of the *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission which implement the gear prohibitions and restrictions specified therein shall be considered a major violation; and any person, firm, or corporation receiving any judicial disposition other than acquittal or dismissal of such violation shall be subject to the following additional penalties:

1. For a first major violation within a 7-year period, a civil penalty of $2,500 and suspension of all saltwater products license privileges for 90 calendar days following final disposition shall be imposed.

2. For a second major violation under this paragraph charged within 7 years of a previous judicial disposition, which results in a second judicial disposition other than acquittal or dismissal, a civil penalty of $5,000 and suspension of all saltwater products license privileges for 12 months shall be imposed.

3. For a third and subsequent major violation under this paragraph, charged within a 7-year period, resulting in a third or subsequent judicial disposition other than acquittal or dismissal, a civil penalty of $5,000, lifetime revocation of the saltwater products license, and forfeiture of all gear and equipment used in the violation shall be imposed.

A court may suspend, defer, or withhold adjudication of guilt or imposition of sentence only for any first violation of s. 16, Art. X of the State

Constitution, or any rule or statute implementing its restrictions, determined by a court only after consideration of competent evidence of mitigating circumstances to be a nonflagrant or minor violation of those restrictions upon the use of nets. Any violation of s. 16, Art. X of the State Constitution, or any rule or statute implementing its restrictions, occurring within a 7-year period commencing upon the conclusion of any judicial proceeding resulting in any outcome other than acquittal shall be punished as a second, third, or subsequent violation accordingly.

(c) During the period of suspension or revocation of saltwater license privileges under this subsection, the licensee may not participate in the taking or harvesting or attempt the taking or harvesting of saltwater products from any vessel within the waters of the state, or any other activity requiring a license, permit, or certificate issued pursuant to this chapter. Any person who violates this paragraph is:

1. Upon a first or second conviction, to be punished as provided by paragraph *(1)(a)* ~~(2)(a)~~ or paragraph *(1)(b)* ~~(2)(b)~~.

2. Upon a third or subsequent conviction, guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Upon reinstatement of saltwater license privileges suspended pursuant to a violation of this section, a licensee owning or operating a vessel containing or otherwise transporting in or on Florida waters any gill net or other entangling net, or containing or otherwise transporting in nearshore and inshore Florida waters any net containing more than 500 square feet of mesh area shall remain restricted for a period of 12 months following reinstatement, to operation under the following conditions:

1. Vessels subject to this reinstatement period shall be restricted to the corridors established by *commission* ~~department~~ rule.

2. A violation of the reinstatement period provisions shall be punishable pursuant to paragraphs *(1)(a) and (b)* ~~(2)(a) and (b)~~.

(e) Rescission and revocation proceedings under this section shall be governed by chapter 120.

(4)~~(5)~~ ADDITIONAL PENALTIES FOR MAJOR VIOLATIONS INVOLVING CERTAIN FINFISH.—It shall be a major violation pursuant to this section and punishable pursuant to paragraph *(3)(b)* ~~(4)(b)~~ for any person to be in possession of any species of trout, snook, or redfish which is three fish in excess of the recreational or commercial daily bag limit.

(5)~~(6)~~ BUYING SALTWATER PRODUCTS FROM UNLICENSED SELLER.—In addition to being subject to other penalties provided in this chapter, any violation of s. 370.06 or s. 370.07, or rules of the *commission* ~~department~~ implementing s. 370.06 or s. 370.07, involving buying saltwater products from an unlicensed person, firm, or corporation, shall be a major violation, and the *commission* ~~department~~ may assess the following penalties:

(a) For a first violation, the *commission* ~~department~~ may assess a civil penalty of up to $2,500 and may suspend the wholesale *or* ~~and/or~~ retail dealer's license privileges for up to 90 calendar days.

(b) For a second violation occurring within 12 months of a prior violation, the *commission* ~~department~~ may assess a civil penalty of up to $5,000 and may suspend the wholesale *or* ~~and/or~~ retail dealer's license privileges for up to 180 calendar days.

(c) For a third or subsequent violation occurring within a 24-month period, the *commission* ~~department~~ shall assess a civil penalty of $5,000 and shall suspend the wholesale *or* ~~and/or~~ retail dealer's license privileges for up to 24 months.

Any proceeds from the civil penalties assessed pursuant to this subsection shall be deposited into the Marine Resources Conservation Trust Fund and shall be used as follows: 40 percent for administration and processing purposes and 60 percent for law enforcement purposes.

(6)~~(7)~~ RULES; ADMISSIBILITY AS EVIDENCE.—Rules and regulations shall be admitted as evidence in the courts of the state when accompanied by an affidavit from the *executive director* ~~secretary~~ of the *commission* ~~department~~ certifying that the rule or regulation has been lawfully adopted, promulgated, and published; and such affidavit shall be prima facie evidence of proper adoption, promulgation, and publication of the rule or regulation.

(7)~~(8)~~ PUBLICATIONS BY *COMMISSION* ~~DEPARTMENT~~.—The *Fish and Wildlife Conservation Commission* ~~department through the Division of Administration and Technical Services~~ is given authority, from time to time in its discretion, to cause the statutory laws under its jurisdiction, together with any rules and regulations promulgated by it, to be published in pamphlet form for free distribution in this state. The *commission* ~~department~~ is authorized to make charges for technical and educational publications and mimeographed material of use for educational or reference purposes. Such charges shall be made at the discretion of the *commission* ~~Division of Administration and Technical Services~~. Such charges may be sufficient to cover cost of preparation, printing, publishing, and distribution. All moneys received for publications shall be deposited into the fund from which the cost of the publication was paid. The *commission* ~~department~~ is further authorized to enter into agreements with persons, firms, corporations, governmental agencies, and other institutions whereby publications may be exchanged reciprocally in lieu of payments for said publications.

(8)~~(9)~~ POWERS OF OFFICERS.—

(a) ~~The department may designate such employees of the several divisions, as it may deem necessary in its discretion, as law enforcement officers, who shall meet the provisions of s. 943.13(1)-(10) and have the powers and duties conferred in this subsection, except that such employees shall comply with the provisions of chapter 943. Such~~ *Law enforcement* officers *of the Fish and Wildlife Conservation Commission* ~~and the Director of the Division of Law Enforcement,~~ are constituted law enforcement officers of this state with full power to investigate and arrest for any violation of the laws of this state and the rules and regulations of the *commission* ~~department~~ under their jurisdiction. ~~and for violations of chapter 253 and the rules and regulations promulgated thereunder.~~ The general laws applicable to arrests by peace officers of this state shall also be applicable to ~~such~~ law enforcement officers *of the commission*. Such law enforcement officers may enter upon any land or waters of the state for performance of their lawful duties and may take with them any necessary equipment, and such entry will not constitute a trespass. It is lawful for any boat, motor vehicle, or aircraft owned or chartered by the *commission* ~~department~~ or its agents or employees to land on and depart from any of the beaches or waters of the state. Such law enforcement officers have the authority, without warrant, to board, inspect, and search any boat, fishing appliance, storage or processing plant, fishhouse, spongehouse, oysterhouse, or other warehouse, building, or vehicle engaged in transporting or storing any fish or fishery products. Such authority to search and inspect without a search warrant is limited to those cases in which such law enforcement officers have reason to believe that fish or any saltwater products are taken or kept for sale, barter, transportation, or other purposes in violation of laws or rules promulgated under this law. Any such law enforcement officer may at any time seize or take possession of any saltwater products or contraband which have been unlawfully caught, taken, or processed or which are unlawfully possessed or transported in violation of any of the laws of this state or any rule or regulation of the *commission* ~~department~~. Such law enforcement officers may arrest any person in the act of violating any of the provisions of this law, the rules or regulations of the *commission* ~~department, the provisions of chapter 253 and the rules and regulations promulgated thereunder~~, or any of the laws of this state. It is hereby declared unlawful for any person to resist such arrest or in any manner interfere, either by abetting or assisting such resistance or otherwise interfering, with any such law enforcement officer while engaged in the performance of the duties imposed upon him or her by law or regulation of the *commission* ~~department~~.

(b) The Legislature finds that the checking and inspection of saltwater products aboard vessels is critical to good fishery management and conservation and that, because almost all saltwater products are either iced or cooled in closed areas or containers, the enforcement of seasons, size limits, and bag limits can only be effective when inspection of saltwater products so stored is immediate and routine. Therefore, in addition to the authority granted in paragraph (a), a law enforcement officer of the *commission* ~~department~~ who has probable cause to believe that the vessel has been used for fishing prior to the inspection shall have full authority to open and inspect all containers or areas where saltwater products are normally kept aboard vessels while such vessels are on the water, such as refrigerated or iced locations, coolers, fish boxes, and bait wells, but specifically excluding such containers that are located in sleeping or living areas of the vessel.

~~(10) DUTIES OF DEPARTMENT OF LEGAL AFFAIRS.—The Department of Legal Affairs shall attend to the legal business of the Department of Environmental Protection and its divisions; but, if at any time any question of law or any litigation arises and the Department of Legal Affairs is otherwise occupied and cannot give the time and attention necessary to such question of law or litigation as the occasion demands, the several state attorneys shall attend to any such question of law or litigation arising within their respective circuits; and, if such state attorney is otherwise occupied and cannot give the time and attention necessary to such question of law or litigation as the case may demand, the Department of Environmental Protection may employ additional counsel for that particular cause, with the advice and consent of the Department of Legal Affairs. Such additional counsel's fees shall be paid from the moneys appropriated to the Department of Environmental Protection.~~

(9)~~(11)~~ RETENTION, DESTRUCTION, AND REPRODUCTION OF RECORDS.—Records and documents of the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ created in compliance with and in the implementation of this chapter or former chapter 371 shall be retained by the *commission* ~~department~~ as specified in record retention schedules established under the general provisions of chapters 119 and 257. *Such records retained by the Department of Environmental Protection on July 1, 1999, shall be transferred to the commission.* Further, the *commission* ~~department~~ is authorized to:

(a) Destroy, or otherwise dispose of, those records and documents in conformity with the approved retention schedules.

(b) Photograph, microphotograph, or reproduce such records and documents on film, as authorized and directed by the approved retention schedules, whereby each page will be exposed in exact conformity with the original records and documents retained in compliance with the provisions of this section. Photographs or microphotographs in the form of film or print of any records, made in compliance with the provisions of this section, shall have the same force and effect as the originals thereof would have and shall be treated as originals for the purpose of their admissibility in evidence. Duly certified or authenticated reproductions of such photographs or microphotographs shall be admitted in evidence equally with the original photographs or microphotographs. The impression of the seal of the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ on a certificate made pursuant to the provisions hereof and signed by the *Executive Director of the Fish and Wildlife Conservation Commission* ~~Secretary of Environmental Protection~~ shall entitle the same to be received in evidence in all courts and in all proceedings in this state and shall be prima facie evidence of all factual matters set forth in the certificate. A certificate may relate to one or more records, as set forth in the certificate, or in a schedule continued on an attachment to the certificate.

(c) Furnish certified copies of such records for a fee of $1 which shall be deposited in the Marine Resources Conservation Trust Fund.

(10)~~(12)~~ COURTS OF EQUITY MAY ENJOIN.—Courts of equity in this state have jurisdiction to enforce the conservation laws of this state by injunction.

(13) BOND OF EMPLOYEES.—The department may require, as it determines, that bond be given by any employee of the department or divisions thereof, payable to the Governor of the state and the Governor's successor in office, for the use and benefit of those whom it may concern, in such penal sums with good and sufficient surety or sureties approved by the department conditioned for the faithful performance of the duties of such employee.

(14) REVOCATION OF LICENSES.—Any person licensed under this chapter who has been convicted of taking aquaculture species raised at a certified facility shall have his or her license revoked for 5 years by the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ pursuant to the provisions and procedures of s. 120.60.

Section 96. Section 370.028, Florida Statutes, 1998 Supplement, is amended to read:

370.028 Enforcement of commission rules; penalties for violation of rule.—Rules of the *Fish and Wildlife Conservation* ~~department and the Marine Fisheries~~ Commission shall be enforced by any law enforcement officer certified pursuant to s. 943.13. Any person who violates or otherwise fails to comply with any rule adopted by the commission shall be punished pursuant to *s. 370.021(1)* ~~s. 370.021(2)~~.

Section 97. Subsections (1), (2), (3), (6), (7), and (8) of section 370.06, Florida Statutes, 1998 Supplement, are amended to read:

370.06 Licenses.—

(1) LICENSE ON PURSE SEINES.—There is levied, in addition to any other taxes thereon, an annual license tax of $25 upon each purse seine used in the waters of this state. This license fee shall be collected in the manner provided in this section.

(2) SALTWATER PRODUCTS LICENSE.—

(a) Every person, firm, or corporation that sells, offers for sale, barters, or exchanges for merchandise any saltwater products, or which harvests saltwater products with certain gear or equipment as specified by law, must have a valid saltwater products license, except that the holder of an aquaculture certificate under s. 597.004 is not required to purchase and possess a saltwater products license in order to possess, transport, or sell marine aquaculture products. Each saltwater products license allows the holder to engage in any of the activities for which the license is required. The license must be in the possession of the licenseholder or aboard the vessel and shall be subject to inspection at any time that harvesting activities for which a license is required are being conducted. A restricted species endorsement on the saltwater products license is required to sell to a licensed wholesale dealer those species which the state, by law or rule, has designated as "restricted species." This endorsement may be issued only to a person who is at least 16 years of age, or to a firm certifying that over 25 percent of its income or $5,000 of its income, whichever is less, is attributable to the sale of saltwater products pursuant to a license issued under this paragraph or a similar license from another state. This endorsement may also be issued to a for-profit corporation if it certifies that at least $5,000 of its income is attributable to the sale of saltwater products pursuant to a license issued under this paragraph or a similar license from another state. However, if at least 50 percent of the annual income of a person, firm, or for-profit corporation is derived from charter fishing, the person, firm, or for-profit corporation must certify that at least $2,500 of the income of the person, firm, or corporation is attributable to the sale of saltwater products pursuant to a license issued under this paragraph or a similar license from another state, in order to be issued the endorsement. Such income attribution must apply to at least 1 year out of the last 3 years. For the purpose of this section "income" means that income which is attributable to work, employment, entrepreneurship, pensions, retirement benefits, and social security benefits. To renew an existing restricted species endorsement, a marine aquaculture producer possessing a valid saltwater products license with a restricted species endorsement may apply income from the sale of marine aquaculture products to licensed wholesale dealers.

1. The *Fish and Wildlife Conservation Commission* ~~department~~ is authorized to require verification of such income. Acceptable proof of income earned from the sale of saltwater products shall be:

a. Copies of trip ticket records generated pursuant to this subsection (marine fisheries information system), documenting qualifying sale of saltwater products;

b. Copies of sales records from locales other than Florida documenting qualifying sale of saltwater products;

c. A copy of the applicable federal income tax return, including Form 1099 attachments, verifying income earned from the sale of saltwater products;

d. Crew share statements verifying income earned from the sale of saltwater products; or

e. A certified public accountant's notarized statement attesting to qualifying source and amount of income.

Any provision of this section or any other section of the Florida Statutes to the contrary notwithstanding, any person who owns a retail seafood market *or* ~~and/or~~ restaurant at a fixed location for at least 3 years who has had an occupational license for 3 years prior to January 1, 1990, who harvests saltwater products to supply his or her retail store and has had

a saltwater products license for 1 of the past 3 years prior to January 1, 1990, may provide proof of his or her verification of income and sales value at the person's retail seafood market *or* ~~and/or~~ restaurant and in his or her saltwater products enterprise by affidavit and shall thereupon be issued a restricted species endorsement.

2. Exceptions from income requirements shall be as follows:

a. A permanent restricted species endorsement shall be available to those persons age 62 and older who have qualified for such endorsement for at least 3 out of the last 5 years.

b. Active military duty time shall be excluded from consideration of time necessary to qualify and shall not be counted against the applicant for purposes of qualifying.

c. Upon the sale of a used commercial fishing vessel owned by a person, firm, or corporation possessing or eligible for a restricted species endorsement, the purchaser of such vessel shall be exempted from the qualifying income requirement for the purpose of obtaining a restricted species endorsement for a period of 1 year after purchase of the vessel.

d. Upon the death or permanent disablement of a person possessing a restricted species endorsement, an immediate family member wishing to carry on the fishing operation shall be exempted from the qualifying income requirement for the purpose of obtaining a restricted species endorsement for a period of 1 year after the death or disablement.

e. A restricted species endorsement may be issued on an individual saltwater products license to a person age 62 or older who documents that at least $2,500 is attributable to the sale of saltwater products pursuant to the provisions of this paragraph.

f. A permanent restricted species endorsement may also be issued on an individual saltwater products license to a person age 70 or older who has held a saltwater products license for at least 3 of the last 5 license years.

g. Any resident who is certified to be totally and permanently disabled by a verified written statement, based upon the criteria for permanent total disability in chapter 440 from a physician licensed in this state, by any branch of the United States Armed Services, by the Social Security Administration, or by the United States Department of Veterans Affairs or its predecessor, or any resident who holds a valid identification card issued by the Department of Veterans' Affairs pursuant to s. 295.17, shall be exempted from the income requirements if he or she also has held a saltwater products license for at least 3 of the last 5 license years prior to the date of the disability. A Disability Award Notice issued by the United States Social Security Administration is not sufficient certification for a resident to obtain the income exemption unless the notice certifies that the resident is totally and permanently disabled.

At least one saltwater products license bearing a restricted species endorsement shall be aboard any vessel harvesting restricted species in excess of any bag limit or when fishing under a commercial quota or in commercial quantities, and such vessel shall have a commercial vessel registration. This subsection does not apply to any person, firm, or corporation licensed under s. 370.07(1)(a)1. or (b) for activities pursuant to such licenses. A saltwater products license may be issued in the name of an individual or a valid boat registration number. Such license is not transferable. A decal shall be issued with each saltwater products license issued to a valid boat registration number. The saltwater products license decal shall be the same color as the vessel registration decal issued each year pursuant to s. 327.11(5) and shall indicate the period of time such license is valid. The saltwater products license decal shall be placed beside the vessel registration decal and, in the case of an undocumented vessel, shall be placed so that the vessel registration decal lies between the vessel registration number and the saltwater products license decal. Any saltwater products license decal for a previous year shall be removed from a vessel operating on the waters of the state. A resident shall pay an annual license fee of $50 for a saltwater products license issued in the name of an individual or $100 for a saltwater products license issued to a valid boat registration number. A nonresident shall pay an annual license fee of $200 for a saltwater products license issued in the name of an individual or $400 for a saltwater products license issued to a valid boat registration number. An alien shall pay an annual license fee of $300 for a saltwater products license issued in the name of an individual or $600 for a saltwater products license issued to a valid boat registration number. Any person who sells saltwater products pursuant to this license may sell only to a licensed wholesale dealer. A saltwater products license must be presented to the licensed wholesale dealer each time saltwater products are sold, and an imprint made thereof. The wholesale dealer shall keep records of each transaction in such detail as may be required by rule of the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ not in conflict with s. 370.07(6), and shall provide the holder of the saltwater products license with a copy of the record. It is unlawful for any licensed wholesale dealer to buy saltwater products from any unlicensed person under the provisions of this section, except that a licensed wholesale dealer may buy from another licensed wholesale dealer. It is unlawful for any licensed wholesale dealer to buy saltwater products designated as "restricted species" from any person, firm, or corporation not possessing a restricted species endorsement on his or her saltwater products license under the provisions of this section, except that a licensed wholesale dealer may buy from another licensed wholesale dealer. The *commission* ~~Department of Environmental Protection~~ shall be the licensing agency, may contract with private persons or entities to implement aspects of the licensing program, and shall establish by rule a marine fisheries information system in conjunction with the licensing program to gather fisheries data.

(b) Any person who sells, offers for sale, barters, or exchanges for merchandise saltwater products must have a method of catch preservation which meets the requirements and standards of the seafood quality control code promulgated by the *commission* ~~Department of Environmental Protection~~.

(c) A saltwater products license is required to harvest commercial quantities of saltwater products. Any vessel from which commercial quantities of saltwater products are harvested must have a commercial vessel registration. Commercial quantities of saltwater products shall be defined as:

1. With respect to those species for which no bag limit has been established, more than 100 pounds per person per day, provided that the harvesting of two fish or less per person per day shall not be considered commercial quantities regardless of aggregate weight; and

2. With respect to those species for which a bag limit has been established, more than the bag limit allowed by law or rule.

(d)1. In addition to the saltwater products license, a marine life fishing endorsement is required for the harvest of marine life species as defined by rule of the *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission. This endorsement may be issued only to a person who is at least 16 years of age or older or to a corporation holding a valid restricted species endorsement.

2.a. Effective July 1, 1998, and until July 1, 2002, a marine life endorsement may not be issued under this paragraph, except that those endorsements that are active during the 1997-1998 fiscal year may be renewed.

b. In 1998 persons or corporations holding a marine life endorsement that was active in the 1997-1998 fiscal year or an immediate family member of that person must request renewal of the marine life endorsement before December 31, 1998.

c. In subsequent years and until July 1, 2002, a marine life endorsement holder or member of his or her immediate family must request renewal of the marine life endorsement before September 30 of each year.

d. If a person or corporation holding an active marine life fishing endorsement or a member of that person's immediate family does not request renewal of the endorsement before the applicable dates specified in this paragraph, the *commission* ~~department~~ shall deactivate that marine life fishing endorsement.

e. In the event of the death or disability of a person holding an active marine life fishing endorsement, the endorsement may be transferred by the person to a member of his or her immediate family or may be renewed by any person so designated by the executor of the person's estate.

f. Persons or corporations who hold saltwater product licenses with marine life fishing endorsements issued to their vessel registration numbers and who subsequently replace their existing vessels with new ves-

sels may transfer the existing marine life fishing endorsement to the new boat registration numbers.

g. Persons or corporations who hold saltwater product licenses with marine life fishing endorsements issued to their name and who subsequently incorporate or unincorporate may transfer the existing marine life fishing endorsement to the new corporation or person.

h. By July 1, 2000, the *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission shall prepare a report regarding options for the establishment of a limited-entry program for the marine life fishery and submit the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the Senate and House committees having jurisdiction over marine resources.

3. The fee for a marine life fishery endorsement on a saltwater products license shall be $75. These license fees shall be collected and deposited in the Marine Resources Conservation Trust Fund and used for the purchase and installation of vessel mooring buoys at coral reef sites and for research related to marine fisheries.

(3) NET LICENSES.—Except for cast nets and bait seines which are 100 feet in length or less and which have a mesh that is ⅜ inch or less, all nets used to take finfish, including, but not limited to, gill nets, trammel nets, and beach seines, must be licensed or registered. Each net used to take finfish for commercial purposes, or by a nonresident, must be licensed under a saltwater products license issued pursuant to subsection (2) and must bear the number of such license. A noncommercial resident net registration must be issued to each net used to take finfish for noncommercial purposes and may only be issued to residents of the state. Each net so registered must bear the name of the person in whose name the net is registered.

(6) LICENSE YEAR.—The license year on all licenses relating to saltwater products dealers, seafood dealers, aliens, residents, and nonresidents, unless otherwise provided, shall begin on July 1 of each year and end on June 30 of the next succeeding year. All licenses shall be so dated. However, if the *commission* ~~department~~ determines that it is in the best interest of the state to issue a license required under this chapter to an individual on the birthday of the applicant, the *commission* ~~department~~ may establish by rule a procedure to do so. This section does not apply to licenses and permits when their use is confined to an open season.

(7) LICENSES SUBJECT TO INSPECTION; NONTRANSFERABLE; EXCEPTION.—Licenses of every kind and nature granted under the provisions of the fish and game laws of this state are at all times subject to inspection by the police officers of this state *and*~~,~~ the ~~wildlife~~ officers of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission~~, and the officers of the Marine Patrol~~. Such licenses are not transferable unless otherwise provided by law.

(8) COLLECTION OF LICENSES, FEES.—Unless otherwise provided by law, all license taxes or fees provided for in this chapter shall be collected by the *commission* ~~department~~ or its duly authorized agents or deputies to be deposited by the Comptroller in the Marine Resources Conservation Trust Fund. The *commission* ~~department~~ may by rule establish a reasonable processing fee for any free license or permit required under this chapter.

Section 98. Section 370.0605, Florida Statutes, 1998 Supplement, is amended to read:

370.0605 Saltwater fishing license required; fees.—

(1)(a) No person, except as provided in this section, may take, attempt to take, or possess any marine fish for noncommercial purposes unless the person has been issued an authorization, or has obtained a license pursuant to paragraph (2)(a) and any required permits under ss. 370.1111 and 370.14, nor may any person operate any vessel wherein a fee is paid either directly or indirectly for the purpose of taking, attempting to take, or possessing any marine fish for noncommercial purposes, unless he or she has been issued an authorization or has obtained a license for each vessel for that purpose and has paid the license fee pursuant to subparagraphs (2)(b)1. and 2. for such vessel. One-year licenses must be dated when issued and remain valid for 12 months after the date of issuance. Each license must bear on its face, in indelible ink, the name of the person to whom it is issued and other information required by the *commission* ~~department~~, and, if the license is issued to the owner, operator, or custodian of a vessel, the vessel registration number or federal documentation number must be included. Licenses, permits, and authorizations are not transferable.

(b) Any required license, permit, or authorization must be in the personal possession of the person taking, attempting to take, or possessing marine fish or in the possession of the person operating any vessel wherein a fee is paid, either directly or indirectly, for the purpose of taking or attempting to take marine fish for noncommercial purposes and must be exhibited to any authorized law enforcement officer upon his or her request. A positive form of identification is required when using an authorization.

(c)1. The 5-year licenses provided herein shall be embossed with the applicant's name, date of birth, and other pertinent information as deemed necessary by the *commission* ~~department~~.

2. A resident 5-year license which was purchased by a resident of this state who subsequently resides in another state will be honored for activities authorized by the license.

3. A positive form of identification is required when using a 5-year license.

(2) Saltwater fishing license fees are as follows:

(a)1. For a resident of the state, $12 for a 1-year license.

2. For a resident of the state, $60 for 5 consecutive years from the date of purchase.

3. For a nonresident of the state, $5 for a 3-day license, $15 for a 7-day license, and $30 for a 1-year license.

4. For purposes of this section, "resident" has the same meaning as that found in s. 372.001.

(b)1. For any person who operates any vessel licensed to carry more than 10 customers wherein a fee is paid, either directly or indirectly, for the purpose of taking or attempting to take marine fish, $800 per year. The license must be kept aboard the vessel at all times.

2. For any person who operates any vessel licensed to carry no more than 10 customers, or for any person licensed to operate any vessel carrying 6 or fewer customers, wherein a fee is paid, either directly or indirectly, for the purpose of taking or attempting to take marine fish, $400 per year; provided any person licensed to operate any vessel carrying 6 or fewer customers but who operates a vessel carrying 4 or fewer customers, wherein a fee is paid, either directly or indirectly, for such purposes, $200 per year. The license must be kept aboard the vessel at all times.

3. A person who operates a vessel required to be licensed pursuant to subparagraph 1. or subparagraph 2. may obtain a license in his or her own name, and such license shall be transferable and apply to any vessel operated by the purchaser, provided that the purchaser has paid the appropriate license fee.

4. For any pier fixed to the land for the purpose of taking or attempting to take marine fish therefrom, $500 per year. Owners, operators, or custodians of piers have the discretion to buy the annual $500 license. Those who elect to purchase such license must have the license available for inspection at all times.

5. For a recreational vessel not for hire and for which no fee is paid either directly or indirectly by guests, for the purpose of taking or attempting to take marine fish noncommercially, $2,000 per year. The license may be purchased at the option of the vessel owner and must be kept aboard the vessel at all times. A log of species taken and the date the species were taken shall be maintained and a copy of the log filed with the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ at the time of renewal of the license.

(c) The *commission* ~~department~~ is authorized to reduce the fees for licenses under this section for residents of those states with which the *commission* ~~department~~ has entered into reciprocal agreements with respect to such fees.

(d) License fees paid pursuant to this subsection are nonrefundable and may not be used as credit toward any other license fee required by

this chapter. No other license fee paid pursuant to this chapter shall be used as credit towards the license fees required by this subsection. The owner, operator, or custodian of a vessel the operator of which has been licensed pursuant to subsection (1) must maintain and report such statistical data as required by, and in a manner set forth in, the rules of the *commission* ~~department~~.

(3) A saltwater fishing license is not required for:

(a) Any person under 16 years of age.

(b) Any Florida resident fishing in salt water from land or from a structure fixed to the land.

(c) Any person fishing from a vessel the operator of which is licensed pursuant to subsection (1).

(d) Any person who holds a valid saltwater products license issued pursuant to s. 370.06(2).

(e) Any resident 65 years of age or older.

(f) Any resident who is a member of the Armed Forces of the United States, who is not stationed in this state, when fishing while home on leave for 30 days or less, upon submission of orders.

(g) Any person who has been accepted by the Department of Health and Rehabilitative Services for developmental services or any licensed provider of services to the State of Florida through contract with the Department of Health and Rehabilitative Services, where such service involves the need, normally, for possession of a saltwater fishing license and such service is provided as part of a court-decided rehabilitation program involving training in Florida's aquatic resources.

(h) Any person fishing from a pier licensed pursuant to subparagraph (2)(b)4.

(i) Any person fishing from a vessel which is licensed pursuant to subparagraph (2)(b)5.

(j) Any Florida resident who is fishing for mullet in fresh water and has a valid Florida freshwater fishing license.

(k) Any Florida resident fishing for a saltwater species in fresh water from land or from a structure fixed to the land.

(4) A saltwater fishing license must be issued, without license fee, to any resident who is certified to be totally and permanently disabled by the verified written statement which is based upon the criteria for permanent total disability in chapter 440 of a physician licensed in this state, by any branch of the United States Armed Services, by the Social Security Administration, or by the United States Department of Veterans Affairs or its predecessor or who holds a valid identification card issued by the Department of Veterans' Affairs pursuant to s. 295.17. A Disability Award Notice issued by the United States Social Security Administration is not sufficient certification for obtaining a permanent fishing license under this section unless the notice certifies a resident is totally and permanently disabled. Any license issued after January 1, 1997, expires after 5 years and must be reissued, upon request, every 5 years thereafter.

(5) The *Fish and Wildlife Conservation* ~~Game and Freshwater Fish~~ Commission may issue temporary fishing licenses, upon request, to governmental or nonprofit organizations that sponsor 1-day special events in fishing management areas for individuals with physical, mental, or emotional disabilities, or for the economically disadvantaged. There shall be no fee for such temporary license. The temporary license shall be valid for 1 day and shall designate the date and maximum number of individuals.

(6)(a) The *Fish and Wildlife Conservation* ~~Game and Freshwater Fish~~ Commission, all county tax collectors, or any appointed subagent may sell licenses and permits and collect fees pursuant to this section.

(b) The commission is the issuing department for the purpose of issuing licenses and permits and collecting fees pursuant to this section.

(c) In addition to the license and permit fee collected, the sum of $1.50 shall be charged for each license. Such charge shall be for the purpose of, and the source from which is subtracted, all administrative costs of issuance, including, but not limited to, printing, distribution, and credit card fees. Tax collectors may retain $1.50 for each license sold.

(d)1. Each county tax collector shall maintain records of all such licenses, permits, and stamps that are sold, voided, stolen, or lost. Licenses and permits must be issued and reported, and fees must be remitted, in accordance with the procedures established in chapter 372.

2. Not later than August 15 of each year, each county tax collector shall submit to the *Fish and Wildlife Conservation* ~~Game and Freshwater Fish~~ Commission all unissued stamps for the previous fiscal year along with a written audit report, on forms prescribed or approved by the *Fish and Wildlife Conservation* ~~Game and Freshwater Fish~~ Commission, as to the numbers of the unissued stamps.

(e) A license or permit to replace a lost or destroyed license or permit may be obtained by submitting an application for replacement. The fee is $10 for each application for replacement of a lifetime license and $2 for each application for replacement for any other license or permit. Such fees shall be for the purpose of, and the source from which is subtracted, all administrative costs of issuing the license or permit, including, but not limited to, printing, distribution, and credit card fees. Tax collectors may retain $1 for each application for a replacement license or permit processed.

~~(7)(a) Each county tax collector, as issuing agent for the department, shall submit to the department by January 31, 1997, a report of the sale of, and payment for, all licenses and permits sold between June 1, 1996, and December 31, 1996.~~

~~(b) By March 15, 1997, each county tax collector shall provide the department with a written report, on forms provided by the department, of the audit numbers of all unissued licenses and permits for the period of June 1, 1996, to December 31, 1996. Within 30 days after the submission of the annual audit report, each county tax collector shall provide the department with a written audit report of unissued, sold, and voided licenses, permits, and stamps, together with a certified reconciliation statement prepared by a certified public accountant. Concurrent with the submission of the certification, the county tax collector shall remit to the department the monetary value of all licenses, permits, and stamps that are unaccounted for. Each tax collector is also responsible for fees for all licenses, permits, and stamps distributed by him or her to subagents, sold by him or her, or reported by him or her as lost.~~

(7)~~(8)~~ A person may not alter or change in any manner, or loan or transfer to another, any license issued pursuant to this section, nor may any person other than the person to whom it is issued use the license.

(8)~~(9)~~ It is unlawful for any person to knowingly and willfully enter false information on, or allow or cause false information to be entered on or shown upon, any license issued pursuant to this section in order to avoid prosecution or to assist another to avoid prosecution or for any other wrongful purpose.

(9)~~(10)~~ The *Fish and Wildlife Conservation* ~~department, the Game and Fresh Water Fish~~ Commission~~,~~ or any other law enforcement agency may make any investigation necessary to secure information required to carry out and enforce this section.

(10)~~(11)~~ It is unlawful for any person to make, forge, counterfeit, or reproduce a saltwater fishing license unless authorized by the *commission* ~~department~~. It is unlawful for any person knowingly to have in his or her possession a forged, counterfeit, or imitation of such license, unless possession by such person has been fully authorized by the *commission* ~~department~~. Any person who violates this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(11)~~(12)~~(a) Any person cited for a violation of the license requirements of subsection (1) or the stamp requirements of s. 370.1111(1)(a) or s. 370.14(11)(a) is guilty of a noncriminal infraction, shall be cited for such an infraction, and shall be cited to appear before the county court. The civil penalty for any such infraction is $50, in addition to the cost of the amount of the annual license fee or stamp involved in the infraction, except as otherwise provided in this section. The civil penalty for any other noncriminal infraction shall be $50, except as otherwise provided in this section.

(b) Any person cited for an infraction under this section may:

1. Post a bond, which shall be equal in amount to the applicable civil penalty; or

2. Sign and accept a citation indicating a promise to appear before the county court.

The officer may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.

(c) Any person who willfully refuses to post a bond or accept and sign a citation is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(d) Any person charged with a noncriminal infraction under this section may:

1. Pay the civil penalty, either by mail or in person, within 30 days after the date of receiving the citation; or

2. If the person has posted bond, forfeit bond by not appearing at the designated time and location.

If the person cited follows either procedure prescribed in this paragraph, he or she has admitted the infraction and waives his or her right to a hearing on the issue of commission of the infraction. Such admission may not be used as evidence in any other proceedings.

(e) Any person who elects to appear before the county court or who is required so to appear waives the limitations of the civil penalty specified in paragraph (a). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction is proved, the court may impose a civil penalty not to exceed $500.

(f) At a hearing under this subsection, the commission of a charged infraction must be proved beyond a reasonable doubt.

(g) If a person is found by the hearing official to have committed an infraction, he or she may appeal that finding to the circuit court.

(h) Effective October 1, 1991, any person who fails to pay the civil penalty specified in paragraph (a) within 30 days or who fails to appear before the court is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(12)~~(13)~~ The *Fish and Wildlife Conservation* ~~department or the Game and Fresh Water Fish~~ Commission may designate by rule no more than 2 consecutive or nonconsecutive days in each year as "Disabled Angler Fishing Days." Notwithstanding any other provision of this chapter, any disabled person may take marine fish for noncommercial purposes on a Disabled Angler Fishing Day without obtaining or possessing a license or paying a license fee as prescribed in this section. A disabled person who takes marine fish on a Disabled Angler Fishing Day without obtaining a license or paying a fee must comply with all laws and regulations governing holders of a license and all other conditions and limitations regulating the taking of marine fish as are imposed by law or rule.

Section 99. Paragraph (a) of subsection (1) and subsections (3) and (8) of section 370.0615, Florida Statutes, are amended to read:

370.0615 Lifetime licenses.—

(1) A resident lifetime saltwater fishing license authorizes the holder to engage in the following noncommercial activities:

(a) To take or attempt to take or possess marine fish consistent with state and federal regulations and rules of the *Fish and Wildlife Conservation* ~~Department of Environmental Protection or the Marine Fisheries~~ Commission.

(3) The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall be the issuing agent for all lifetime licenses and all replacement lifetime licenses, and is authorized to collect the fees therefor.

(8) License moneys collected for lifetime licenses and replacement lifetime licenses, along with a report of funds collected and other required documentation, shall be remitted to the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission within 10 days after the moneys are collected.

Section 100. Section 370.062, Florida Statutes, 1998 Supplement, is amended to read:

370.062 *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ license program for tarpon; fees; penalties.—

(1) The *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ shall establish a license program for the purpose of issuing tags to individuals desiring to harvest tarpon (megalops atlantica) from the waters of the State of Florida. The tags shall be nontransferable, except that the ~~Marine Fisheries~~ commission may allow for a limited number of tags to be purchased by professional fishing guides for transfer to individuals, and issued by the *commission* ~~department~~ in order of receipt of a properly completed application for a nonrefundable fee of $50 per tag. The ~~Game and Fresh Water Fish~~ commission and any tax collector may sell the tags and collect the fees therefor. Tarpon tags are valid from July 1 through June 30. Before August 5 of each year, each tax collector shall submit to the ~~Game and Fresh Water Fish~~ commission all unissued tags for the previous calendar year along with a written audit report, on forms prescribed or approved by the ~~Game and Fresh Water Fish~~ commission, as to the numbers of the unissued tags. To defray the cost of issuing any tag, the issuing tax collector shall collect and retain as his or her costs, in addition to the tag fee collected, the amount allowed under s. 372.561(4) for the issuance of licenses.

(2) The number of tags to be issued shall be determined by rule of the ~~Marine Fisheries~~ commission. The commission shall in no way allow the issuance of tarpon tags to adversely affect the tarpon population.

(3) Proceeds from the sale of tarpon tags shall be deposited in the Marine Resources Conservation Trust Fund and shall be used to gather information directly applicable to tarpon management.

(4) No individual shall take, kill, or possess any fish of the species megalops atlantica, commonly known as tarpon, unless such individual has purchased a tarpon tag and securely attached it through the lower jaw of the fish. Said individual shall within 5 days after the landing of the fish submit a form to the *commission* ~~department~~ which indicates the length, weight, and physical condition of the tarpon when caught; the date and location of where the fish was caught; and any other pertinent information which may be required by the *commission* ~~department~~. The *commission* ~~department~~ may refuse to issue new tags to individuals or guides who fail to provide the required information.

(5) Any individual including a taxidermist who possesses a tarpon which does not have a tag securely attached as required by this section shall be subject to penalties as prescribed in s. 370.021. Provided, however, a taxidermist may remove the tag during the process of mounting a tarpon. The removed tag shall remain with the fish during any subsequent storage or shipment.

(6) Purchase of a tarpon tag shall not accord the purchaser any right to harvest or possess tarpon in contravention of rules adopted by the ~~Marine Fisheries~~ commission. No individual may sell, offer for sale, barter, exchange for merchandise, transport for sale, either within or without the state, offer to purchase, or purchase any species of fish known as tarpon.

(7) The *commission* ~~department~~ shall prescribe and provide suitable forms and tags necessary to carry out the provisions of this section.

(8) The provisions of this section shall not apply to anyone who immediately returns a tarpon uninjured to the water at the place where the fish was caught.

(9) All tag fees collected by the ~~Game and Fresh Water Fish~~ commission shall be transferred to the Marine Resources Conservation Trust Fund within 7 days following the last business day of the week in which the fees were received by the ~~Game and Fresh Water Fish~~ commission.

Section 101. Subsection (2) of section 370.0805, Florida Statutes, 1998 Supplement, is amended to read:

370.0805 Net ban assistance program.—

(2) ELIGIBILITY FOR ECONOMIC ASSISTANCE.—The Department of Labor and Employment Security shall determine the eligibility of applicants for economic assistance under this section.

(a) Any person who has been convicted of more than two violations of any rule of the *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission or of any provision of this chapter in any single license year since 1991, or of more than four such violations from the period of 1991 through 1995, inclusive, shall not be eligible for economic assistance under this section.

(b) Only a person who was a resident of this state on November 8, 1994, is eligible to receive, or designate another resident to receive, economic assistance under this section.

Section 102. Subsection (3) and paragraphs (e) and (h) of subsection (4) of section 370.081, Florida Statutes, 1998 Supplement, are amended to read:

370.081 Illegal importation or possession of nonindigenous marine plants and animals; rules and regulations.—

(3) The *Fish and Wildlife Conservation Commission* ~~department~~ is authorized to adopt, pursuant to chapter 120, rules and regulations to include any additional marine plant or marine animal which may endanger or infect the marine resources of the state or pose a human health hazard.

(4) A zoological park and aquarium may import sea snakes of the family Hydrophiidae for exhibition purposes~~,~~ only under the following conditions:

(e) Each zoological park and aquarium possessing sea snakes shall post with the *commission* ~~department~~ a $1 million letter of credit. The letter of credit shall be in favor of the State of Florida, *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~, for use by the *commission* ~~department~~ to remove any sea snake accidentally or intentionally introduced into waters of the state. The letter of credit shall be written in the form determined by the *commission* ~~department~~. The letter of credit shall provide that the zoological park and aquarium is responsible for the sea snakes within that facility and shall be in effect at all times that the zoological park and aquarium possesses sea snakes.

(h) A zoological park and aquarium possessing sea snakes shall abide by all statutory and regulatory requirements of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission with respect to venomous reptiles.

Section 103. Subsections (3), (4), and (5) of section 370.092, Florida Statutes, 1998 Supplement, are amended to read:

370.092 Carriage of proscribed nets across Florida waters.—

(3) Notwithstanding subsections (1) and (2), unless authorized by rule of the *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission, it is a major violation under this section, punishable as provided in subsection (4), for any person, firm, or corporation to possess any gill or entangling net, or any seine net larger than 500 square feet in mesh area, on any airboat or on any other vessel less than 22 feet in length and on any vessel less than 25 feet if primary power of the vessel is mounted forward of the vessel center point. Gill or entangling nets shall be as defined in s. 16, Art. X of the State Constitution, s. 370.093(2)(b), or in a rule of the *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission implementing s. 16, Art. X of the State Constitution. Vessel length shall be determined in accordance with current United States Coast Guard regulations specified in the Code of Federal Regulations or as titled by the State of Florida. The Marine Fisheries Commission is directed to initiate by July 1, 1998, rulemaking to adjust by rule the use of gear on vessels longer than 22 feet where the primary power of the vessel is mounted forward of the vessel center point in order to prevent the illegal use of gill and entangling nets in state waters and to provide reasonable opportunities for the use of legal net gear in adjacent federal waters.

(4) The *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission shall adopt rules to prohibit the possession and sale of mullet taken in illegal gill or entangling nets. Violations of such rules shall be punishable as provided in subsection (4).

(5) The *commission* ~~department~~ has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

Section 104. Section 370.1107, Florida Statutes, is amended to read:

370.1107 Definition; possession of certain licensed traps prohibited; penalties; exceptions; consent.—

(1) As used in this section, the term "licensed saltwater fisheries trap" means any trap required to be licensed by the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ and authorized pursuant to this chapter or by the ~~Florida Marine Fisheries~~ commission for the taking of saltwater products.

(2) It is unlawful for any person, firm, corporation, or association to be in actual or constructive possession of a licensed saltwater fisheries trap registered with the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ in another person's, firm's, corporation's, or association's name.

(a) Unlawful possession of less than three licensed saltwater fisheries traps is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Unlawful possession of three or more licensed saltwater fisheries traps is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Upon the arrest and conviction for violation of this section, any licenseholder shall show just cause why his or her license shall not be suspended or permanently revoked.

(3) This section shall not apply to the agents or employees of the registered owner of the licensed saltwater fisheries trap or to a person, firm, corporation or association who has the written consent from the owner of the licensed saltwater fisheries trap, to possess such licensed saltwater fisheries trap, or to agents or employees of the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ who are engaged in the removal of traps during the closed season.

(4) The registered owner of the licensed saltwater fisheries trap shall provide the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ with the names of any agents, employees, or any other person, firm, company, or association to whom the registered owner has given consent to possess said licensed saltwater fisheries trap.

Section 105. Section 370.1111, Florida Statutes, is amended to read:

370.1111 Snook; regulation.—

(1)(a) In addition to licenses required by s. 370.0605, any person who takes and possesses any snook from any waters of the state must have a snook permit. The permit remains valid for 12 months after the date of issuance. The cost of each snook permit is $2. Each snook permit issued pursuant to this section is valid only during the times established by law for the taking of snook. The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, any tax collector, or any appointed subagent may sell the permit and collect the fees therefor.

(b) The intent of paragraph (a) is to expand research and management to increase snook populations in the state without detracting from other programs. Moneys generated from snook permits shall be used exclusively for programs to benefit snook populations.

(c) All permit fees collected by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall be transferred to the Marine Resources Conservation Trust Fund within 7 days following the last business day of the week in which the fees were received by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

(2) The *commission* ~~department~~ may periodically conduct competitions to select a designer of the snook stamp. Also, the *commission* ~~department~~ may enhance revenues from the sale of snook stamps by issuing special editions for stamp collectors and other such special purposes.

Section 106. Subsection (1) of section 370.13, Florida Statutes, 1998 Supplement, is amended to read:

370.13 Stone crab; regulation.—

(1)(a) It is unlawful for any person, firm, or corporation to catch or have in his or her possession, regardless of where taken, for his or her own use or to sell or offer for sale, any stone crab, or parts thereof, of any size between May 15 and October 15 of each year, except for stone crabs, or parts thereof, placed in inventory prior to May 15 of each year.

(b) "Stone crab" means the species Menippe mercenaria or any other species of the family Xanthidae as the *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission may define by rule.

Section 107. Section 370.14, Florida Statutes, 1998 Supplement, is amended to read:

370.14 Crawfish; regulation.—

(1) It is the intent of the Legislature to maintain the crawfish industry for the economy of the state and to conserve the stocks supplying this industry. The provisions of this act regulating the taking of saltwater crawfish are for the purposes of ensuring and maintaining the highest possible production of saltwater crawfish.

(2)(a) Each trap used for taking or attempting to take crawfish must have a trap number permanently attached to the trap and the buoy. This trap number may be issued by the *Fish and Wildlife Conservation Commission* ~~Division of Law Enforcement~~ upon the receipt of application by the owner of the traps and accompanied by the payment of a fee of $100. The design of the applications and of the trap number shall be determined by the *commission* ~~division~~. However, effective July 1, 1988, and until July 1, 1992, no crawfish trap numbers issued pursuant to this section except those numbers that were active during the 1990-1991 fiscal year shall be renewed or reissued. No new trap numbers shall be issued during this period. Until July 1, 1992, trap number holders or members of their immediate family or a person to whom the trap number was transferred in writing must request renewal of the number prior to June 30 of each year. If a person holding an active trap number or a member of the person's immediate family or a person to whom the trap number was transferred in writing does not request renewal of the number before the applicable date as specified above, the *commission* ~~department~~ may reissue the number to another applicant in the order of the receipt of the application for a trap number. Any trap or device used in taking or attempting to take crawfish, other than a trap with the trap number attached as prescribed in this paragraph, shall be seized and destroyed by the *commission* ~~division~~. The proceeds of the fees imposed by this paragraph shall be deposited and used as provided in paragraph (b). The *commission* ~~Department of Environmental Protection~~ is authorized to promulgate rules and regulations to carry out the intent of this section.

(b) Fees collected pursuant to paragraph (a) shall be deposited as follows:

1. Fifty percent of the fees collected shall be deposited in the Marine Resources Conservation Trust Fund for use in enforcing the provisions of paragraph (a) through aerial and other surveillance and trap retrieval.

2. Fifty percent of the fees collected shall be deposited as provided in s. 370.142(5).

(3) The crawfish license must be on board the boat, and both the license and the harvested crawfish shall be subject to inspection at all times. Only one license shall be issued for each boat. The crawfish license number must be prominently displayed above the topmost portion of the boat so as to be easily and readily identified.

(4) It is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, for any person willfully to molest any crawfish traps, lines, or buoys belonging to another without permission of the licenseholder.

(5) Any crawfish licenseholder, upon selling licensed crawfish traps, shall furnish the *commission* ~~division~~ notice of such sale of all or part of his or her interest within 15 days thereof. Any holder of said license shall also notify the *commission* ~~division~~ within 15 days if his or her address no longer conforms to the address appearing on the license and shall, as a part of such notification, furnish the *commission* ~~division~~ with his or her new address.

(6) A person who takes more crawfish per boat or per person than that number set therefor by rule of the *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission for recreational harvesters within any 24-hour period by any method other than with traps or similar devices must also pay a fee of $100 and obtain a trap number to be displayed on his or her boat.

(7)(a) By a special permit granted by the *commission* ~~Division of Law Enforcement~~, a Florida-licensed seafood dealer may lawfully import, process, and package saltwater crawfish or uncooked tails of the species Panulirus argus during the closed season. However, crawfish landed under special permit shall not be sold in the state.

(b) The licensed seafood dealer importing any such crawfish under the permit shall, 12 hours prior to the time the seagoing vessel or airplane delivering such imported crawfish enters the state, notify the *commission* ~~Division of Law Enforcement~~ as to the seagoing vessel's name or the airplane's registration number and its captain, location, and point of destination.

(c) At the time the crawfish cargo is delivered to the permitholder's place of business, the crawfish cargo shall be weighed and shall be available for inspection by the *commission* ~~Department of Environmental Protection~~. A signed receipt of such quantity in pounds shall be forwarded to the *commission* ~~Division of Law Enforcement's local Florida Marine Patrol office~~ within 48 hours after shipment weigh-in completion. If requested by the *commission* ~~department~~, the weigh-in process will be delayed up to 4 hours to allow for a *commission* ~~department~~ representative to be present during the process.

(d) Within 48 hours after shipment weigh-in completion, the permitholder shall submit to the *commission* ~~Division of Law Enforcement~~, on forms provided by the *commission* ~~division~~, a sworn report of the quantity in pounds of the saltwater crawfish received, which report shall include the location of said crawfish and a sworn statement that said crawfish were taken at least 50 miles from Florida's shoreline. The landing of crawfish or crawfish tails from which the eggs, swimmerettes, or pleopods have been removed; the falsification of information as to area from which crawfish were obtained; or the failure to file the report called for in this section shall be grounds to revoke the permit.

(e) Each permitholder shall keep throughout the period of the closed season copies of the bill of sale or invoices covering each transaction involving crawfish imported under this permit. Such invoices and bills shall be kept available at all times for inspection by the *commission* ~~division~~.

(8)(a) A Florida-licensed seafood dealer may obtain a special permit to import, process, and package uncooked tails of saltwater crawfish upon the payment of the sum of $100 to the *commission* ~~Division of Law Enforcement~~.

(b) A special permit must be obtained by any airplane or seagoing vessel other than a common carrier used to transport saltwater crawfish or crawfish tails for purchase by licensed seafood dealers for purposes as provided herein upon the payment of $50.

(c) All special permits issued under this subsection are nontransferable.

(9) No common carrier or employee of said carrier may carry, knowingly receive for carriage, or permit the carriage of any crawfish of the species Panulirus argus, regardless of where taken, during the closed season, except of the species Panulirus argus lawfully imported from a foreign country for reshipment outside of the territorial limits of the state under United States Customs bond or in accordance with *(7)(a)* ~~paragraph (8)(a)~~.

(10)(a) In addition to licenses required by s. 370.0605, any person who takes and possesses any crawfish for recreational purposes from any waters of the state must have a crawfish permit. The permit remains valid for 12 months after the date of issuance. The cost of each crawfish permit shall be $2. Each crawfish permit issued pursuant to this section shall be valid only during the times established by law for the taking of crawfish. The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, any tax collector, or any subagent may sell the permit and collect the fees therefor.

(b) The intent of paragraph (a) is to expand research and management to increase crawfish populations in the state without detracting from other programs. Moneys generated from crawfish permits shall be used exclusively for programs to benefit crawfish populations.

(c) All permit fees collected by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall be transferred to the Marine Resources Conservation Trust Fund within 7 days following the last business day of the week in which the fees were received by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

(11) The *commission* ~~department~~ may conduct competitions to periodically select a designer of the crawfish stamp. Also, the *commission* ~~department~~ may enhance revenues from the sale of crawfish stamps by issuing special editions for stamp collectors and other such special purposes.

Section 108. Subsection (2) of section 370.1405, Florida Statutes, 1998 Supplement, is amended to read:

370.1405 Crawfish reports by dealers during closed season required.—

(2) Failure to submit a report as described in subsection (1) or reporting a greater or lesser amount of whole crawfish, crawfish tails, or crawfish meat than is actually in the dealer's possession or name is a major violation of this chapter, punishable as provided in *s. 370.021(1)* ~~s. 370.021(2)~~, s. 370.07(6)(b), or both. The *commission* ~~department~~ shall seize the entire supply of unreported or falsely reported whole crawfish, crawfish tails, or crawfish meat, and shall carry the same before the court for disposal. The dealer shall post a cash bond in the amount of the fair value of the entire quantity of unreported or falsely reported crawfish as determined by the judge. After posting the cash bond, the dealer shall have 24 hours to transport said products outside the limits of Florida for sale as provided by s. 370.061. Otherwise, the product shall be declared a nuisance and disposed of by the *commission* ~~department~~ according to law.

Section 109. Section 370.142, Florida Statutes, 1998 Supplement, is amended to read:

370.142 Spiny lobster trap certificate program.—

(1) INTENT.—Due to rapid growth, the spiny lobster fishery is experiencing increased congestion and conflict on the water, excessive mortality of undersized lobsters, a declining yield per trap, and public concern over petroleum and debris pollution from existing traps. In an effort to solve these and related problems, the Legislature intends to develop pursuant to the provisions of this section a spiny lobster trap certificate program, the principal goal of which is to stabilize the fishery by reducing the total number of traps, which should increase the yield per trap and therefore maintain or increase overall catch levels. The Legislature seeks to preserve as much flexibility in the program as possible for the fishery's various constituents and ensure that any reduction in total trap numbers will be proportioned equally on a percentage basis among all users of traps in the fishery.

(2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES; PENALTIES.—The *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ shall establish a trap certificate program for the spiny lobster fishery of this state and shall be responsible for its administration and enforcement as follows:

(a) Transferable trap certificates.—Each holder of a saltwater products license who uses traps for taking or attempting to take spiny lobsters shall be required to have a certificate on record for each trap possessed or used therefor, except as otherwise provided in this section.

1. The Department *of Environmental Protection* shall initially allot such certificates to each licenseholder with a current crawfish trap number who uses traps. The number of such certificates allotted to each such licenseholder shall be based on the trap/catch coefficient established pursuant to trip ticket records generated under the provisions of s. 370.06(2)(a) over a 3-year base period ending June 30, 1991. The trap/catch coefficient shall be calculated by dividing the sum of the highest reported single license-year landings up to a maximum of 30,000 pounds for each such licenseholder during the base period by 700,000. Each such licenseholder shall then be allotted the number of certificates derived by dividing his or her highest reported single license-year landings up to a maximum of 30,000 pounds during the base period by the trap/catch coefficient. Nevertheless, no licenseholder with a current crawfish trap number shall be allotted fewer than 10 certificates. However, certificates may only be issued to individuals; therefore, all licenseholders other than individual licenseholders shall designate the individual or individuals to whom their certificates will be allotted and the number thereof to each, if more than one. After initial issuance, trap certificates are transferable on a market basis and may be transferred from one licenseholder to another for a fair market value agreed upon between the transferor and transferee. Each such transfer shall, within 72 hours thereof, be recorded on a notarized form provided for that purpose by the *Fish and Wildlife Conservation Commission* ~~department~~ and hand delivered or sent by certified mail, return receipt requested, to the *commission* ~~department~~ for recordkeeping purposes. In addition, in order to cover the added administrative costs of the program and to recover an equitable natural resource rent for the people of the state, a transfer fee of $2 per certificate transferred shall be assessed against the purchasing licenseholder and sent by money order or cashier's check with the certificate transfer form. Also, in addition to the transfer fee, a surcharge of $5 per certificate transferred or 25 percent of the actual market value, whichever is greater, given to the transferor shall be assessed the first time a certificate is transferred outside the original transferor's immediate family. No transfer of a certificate shall be effective until the *commission* ~~department~~ receives the notarized transfer form and the transfer fee, including any surcharge, is paid. The *commission* ~~department~~ may establish by rule an amount of equitable rent per trap certificate that shall be recovered as partial compensation to the state for the enhanced access to its natural resources. In determining whether to establish such a rent and, if so, the amount thereof, the *commission* ~~department~~ shall consider the amount of revenues annually generated by certificate fees, transfer fees, surcharges, trap license fees, and sales taxes, the demonstrated fair market value of transferred certificates, and the continued economic viability of the commercial lobster industry. The proceeds of equitable rent recovered shall be deposited in the Marine Resources Conservation Trust Fund and used by the *commission* ~~department~~ for research, management, and protection of the spiny lobster fishery and habitat.

2. No person, firm, corporation, or other business entity may control, directly or indirectly, more than 1.5 percent of the total available certificates in any license year.

3. The *commission* ~~department~~ shall maintain records of all certificates and their transfers and shall annually provide each licenseholder with a statement of certificates held.

4. The number of trap tags issued annually to each licenseholder shall not exceed the number of certificates held by the licenseholder at the time of issuance, and such tags and a statement of certificates held shall be issued simultaneously.

5. Beginning July 1, 2003, and applicable to the 2003-2004 lobster season and thereafter, it is unlawful for any person to lease lobster trap tags or certificates.

(b) Trap tags.—Each trap used to take or attempt to take spiny lobsters in state waters or adjacent federal waters shall, in addition to the crawfish trap number required by s. 370.14(2), have affixed thereto an annual trap tag issued by the *commission* ~~department~~. Each such tag shall be made of durable plastic or similar material and shall, beginning with those tags issued for the 1993-1994 season based on the number of certificates held, have stamped thereon the owner's license number. To facilitate enforcement and recordkeeping, such tags shall be issued each year in a color different from that of each of the previous 3 years. A fee of 50 cents per tag issued other than on the basis of a certificate held shall be assessed through March 31, 1993. Until 1995, an annual fee of 50 cents per certificate shall be assessed, and thereafter, until 1998, an annual fee of 75 cents per certificate shall be assessed upon issuance in order to recover administrative costs of the tags and the certificate program. Beginning in 1998, the annual certificate fee shall be $1 per certificate. Replacement tags for lost or damaged tags may be obtained as provided by rule of the *commission* ~~department~~.

(c) Prohibitions; penalties.—

1. It is unlawful for a person to possess or use a spiny lobster trap in or on state waters or adjacent federal waters without having affixed thereto the trap tag required by this section. It is unlawful for a person

to possess or use any other gear or device designed to attract and enclose or otherwise aid in the taking of spiny lobster by trapping that is not a trap as defined in rule 46-24.006(2), Florida Administrative Code.

2. It is unlawful for a person to possess or use spiny lobster trap tags without having the necessary number of certificates on record as required by this section.

3. In addition to any other penalties provided in s. 370.021, a commercial harvester, as defined by rule 46-24.002(1), Florida Administrative Code, who violates the provisions of this section, or the provisions relating to traps of chapter 46-24, Florida Administrative Code, shall be punished as follows:

a. If the first violation is for violation of subparagraph 1. or subparagraph 2., the *commission* ~~department~~ shall assess an additional civil penalty of up to $1,000 and the crawfish trap number issued pursuant to s. 370.14(2) or (7) may be suspended for the remainder of the current license year. For all other first violations, the *commission* ~~department~~ shall assess an additional civil penalty of up to $500.

b. For a second violation of subparagraph 1. or subparagraph 2. which occurs within 24 months of any previous such violation, the *commission* ~~department~~ shall assess an additional civil penalty of up to $2,000 and the crawfish trap number issued pursuant to s. 370.14(2) or *(6)* ~~(7)~~ may be suspended for the remainder of the current license year.

c. For a third or subsequent violation of subparagraph 1. or subparagraph 2. which occurs within 36 months of any previous two such violations, the *commission* ~~department~~ shall assess an additional civil penalty of up to $5,000 and may suspend the crawfish trap number issued pursuant to s. 370.14(2) or *(6)* ~~(7)~~ for a period of up to 24 months or may revoke the crawfish trap number and, if revoking the crawfish trap number, may also proceed against the licenseholder's saltwater products license in accordance with the provisions of *s. 370.021(2)(i)* ~~s. 370.021(2)(e)~~.

d. Any person assessed an additional civil penalty pursuant to this section shall within 30 calendar days after notification:

(I) Pay the civil penalty to the *commission* ~~department~~; or

(II) Request an administrative hearing pursuant to the provisions of s. 120.60.

e. The *commission* ~~department~~ shall suspend the crawfish trap number issued pursuant to s. 370.14(2) or *(6)* ~~(7)~~ for any person failing to comply with the provisions of sub-subparagraph d.

4.a. It is unlawful for any person to make, alter, forge, counterfeit, or reproduce a spiny lobster trap tag or certificate.

b. It is unlawful for any person to knowingly have in his or her possession a forged, counterfeit, or imitation spiny lobster trap tag or certificate.

c. It is unlawful for any person to barter, trade, sell, supply, agree to supply, aid in supplying, or give away a spiny lobster trap tag or certificate or to conspire to barter, trade, sell, supply, aid in supplying, or give away a spiny lobster trap tag or certificate unless such action is duly authorized by the *commission* ~~department~~ as provided in this chapter or in the rules of the *commission* ~~department~~.

5.a. Any person who violates the provisions of subparagraph 4., or any person who engages in the commercial harvest, trapping, or possession of spiny lobster without a crawfish trap number as required by s. 370.14(2) or *(6)* ~~(7)~~ or during any period while such crawfish trap number is under suspension or revocation, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. In addition to any penalty imposed pursuant to sub-subparagraph a., the *commission* ~~department~~ shall levy a fine of up to twice the amount of the appropriate surcharge to be paid on the fair market value of the transferred certificates, as provided in subparagraph (a)1., on any person who violates the provisions of sub-subparagraph 4.c.

6. Any certificates for which the annual certificate fee is not paid for a period of 3 years shall be considered abandoned and shall revert to the *commission* ~~department~~. During any period of trap reduction, any certificates reverting to the *commission* ~~department~~ shall become permanently unavailable and be considered in that amount to be reduced during the next license-year period. Otherwise, any certificates that revert to the *commission* ~~department~~ are to be reallotted in such manner as provided by the *commission* ~~department~~.

7. The proceeds of all civil penalties collected pursuant to subparagraph 3. and all fines collected pursuant to sub-subparagraph 5.b. shall be deposited into the Marine Resources Conservation Trust Fund.

8. All traps shall be removed from the water during any period of suspension or revocation.

(d) No vested rights.—The trap certificate program shall not create vested rights in licenseholders whatsoever and may be altered or terminated as necessary to protect the spiny lobster resource, the participants in the fishery, or the public interest.

(3) TRAP REDUCTION.—The objective of the overall trap certificate program is to reduce the number of traps used in the spiny lobster fishery to the lowest number that will maintain or increase overall catch levels, promote economic efficiency in the fishery, and conserve natural resources. Therefore, the Marine Fisheries Commission shall set an overall trap reduction goal based on maintaining or maximizing a sustained harvest from the spiny lobster fishery. To reach that goal, the *Marine Fisheries* Commission shall, by July 1, 1992, set an annual trap reduction schedule, not to exceed 10 percent per year, applicable to all certificateholders until the overall trap reduction goal is reached. All certificateholders shall have their certificate holdings reduced by the same percentage of certificates each year according to the trap reduction schedule. *Until July 1, 1999,* the *Department of Environmental Protection* ~~department~~ shall ~~then~~ issue the number of trap tags authorized by the *Marine Fisheries Commission* ~~commission~~, as requested, and a revised statement of certificates held. *Beginning July 1, 1999, the Fish and Wildlife Conservation Commission shall annually issue the number of trap tags authorized by the commission's schedule, as requested, and a revised statement of certificates held.* Certificateholders may maintain or increase their total number of certificates held by purchasing available certificates from within the authorized total. The *Fish and Wildlife Conservation* Commission shall provide for an annual evaluation of the trap reduction process and shall suspend the annual percentage reductions for any period deemed necessary by the commission in order to assess the impact of the trap reduction schedule on the fishery. The *Fish and Wildlife Conservation Commission* ~~commission~~ may then, by rule, resume, terminate, or reverse the schedule as it deems necessary to protect the spiny lobster resource and the participants in the fishery.

(4) TRAP CERTIFICATE TECHNICAL ADVISORY AND APPEALS BOARD.—There is hereby established the Trap Certificate Technical Advisory and Appeals Board. Such board shall consider and advise the *commission* ~~department~~ on disputes and other problems arising from the implementation of the spiny lobster trap certificate program. The board may also provide information to the *commission* ~~department~~ on the operation of the trap certificate program.

(a)~~1.~~ The board shall consist of the *executive director* ~~secretary~~ of the *commission* ~~department~~ or designee and nine other members appointed by the *executive director* ~~secretary, after determination of the initial certificate allotments by the department~~, according to the following criteria~~, except as otherwise provided in subparagraph 2.~~:

1.~~a.~~ All appointed members shall be certificateholders, but two shall be holders of fewer than 100 certificates, two shall be holders of at least 100 but no more than 750 certificates, three shall be holders of more than 750 but not more than 2,000 certificates, and two shall be holders of more than 2,000 certificates.

2.~~b.~~ At least one member each shall come from Broward, Dade, and Palm Beach Counties; and five members shall come from the various regions of the Florida Keys.

3.~~c.~~ At least one appointed member shall be a person of Hispanic origin capable of speaking English and Spanish.

~~2. The secretary of the department may fill any position on the initial board with a member who does not fulfill the requirements of subparagraph 1. if there are not enough qualified individuals available to meet those requirements. However, as soon as enough qualified individuals~~

~~are available to meet those requirements, the secretary must replace all nonqualified appointees with qualified appointees.~~

(b) The term of each appointed member shall be for 4 years, and any vacancy shall be filled for the balance of the unexpired term with a person of the qualifications necessary to maintain the requirements of *paragraph (a)* ~~subparagraph (a)1~~. ~~However, of the initial appointees, three shall serve for terms of 4 years, two shall serve for terms of 3 years, two shall serve for terms of 2 years, and two shall serve for terms of 1 year.~~ There shall be no limitation on successive appointments to the board.

(c) The *executive director* ~~secretary~~ of the *commission* ~~department~~ or designee shall serve as a member and shall call the organizational meeting of the board. The board shall annually elect a chair and a vice chair. There shall be no limitation on successive terms that may be served by a chair or vice chair. The board shall meet at the call of its chair, at the request of a majority of its membership, at the request of the *commission* ~~department~~, or at such times as may be prescribed by its rules. A majority of the board shall constitute a quorum, and official action of the board shall require a majority vote of the total membership of the board present at the meeting.

(d) The procedural rules adopted by the board shall conform to the requirements of chapter 120.

(e) Members of the board shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

(f) Upon reaching a decision on any dispute or problem brought before it, including any decision involving the allotment of certificates under paragraph (g), the board shall submit such decision to the *executive director* ~~secretary~~ of the *commission* ~~department~~ for final approval. The *executive director* ~~secretary~~ of the *commission* ~~department~~ may alter or disapprove any decision of the board, with notice thereof given in writing to the board and to each party in the dispute explaining the reasons for the disapproval. The action of the *executive director* ~~secretary~~ of the *commission* ~~department~~ constitutes final agency action.

(g) In addition to those certificates allotted pursuant to the provisions of subparagraph (2)(a)1., up to 125,000 certificates may be allotted by the board to settle disputes or other problems arising from implementation of the trap certificate program during the 1992-1993 and 1993-1994 license years. Any certificates not allotted by March 31, 1994, shall become permanently unavailable and shall be considered as part of the 1994-1995 reduction schedule. All appeals for additional certificates or other disputes must be filed with the board before October 1, 1993.

(h) Any trap certificates issued by the Department *of Environmental Protection and, effective July 1, 1999, the commission* as a result of the appeals process must be added to the existing number of trap certificates for the purposes of determining the total number of certificates from which the subsequent season's trap reduction is calculated.

(i) On and after July 1, 1994, the board shall no longer consider and advise the *Fish and Wildlife Conservation Commission* ~~department~~ on disputes and other problems arising from implementation of the trap certificate program nor allot any certificates with respect thereto.

(5) DISPOSITION OF FEES AND SURCHARGES.—Transfer fees and surcharges, annual trap certificate fees, and recreational tag fees collected pursuant to paragraphs (2)(a) and (b) shall be deposited in the Marine Resources Conservation Trust Fund and used for administration of the trap certificate program, research and monitoring of the spiny lobster fishery, and enforcement and public education activities in support of the purposes of this section and shall also be for the use of the *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission in evaluating the impact of the trap reduction schedule on the spiny lobster fishery; however, at least 15 percent of the fees and surcharges collected shall be provided to the commission for such evaluation.

(6) RULEMAKING AUTHORITY.—The *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ may adopt rules to implement the provisions of this section.

Section 110. Subsection (1), (2), and (6) of section 370.1535, Florida Statutes, are amended to read:

370.1535 Regulation of shrimp fishing in Tampa Bay; licensing requirements.—

(1) No person shall operate as a dead shrimp producer in any waters of Tampa Bay unless such person has procured from the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ a dead shrimp production permit.

(2) The *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ is authorized to issue a dead shrimp production permit to persons qualified pursuant to the following criteria:

(a) The person has submitted an application designed by the *commission* ~~department~~ for such permit.

(b) One permit is required for each vessel used for dead shrimp production in the waters of Tampa Bay. A permit shall only be issued to an individual who is the principal owner of the vessel or of the business entity owning the vessel and utilizing the permit. No more than three permits shall be issued to any individual.

(c) Each application for a permit shall be accompanied by a fee of $250 for each resident of the state and $1,000 for each nonresident of the state. The proceeds of the fees collected pursuant to this paragraph shall be deposited into the Marine Resources Conservation Trust Fund to be used by the *commission* ~~department~~ for the purpose of enforcement of marine resource laws.

(d) No person shall be issued a permit or be allowed to renew a permit if such person is registered for noncommercial trawling pursuant to s. 370.15(6) or if such person holds a live bait shrimping license issued pursuant to s. 370.15(8).

(e) Each applicant shall make application prior to June 30, 1992, and shall hold any other license or registration required to operate a commercial fishing vessel in Tampa Bay on the date of application.

(6) Each person harvesting shrimp in Tampa Bay pursuant to the permit required by this section shall comply with all rules of the *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission regulating such harvest.

Section 111. Subsections (4) and (5) of section 370.17, Florida Statutes, are amended to read:

370.17 Sponges; regulation.—

(4) POWERS OF THE *COMMISSION* ~~DEPARTMENT~~.—The *commission* ~~said department~~ is authorized and empowered to make, promulgate, and put into effect all rules and regulations which the *commission* ~~department~~ may consider and decide to be necessary to accomplish the purpose of this chapter for the taking and cultivation of sponges, including the power and authority to determine and fix, in its discretion, the seasons and period of time within which public state grounds may be closed to the taking, possessing, buying, selling, or transporting of sponges from the sponge cultivation districts herein provided for and to regulate and prescribe the means and methods to be employed in the harvesting thereof; however, notice of all rules, regulations, and orders, and all revisions and amendments thereto, prescribing closed seasons or prescribing the means and methods of harvesting sponges adopted by the *commission* ~~department~~ shall be published in a newspaper of general circulation in the conservation district affected within 10 days from the adoption thereof, in addition to any notice required by chapter 120.

(5) COOPERATION WITH UNITED STATES FISH AND WILDLIFE SERVICE.—The *commission* ~~department~~ shall cooperate with the United States Fish and Wildlife Service, under existing federal laws, rules and regulations, and is authorized to accept donations, grants and matching funds from said federal government under such conditions as are reasonable and proper, for the purposes of carrying out this chapter, and *the commission* ~~said department~~ is further authorized to accept any and all donations including funds and loan of vessels.

Section 112. Subsections (9), (15), (16), and (17) of section 372.001, Florida Statutes, are amended to read:

372.001 Definitions.—In construing these statutes, when applied to saltwater and freshwater fish, shellfish, crustacea, sponges, wild birds, and wild animals, where the context permits, the word, phrase, or term:

(9) "Fresh water," except where otherwise provided by law, includes all lakes, rivers, canals, and other waterways of Florida, to such point

or points where the fresh and salt waters commingle to such an extent as to become unpalatable and unfit for human consumption, because of the saline content, or to such point or points as may be fixed by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, by and with the consent of the board of county commissioners of the county or counties to be affected by such order. The Steinhatchee River shall be considered fresh water from its source to mouth.

(15) "Fish management area" is a pond, lake, or other water within a county or within several counties designated to improve fishing for public use and established and specifically circumscribed for authorized management by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission and the board of county commissioners of the county in which such waters lie under agreement between the commission and an owner with approval by the board of county commissioners or under agreement with the board of county commissioners for use of public waters in the county in which such waters lie.

(16) "Commission" means the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

(17) "Authorization" means a number issued by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, or its authorized agent, which serves in lieu of a license or permit and affords the privilege purchased for a specified period of time.

Section 113. Section 372.01, Florida Statutes, is amended to read:

372.01 *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.—

(1) The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall consist of *seven* ~~five~~ members who shall be appointed by the Governor, subject to confirmation by the Senate, for staggered terms of 5 years.

(2) Members so appointed shall annually select one of their members as chair. Such chair may be removed at any time for sufficient cause, by the affirmative vote of the majority of the members of the commission. In case the said office of chair becomes vacant by removal or otherwise, the same may be filled for the unexpired term at any time by the commission from its members.

(3) Commission members shall receive no compensation for their services as such, but shall be reimbursed for travel expenses as provided in s. 112.061.

Section 114. Subsections (1) and (2) of section 372.0215, Florida Statutes, are amended to read:

372.0215 Citizen support organizations; use of state property; audit.—

(1) The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission may authorize the establishment of citizen support organizations to provide assistance, funding, and promotional support for the programs of the commission. For purposes of this section, the term "citizen support organization" means an organization which:

(a) Is a corporation not for profit incorporated pursuant to the provisions of chapter 617 and approved by the Department of State;

(b) Is organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer in its own name securities, funds, or real or personal property; and make expenditures for the benefit of the commission or an individual program unit of the commission; except that such organization may not receive funds from the commission *or the Florida Marine Research Institute* by grant, gift, or contract unless specifically authorized by the Legislature.

(c) The commission has determined acts in a manner that is consistent with the goals of the commission and the best interests of the state.

(d) Is approved in writing by the commission to operate for the benefit of the commission. Such approval must be stated in a letter of agreement from the executive director of the commission.

(2)(a) The *Fish and Wildlife Conservation Commission* ~~Game and Fresh Water Fish Commission~~ may permit a citizen support organization to use commission property, facilities, and personnel free of charge. A citizen support organization may use commission property, facilities, and personnel if such use is consistent with the approved purpose of that citizen support organization and if such use does not unreasonably interfere with the general public's use of commission property, facilities, and personnel for established purposes.

(b) The commission may prescribe conditions upon the use by a citizen support organization of commission property, facilities, or personnel.

(c) The commission may not permit the use of any property, facilities, or personnel of the state by a citizen support organization that does not provide equal membership and employment opportunities to all persons regardless of race, color, national origin, religion, sex, or age.

Section 115. Subsections (1), (2), and (4) of section 372.0222, Florida Statutes, are amended to read:

372.0222 Private publication agreements; advertising; costs of production.—

(1) The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission may enter into agreements to secure the private publication of public information brochures, pamphlets, audiotapes, videotapes, and related materials for distribution without charge to the public and, in furtherance thereof, is authorized to:

(a) Enter into agreements with private vendors for the publication or production of such public information materials, whereby the costs of publication or production will be borne in whole or in part by the vendor or the vendor shall provide additional compensation in return for the right of the vendor to select, sell, and place advertising which publicizes products or services related to and harmonious with the subject matter of the publication.

(b) Retain the right, by agreement, to approve all elements of any advertising placed in such public information materials, including the form and content thereof.

(2) The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission may sell advertising in the Florida Wildlife Magazine to offset the cost of publication and distribution of the magazine.

(4) The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission may enter into agreements with private vendors for vendor advertisement for the purpose of offsetting expenses relating to license issuance, and, in furtherance thereof, is authorized to:

(a) Retain the right, by agreement, to approve all elements of such advertising, including the form or content.

(b) Require that any advertising of any kind contracted pursuant to this section shall include a statement providing that the advertising does not constitute an endorsement by the state or commission of the products or services to be so advertised.

Section 116. Section 372.0225, Florida Statutes, 1998 Supplement, is amended to read:

372.0225 Freshwater organisms.—

(1) The Division of *Freshwater* Fisheries of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, in order to manage the promotion, marketing, and quality control of all freshwater organisms produced in Florida and utilized commercially so that such organisms shall be used to produce the optimum sustained yield consistent with the protection of the breeding stock, is directed and charged with the responsibility of:

(a) Providing for the regulation of the promotion, marketing, and quality control of freshwater organisms produced in Florida and utilized commercially.

(b) Regulating the processing of commercial freshwater organisms on the water or on the shore.

(c) Providing documentation standards and statistical record requirements with respect to commercial freshwater organism catches.

(d) Conducting scientific, economic, and other studies and research on all freshwater organisms produced in the state and used commercially.

(2) The responsibility with which the Division of *Freshwater* Fisheries is charged under subsection (1) shall in no way supersede or duplicate the responsibilities of the Department of Agriculture and Consumer Services under chapter 500, the Florida Food Safety Act, and the rules adopted under that chapter.

Section 117. Subsections (1) and (3) of section 372.023, Florida Statutes, are amended to read:

372.023 J. W. Corbett and Cecil M. Webb Wildlife Management Areas.—

(1) The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission of this state is neither authorized nor empowered to do the following as to the J. W. Corbett Wildlife Management Area in Palm Beach County or the Cecil M. Webb Wildlife Management Area without the approval of the Board of Trustees of the Internal Improvement Trust Fund that such action is in the best interest of orderly and economical development of said area, viz.:

(a) To trade, barter, lease, or exchange lands therein for lands of greater acreage contiguous to said wildlife management areas.

(b) To grant easements for construction and maintenance of roads, railroads, canals, ditches, dikes and utilities, including but not limited to telephone, telegraph, oil, gas, electric power, water and sewers.

(c) To convey or release all rights in and to the phosphate, minerals, metals and petroleum that is or may be in, on or under any lands traded, bartered, leased or exchanged pursuant to paragraph (a).

(3) Moneys received from the sale of lands within either wildlife management area, less reasonable expenses incident to the sale, shall be used by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission to acquire acreage contiguous to the wildlife management area or lands of equal wildlife value. The sale shall be made directly to the state, notwithstanding the procedures of ss. 270.08 and 270.09 to the contrary.

Section 118. Subsections (2) and (3) of section 372.025, Florida Statutes, are amended to read:

372.025 Everglades recreational sites; definitions.—

(2) DEFINITIONS.—As used in this section:

(a) "Commission" means the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

(b) "Flood control district" means the Central and Southern Florida Flood Control District Board.

(c) "Indian reservations" means lands as designated by chapter 285.

(d) "Buffer zone" means an area located between developed and wilderness areas where some restrictions on the type of future development shall be imposed.

(e) "Development of recreational sites" means any improvements to existing facilities or sites and also such new selection and improvements as are needed for the various recreational activities as herein provided.

(3) RECREATIONAL SITES.—The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission is directed to develop, manage, and enforce laws on certain recreational sites in the water conservation areas of the Everglades from funds to be appropriated by the Legislature.

Section 119. Section 372.03, Florida Statutes, is amended to read:

372.03 Headquarters of commission.—The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission is located at the state capital, and, when suitable adequate office space cannot be provided in the State Capitol Building, or other buildings owned by the state, the commission may rent or lease suitable office space in Tallahassee. Said commission may also rent or lease suitable and adequate space in other cities and towns of the state for branch or division offices and headquarters and storerooms for equipment and supplies, as the business of the commission may require or necessitate, payment for said rented or leased premises to be made from the State Game Trust Fund.

Section 120. Section 372.051, Florida Statutes, is amended to read:

372.051 Seal of commission; certificate as evidence.—The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall adopt and use a common seal, and a certificate under the seal of the commission, signed by its chair and attested by its director shall constitute sufficient evidence of the action of the commission; and copies of the minutes of the commission, or any part thereof, or of any record or paper of said commission, or any part thereof, or of any rule, regulation, or order of the commission, or any part thereof, or of any code of rules, regulations or orders of the commission, or any part thereof, certified by the director of the commission under its seal, shall be admissible in evidence in all cases and proceedings in all courts, boards, and commissions of this state without further authentication.

Section 121. Section 372.06, Florida Statutes, is amended to read:

372.06 Meetings of the commission.—At least four meetings of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall be held at the state capital no less frequently than once every 3 months, which meetings shall be known as the quarterly meetings of the commission; other meetings may be held at such times and places as may be decided upon or as provided by rules of the commission, such meetings to be called by the executive secretary on not less than 1 week's notice to all members of the commission; or meetings may be held upon the request in writing of three members of the commission, at a time and place to be designated in the request, and notice of such meetings shall be given at least 1 week in advance thereof to all members of the commission by the executive secretary. *A majority of* ~~Three~~ members shall constitute a quorum at any meeting of the commission. No action shall be binding when taken up by the commission, except at a regular or call meeting and duly recorded in the minutes of said meeting.

Section 122. Section 372.07, Florida Statutes, is amended to read:

372.07 Police powers of commission and its agents.—

(1) The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the director and the director's assistants designated by her or him, and each wildlife officer are constituted peace officers with the power to make arrests for violations of the laws of this state when committed in the presence of the officer or when committed on lands under the supervision and management of the commission. The general laws applicable to arrests by peace officers of this state shall also be applicable to said director, assistants, and wildlife officers. Such persons may enter upon any land or waters of the state for performance of their lawful duties and may take with them any necessary equipment, and such entry shall not constitute a trespass.

(2) Said officers shall have power and authority to enforce throughout the state all laws relating to game, nongame birds, freshwater fish, and fur-bearing animals and all rules and regulations of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission relating to wild animal life and freshwater aquatic life, and in connection with said laws, rules, and regulations, in the enforcement thereof and in the performance of their duties thereunder, to:

(a) Go upon all premises, posted or otherwise;

(b) Execute warrants and search warrants for the violation of said laws;

(c) Serve subpoenas issued for the examination, investigation, and trial of all offenses against said laws;

(d) Carry firearms or other weapons, concealed or otherwise, in the performance of their duties;

(e) Arrest upon probable cause without warrant any person found in the act of violating any of the provisions of said laws or, in pursuit immediately following such violations, to examine any person, boat, conveyance, vehicle, game bag, game coat, or other receptacle for wild animal life or freshwater aquatic life, or any camp, tent, cabin, or roster, in the presence of any person stopping at or belonging to such camp, tent,

cabin, or roster, when said officer has reason to believe, and has exhibited her or his authority and stated to the suspected person in charge the officer's reason for believing, that any of the aforesaid laws have been violated at such camp;

(f) Secure and execute search warrants and in pursuance thereof to enter any building, enclosure, or car and to break open, when found necessary, any apartment, chest, locker, box, trunk, crate, basket, bag, package, or container and examine the contents thereof;

(g) Seize and take possession of all wild animal life or freshwater aquatic life taken or in possession or under control of, or shipped or about to be shipped by, any person at any time in any manner contrary to said laws.

(3) It is unlawful for any person to resist an arrest authorized by this section or in any manner to interfere, either by abetting, assisting such resistance, or otherwise interfering with said director, assistants, or wildlife officers while engaged in the performance of the duties imposed upon them by law or regulation of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

Section 123. Section 372.071, Florida Statutes, is amended to read:

372.071 Powers of arrest by agents of Department of Environmental Protection or *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.—Any certified law enforcement officer of the Department of Environmental Protection or the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, upon receiving information, relayed to her or him from any law enforcement officer stationed on the ground, on the water, or in the air, that a driver, operator, or occupant of any vehicle, boat, or airboat has violated any section of chapter 327, chapter 328, chapter 370, or this chapter, may arrest the driver, operator, or occupant for violation of said laws when reasonable and proper identification of the vehicle, boat, or airboat and reasonable and probable grounds to believe that the driver, operator, or occupant has committed or is committing any such offense have been communicated to the arresting officer by the other officer stationed on the ground, on the water, or in the air.

Section 124. Subsection (1) of section 372.074, Florida Statutes, is amended to read:

372.074 Fish and Wildlife Habitat Program.—

(1)(a) There is established within the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission the Fish and Wildlife Habitat Program for the purpose of acquiring, assisting other agencies or local governments in acquiring, or managing lands important to the conservation of fish and wildlife.

(b) The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission or its designee shall manage such lands for the primary purpose of maintaining and enhancing their habitat value for fish and wildlife. Other uses may be allowed that are not contrary to this purpose.

(c) Where acquisition pursuant to this section will result in state ownership of land, title shall be vested in the Board of Trustees of the Internal Improvement Trust Fund as required in chapter 253. Land acquisition pursuant to this section shall be voluntary, negotiated acquisition and, where title is to be vested in the Board of Trustees of the Internal Improvement Trust Fund, is subject to the acquisition procedures of s. 253.025.

(d) Acquisition costs shall include purchase prices and costs and fees associated with title work, surveys, and appraisals required to complete an acquisition.

Section 125. Subsection (1), paragraph (c) of subsection (3), and subsection (4) of section 372.105, Florida Statutes, are amended to read:

372.105 Lifetime Fish and Wildlife Trust Fund.—

(1) There is established within the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission the Lifetime Fish and Wildlife Trust Fund to be used for the purpose of supporting fish and wildlife conservation programs of the state in accordance with this section.

(3) The fund is declared to constitute a special trust derived from a contractual relationship between the state and the members of the public whose investments contribute to the fund. In recognition of such special trust, the following limitations and restrictions are placed on expenditures from the funds:

(c) No expenditures or disbursements from the interest income derived from the sale of lifetime licenses shall be made for any purpose until the respective holders of such licenses attain the age of 16 years. The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission as administrator of the fund shall determine actuarially on an annual basis the amounts of interest income within the fund which may be disbursed pursuant to this paragraph. The director shall cause deposits of proceeds from the sale of lifetime licenses to be identifiable by the ages of the license recipients.

(4) In the event of a future dissolution or reorganization of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, any state agency which succeeds the commission or assumes its constitutional or statutory responsibilities shall, through its agency head acting ex officio, assume the trusteeship of the fund and shall be bound by all the limitations and restrictions placed by this section on expenditures from the fund. No repeal or modification of this chapter or s. 9, Art. IV of the State Constitution shall alter the fundamental purposes to which the fund may be applied. No dissolution or reorganization of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall invalidate any lifetime license issued in accordance with this section.

Section 126. Subsection (1) of section 372.106, Florida Statutes, is amended to read:

372.106 Dedicated License Trust Fund.—

(1) There is established within the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission the Dedicated License Trust Fund. The fund shall be credited with moneys collected pursuant to ss. 370.0605 and 372.57 for 5-year licenses and replacement 5-year licenses.

Section 127. Section 372.12, Florida Statutes, is amended to read:

372.12 Acquisition of state game lands.—The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, with the approval of the Governor, may acquire, in the name of the state, lands and waters suitable for the protection and propagation of game, fish, nongame birds or fur-bearing animals, or for hunting purposes, game farms, by purchase, lease, gift or otherwise to be known as state game lands. The said commission may erect such buildings and fences as may be deemed necessary to properly maintain and protect such lands, or for propagation of game, nongame birds, freshwater fish or fur-bearing animals. The title of land acquired by purchase, lease, gift or otherwise, shall be approved by the Department of Legal Affairs. The deed to such lands shall be deposited as are deeds to other state lands. ~~No such lands shall be purchased at a price to exceed $10 per acre.~~ No property acquired under this section shall be exempt from state, county or district taxation.

Section 128. Subsection (1) of section 372.121, Florida Statutes, is amended to read:

372.121 Control and management of state game lands.—

(1) The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission is authorized to make, adopt, promulgate, amend, repeal, and enforce all reasonable rules and regulations necessary for the protection, control, operation, management, or development of lands or waters owned by, leased by, or otherwise assigned to, the commission for fish or wildlife management purposes, including but not being limited to the right of ingress and egress. Before any such rule or regulation is adopted, other than one relating to wild animal life or freshwater aquatic life, the commission shall obtain the consent and agreement, in writing, of the owner, in the case of privately owned lands or waters, or the owner or primary custodian, in the case of public lands or waters.

Section 129. Subsections (1), (2), and (4) of section 372.16, Florida Statutes, are amended to read:

372.16 Private game preserves and farms; penalty.—

(1) Any person owning land in this state may, after having secured a license therefor from the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, establish, maintain, and operate within

the boundaries thereof, a private preserve and farm, not exceeding an area of 640 acres, for the protection, preservation, propagation, rearing, and production of game birds and animals for private and commercial purposes, provided that no two game preserves shall join each other or be connected.

(2) All private game preserves or farms established under the provisions of this section shall be fenced in such manner that domestic game thereon may not escape and wild game on surrounding lands may not enter and shall be subject at any time to inspection by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, or its conservation officers. Such private preserve or farm shall be equipped and operated in such manner as to provide sufficient food and humane treatment for the game kept thereon. Game reared or produced on private game preserves and farms shall be considered domestic game and private property and may be sold or disposed of as such and shall be the subject of larceny. Live game may be purchased, sold, shipped, and transported for propagation and restocking purposes only at any time. Such game may be sold for food purposes only during the open season provided by law for such game. All game killed must be killed on the premises of such private game preserve or farm and must be killed by means other than shooting, except during the open season. All domestic game sold for food purposes must be marked or tagged in a manner prescribed by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission; and the owner or operator of such private game preserve or farm shall report to the said commission, on blanks to be furnished by it, each sale or shipment of domestic game, such reports showing the quantity and kind of game shipped or sold and to whom sold. Such report shall be made not later than 5 days following such sale or shipment. Game reared or produced as aforesaid may be served as such by hotels, restaurants, or other public eating places during the open season provided by law on such particular species of game, under such regulations as the commission may prescribe.

(4) Any person violating the provisions of this section shall for the first offense be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and for a second or subsequent offense shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person convicted of violating the provisions of this section shall forfeit, to the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, any license or permit issued under the provisions hereof; and no further license or permit shall be issued to such person for a period of 1 year following such conviction. Before any private game preserve or farm is established, the owner or operator shall secure a license from the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the fee for which shall be $5 per year.

Section 130. Subsection (1) of section 372.26, Florida Statutes, is amended to read:

372.26 Imported fish.—

(1) No person shall import into the state or place in any of the fresh waters of the state any freshwater fish of any species without having first obtained a permit from the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission. The commission is authorized to issue or deny such a permit upon the completion of studies of the species made by it to determine any detrimental effect the species might have on the ecology of the state.

Section 131. Subsections (1) and (2) of section 372.265, Florida Statutes, are amended to read:

372.265 Regulation of foreign animals.—

(1) It is unlawful to import for sale or use, or to release within this state, any species of the animal kingdom not indigenous to Florida without having obtained a permit to do so from the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

(2) The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission is authorized to issue or deny such a permit upon the completion of studies of the species made by it to determine any detrimental effect the species might have on the ecology of the state.

Section 132. Section 372.27, Florida Statutes, is amended to read:

372.27 Silver Springs and Rainbow Springs, etc., closed to all fishing.—It is unlawful for any person to take any fish within Marion County, from the waters of Rainbow Springs and Rainbow River (formerly known as Blue Springs and Blue Springs River) within a radius of 1 mile from the head of said spring or from the waters of Silver Springs or Silver Springs Run from the head of said spring to its junction with the Oklawaha River; provided, that the *Fish and Wildlife Conservation* Commission ~~of Game and Fresh Water Fish~~ may remove or cause to be removed any gar, mud fish or other predatory fish when in its judgment their removal is desirable.

Section 133. Section 372.31, Florida Statutes, is amended to read:

372.31 Disposition of illegal fishing devices.—

(1) In all cases of arrest and conviction for use of illegal nets or traps or fishing devices, as provided in this chapter, such illegal net, trap, or fishing device is declared to be a nuisance and shall be seized and carried before the court having jurisdiction of such offense and said court shall order such illegal trap, net or fishing device forfeited to the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission immediately after trial and conviction of the person in whose possession they were found. When any illegal net, trap or fishing device is found in the fresh waters of the state, and the owner of same shall not be known to the officer finding the same, such officer shall immediately procure from the county court judge an order forfeiting said illegal net, trap or fishing device to the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission. The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission may destroy such illegal net, trap or fishing device, if in its judgment said net, trap or fishing device is not of value in the work of the department.

(2) When any nets, traps, or fishing devices are found being used illegally as provided in this chapter, the same shall be seized and forfeited to the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission as provided in this chapter.

Section 134. Subsection (7) of section 372.57, Florida Statutes, 1998 Supplement, is amended to read:

372.57 Licenses and permits; exemptions; fees.—No person, except as provided herein, shall take game, freshwater fish, or fur-bearing animals within this state without having first obtained a license, permit, or authorization and paid the fees hereinafter set forth, unless such license is issued without fee as provided in s. 372.561. Such license, permit, or authorization shall authorize the person to whom it is issued to take game, freshwater fish, or fur-bearing animals in accordance with law and commission rules. Such license, permit, or authorization is not transferable. Each license or permit must bear on its face in indelible ink the name of the person to whom it is issued and other information requested by the commission. Such license, permit, or authorization issued by the commission or any agent must be in the personal possession of the person to whom issued while taking game, freshwater fish, or fur-bearing animals. The failure of such person to exhibit such license, permit, or authorization to the commission or its wildlife officers, when such person is found taking game, freshwater fish, or fur-bearing animals, is a violation of law. A positive form of identification is required when using an authorization, a lifetime license, a 5-year license, or when otherwise required by the license or permit. The lifetime licenses and 5-year licenses provided herein shall be embossed with the name, date of birth, the date of issuance, and other pertinent information as deemed necessary by the commission. A certified copy of the applicant's birth certificate shall accompany all applications for a lifetime license for residents 12 years of age and younger. Each applicant for a license, permit, or authorization shall provide the applicant's social security number on the application form. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D child support enforcement program and use by the commission, and as otherwise provided by law.

(7) A resident lifetime sportsman's license authorizes the holder to engage in the following noncommercial activities:

(a) To take or attempt to take or possess freshwater fish, marine fish, and game, consistent with state and federal regulations and rules of the commission ~~and the Department of Environmental Protection~~ in effect at the time of taking.

(b) All activities authorized by a management area permit, a muzzle-loading gun permit, a turkey permit, an archery permit, a Florida waterfowl permit, a snook permit, and a crawfish permit.

Section 135. Subsection (2) of section 372.5714, Florida Statutes, is amended to read:

372.5714 Waterfowl Advisory Council.—

(2) The council shall meet at least once a year either in person or by a telephone conference call, shall elect a chair annually to preside over its meetings and perform any other duties directed by the council, and shall maintain minutes of each meeting. All records of council activities shall be kept on file with the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission and shall be made available to any interested person. The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall provide such staff support as is necessary to the council to carry out its duties. Members of the council shall serve without compensation, but shall be reimbursed for per diem and travel expenses as provided in s. 112.061 when carrying out the official business of the council.

Section 136. Subsection (3) of section 372.5717, Florida Statutes, is amended to read:

372.5717 Hunter safety course; requirements; penalty.—

(3) The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall institute and coordinate a statewide hunter safety course which must be offered in every county and consist of not less than 12 hours nor more than 16 hours of instruction including, but not limited to, instruction in the competent and safe handling of firearms, conservation, and hunting ethics.

Section 137. Section 372.5718, Florida Statutes, is amended to read:

372.5718 Hunter safety course for juveniles.—The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall develop a hunter safety course for juveniles who are at least 5 years of age but less than 16 years of age. The course must include, but is not limited to, instruction in the competent and safe handling of firearms, conservation, and hunting ethics. The course must be appropriate for the ages of the students. The course is voluntary and must be offered in each county in the state at least annually. The course is in addition to, and not in lieu of, the hunter safety course prescribed in s. 372.5717.

Section 138. Paragraph (e) of subsection (2) of section 372.574, Florida Statutes, 1998 Supplement, is amended to read:

372.574 Appointment of subagents for the sale of hunting, fishing, and trapping licenses and permits.—

(2) If a tax collector elects not to appoint subagents, the commission may appoint subagents within that county. Subagents shall serve at the pleasure of the commission. The commission may establish, by rule, procedures for selection of subagents. The following are requirements for subagents so appointed:

(e) A subagent may charge and receive as his or her compensation 50 cents for each license or permit sold. This charge is in addition to the sum required by law to be collected for the sale and issuance of each license or permit. In addition, no later than July 1, 1997, a subagent fee for the sale of licenses over the telephone by credit card shall be established by competitive bid procedures which are overseen by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

Section 139. Section 372.651, Florida Statutes, is amended to read:

372.651 Haul seine and trawl permits; freshwater lakes in excess of 500 square miles; fees.—

(1) The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission is authorized to issue permits for each haul seine or trawl used in freshwater lakes in the state having an area in excess of 500 square miles.

(2) The commission may charge an annual fee for the issuance of such permits which shall not exceed:

(a) For a resident trawl permit, $50.

(b) For a resident haul seine permit, $100.

(c) For a nonresident or alien trawl or haul seine permit, $500.

Section 140. Subsection (1) of section 372.653, Florida Statutes, is amended to read:

372.653 Required tagging of fish; lakes in excess of 500 square miles; tag fee; game fish taken in lakes of 500 square miles or less.—

(1)(a) No game fish taken from, or caught in, a lake in this state the area of which is in excess of 500 square miles shall be sold for consumption in this state unless it is tagged in the manner required by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission. Bass or pickerel taken by any method other than hook and line shall be returned immediately to the water. Trawls and haul seines shall not be operated within 1 mile of rooted aquatic vegetation.

(b) In order that such program of tagging be self-sufficient, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission is authorized to assess a fee of not more than 5 cents per tag, payable at the time of delivery of the tag.

Section 141. Subsections (5) and (6) of section 372.66, Florida Statutes, are amended to read:

372.66 License required for fur and hide dealers.—

(5) All agents' licenses shall be applied for by, and issued to, a resident state dealer or nonresident dealer and shall show name and residence of such agent and shall be in possession of such agent at all times when engaged in buying furs or hides. Application for such licenses shall be made to the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission on blanks furnished by it.

(6) All dealers and buyers shall forward to the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission each 2 weeks during open season a report showing number and kind of hides bought and name of trapper from whom bought and the trapper's license number, or if trapper is exempt from license under any of the provisions of this chapter, such report shall show the nature of such exemption. No common carrier shall knowingly ship or transport or receive for transportation any hides or furs unless such shipments have marked thereon name of shipper and the number of her or his fur-animal license or fur dealer's license.

Section 142. Subsection (1) of section 372.661, Florida Statutes, is amended to read:

372.661 Private hunting preserve, license; exception.—

(1) Any person who operates a private hunting preserve commercially or otherwise shall be required to pay a license fee of $25 for each such preserve; provided, however, that during the open season established for wild game of any species a private individual may take artificially propagated game of such species up to the bag limit prescribed for the particular species without being required to pay the license fee required by this section; provided further that if any such individual shall charge a fee for taking such game she or he shall be required to pay the license fee required by this section and to comply with the rules and regulations of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission relative to the operation of private hunting preserves.

Section 143. Section 372.662, Florida Statutes, is amended to read:

372.662 Unlawful sale, possession, or transporting of alligators or alligator skins.—Whenever the sale, possession, or transporting of alligators or alligator skins is prohibited by any law of this state, or by the rules, regulations, or orders of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission adopted pursuant to s. 9, Art. IV of the State Constitution, the sale, possession, or transporting of alligators or alligator skins is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 144. Subsection (1) of section 372.663, Florida Statutes, is amended to read:

372.663 Illegal killing, possessing, or capturing of alligators or other crocodilia or eggs; confiscation of equipment.—

(1) It is unlawful to intentionally kill, injure, possess, or capture, or attempt to kill, injure, possess, or capture, an alligator or other crocodilian, or the eggs of an alligator or other crocodilian, unless authorized by the rules of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission. Any person who violates this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, in addition to such other punishment as may be provided by law. Any equipment, including but not limited to weapons, vehicles, boats, and lines, used by a person in the commission of a violation of any law, rule, regulation, or order relating to alligators or other crocodilia or the eggs of alligators or other crocodilia shall, upon conviction of such person, be confiscated by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission and disposed of according to rules and regulations of the commission. The arresting officer shall promptly make a return of the seizure, describing in detail the property seized and the facts and circumstances under which it was seized, including the names of all persons known to the officer who have an interest in the property.

Section 145. Section 372.664, Florida Statutes, is amended to read:

372.664 Prima facie evidence of intent to violate laws protecting alligators.—Except as otherwise provided by rule of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission for the purpose of the limited collection of alligators in designated areas, the display or use of a light in a place where alligators might be known to inhabit in a manner capable of disclosing the presence of alligators, together with the possession of firearms, spear guns, gigs, and harpoons customarily used for the taking of alligators, during the period between 1 hour after sunset and 1 hour before sunrise shall be prima facie evidence of an intent to violate the provisions of law regarding the protection of alligators.

Section 146. Subsection (2) of section 372.6645, Florida Statutes, is amended to read:

372.6645 Unlawful to sell alligator products; penalty.—

(2) No person shall sell any alligator product manufactured from a species which has been declared to be endangered by the United States Fish and Wildlife Service or the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

Section 147. Subsections (1) and (2) of section 372.667, Florida Statutes, are amended to read:

372.667 Feeding or enticement of alligators or crocodiles unlawful; penalty.—

(1) No person shall intentionally feed, or entice with feed, any wild American alligator (Alligator mississippiensis) or American crocodile (Crocodylus acutus). However, the provisions of this section shall not apply to:

(a) Those persons feeding alligators or crocodiles maintained in protected captivity for educational, scientific, commercial, or recreational purposes.

(b) *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission personnel, persons licensed or otherwise authorized by the commission, or county or municipal animal control personnel when relocating alligators or crocodiles by baiting or enticement.

(2) For the purposes of this section, the term "maintained in protected captivity" means held in captivity under a permit issued by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission pursuant to s. 372.921 or s. 372.922.

Section 148. Subsection (1) of section 372.6672, Florida Statutes, 1998 Supplement, is amended to read:

372.6672 Alligator management and trapping program implementation; commission authority.—

(1) In any alligator management and trapping program that the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall establish, the commission shall have the authority to adopt all rules necessary for full and complete implementation of such alligator management and trapping program, and, in order to ensure its lawful, safe, and efficient operation in accordance therewith, may:

(a) Regulate the marketing and sale of alligators, their hides, eggs, meat, and byproducts, including the development and maintenance of a state-sanctioned sale.

(b) Regulate the handling and processing of alligators, their eggs, hides, meat, and byproducts, for the lawful, safe, and sanitary handling and processing of same.

(c) Regulate commercial alligator farming facilities and operations for the captive propagation and rearing of alligators and their eggs.

(d) Provide hide-grading services by two or more individuals pursuant to state-sanctioned sales if rules are first promulgated by the commission governing:

1. All grading-related services to be provided pursuant to this section;

2. Criteria for qualifications of persons to serve as hide-graders for grading services to be provided pursuant to this section; and

3. The certification process by which hide-graders providing services pursuant to this section will be certified.

(e) Provide sales-related services by contract pursuant to state-sanctioned sales if rules governing such services are first promulgated by the commission.

Section 149. Subsections (1) and (3) of section 372.672, Florida Statutes, 1998 Supplement, are amended to read:

372.672 Florida Panther Research and Management Trust Fund.—

(1) There is established within the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission the Florida Panther Research and Management Trust Fund to be used exclusively for the purposes of this section.

(3) The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission is authorized to receive donations for deposit into the Florida Panther Research and Management Trust Fund.

Section 150. Section 372.673, Florida Statutes, is amended to read:

372.673 Florida Panther Technical Advisory Council.—

(1) The Florida Panther Technical Advisory Council is established within the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission. The council shall be appointed by the Governor and shall consist of seven members with technical knowledge and expertise in the research and management of large mammals.

(a) Two members shall represent state or federal agencies responsible for management of endangered species; two members, who must have specific experience in the research and management of large felines or large mammals, shall be appointed from universities, colleges, or associated institutions; and three members, with similar expertise, shall be appointed from the public at large.

(b) As soon as practicable after July 1, 1983, one member representing a state or federal agency and one member appointed from a university, college, or associated institution shall be appointed for terms ending August 1, 1985, and the remaining members shall be appointed for terms ending August 1, 1987. Thereafter, all appointments shall be for 4-year terms. If a vacancy occurs, a member shall be appointed for the remainder of the unexpired term. A member whose term has expired shall continue sitting on the council with full rights until a replacement has been appointed.

(c) Council members shall be reimbursed pursuant to s. 112.061 but shall receive no additional compensation or honorarium.

(2) The purposes of the council are:

(a) To serve in an advisory capacity to the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission on technical matters of relevance to the Florida panther recovery program, and to recommend specific actions that should be taken to accomplish the purposes of this act.

(b) To review and comment on research and management programs and practices to identify potential harm to the Florida panther population.

(c) To provide a forum for technical review and discussion of the status and development of the Florida panther recovery program.

Section 151. Subsections (1), (2), and (7) of section 372.674, Florida Statutes, 1998 Supplement, are amended to read:

372.674 Environmental education.—

(1) The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission may establish programs and activities to develop and distribute environmental education materials that will assist the public in understanding and appreciating Florida's environment and problems and issues facing our state's unique and fragile ecological systems. Such programs shall assist school teachers, state administrators, and others in the essential mission to preserve the capability to sustain the functions of our lands, water, wildlife habitats, and other natural resources in the most healthful, enjoyable, and productive manner.

(2) There is created within the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission the Advisory Council on Environmental Education. The council is to have up to 10 members appointed by the commission and is to be chaired by the commission's executive director or his or her designee. At a minimum, the council must include a representative of the Department of Education and a representative of the Department of Environmental Protection.

(7) The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall review the recommended list of projects to be funded from the Florida Panther Research and Management Trust Fund and the Save the Manatee Trust Fund by August of each year and make a final determination of projects to receive grants from available appropriations by the Legislature. The commission shall act upon the recommended list within 45 days after receipt of the list.

Section 152. Section 372.70, Florida Statutes, is amended to read:

372.70 Prosecutions.—The prosecuting officers of the several courts of criminal jurisdiction of this state shall investigate and prosecute all violations of the laws relating to game, freshwater fish, nongame birds and fur-bearing animals which may be brought to their attention by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission or its conservation officers, or which may otherwise come to their knowledge.

Section 153. Subsection (1) of section 372.701, Florida Statutes, is amended to read:

372.701 Arrest by officers of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission; recognizance; cash bond; citation.—

(1) In all cases of arrest by officers of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission and the Department of Environmental Protection, the person arrested shall be delivered forthwith by said officer to the sheriff of the county, or shall obtain from such person arrested a recognizance or, if deemed necessary, a cash bond or other sufficient security conditioned for her or his appearance before the proper tribunal of such county to answer the charge for which the person has been arrested.

Section 154. Section 372.7015, Florida Statutes, is amended to read:

372.7015 Illegal killing, taking, possessing, or selling wildlife or game; fines; disposition of fines.—In addition to any other penalty provided by law, any person who violates the criminal provisions of this chapter and rules adopted pursuant to this chapter by illegally killing, taking, possessing, or selling game or fur-bearing animals as defined in s. 372.001(3) or (4) in or out of season while violating chapter 810 shall pay a fine of $250 for each such violation, plus court costs and any restitution ordered by the court. All fines collected under this section shall be deposited into the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission's State Game Trust Fund.

Section 155. Subsection (1) of section 372.7016, Florida Statutes, is amended to read:

372.7016 Voluntary Authorized Hunter Identification Program.—

(1) There is created the "Voluntary Authorized Hunter Identification Program" to assist landowners and law enforcement officials in better controlling trespass and illegal or unauthorized hunting. Landowners wishing to participate in the program shall:

(a) Annually notify the sheriff's office in the county in which the land is situated and the respective area supervisor of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission by letter of their desire to participate in the program, and provide a description of their property which they wish to have in the program by township, range, section, partial section, or other geographical description.

(b) Provide a means of identifying authorized hunters as provided in subsection (2).

Section 156. Section 372.72, Florida Statutes, is amended to read:

372.72 Disposition of fines, penalties, and forfeitures.—

(2) All moneys collected from fines, penalties, or forfeitures of bail of persons convicted of violations of rules, regulations, or orders of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission concerning endangered or threatened species or of violation of s. 372.662, s. 372.663, s. 372.667, or s. 372.671 shall be deposited in the Nongame Wildlife Trust Fund.

Section 157. Section 372.73, Florida Statutes, is amended to read:

372.73 Confiscation and disposition of illegally taken game.—All game and freshwater fish seized under the authority of this chapter shall, upon conviction of the offender or sooner if the court so orders, be forfeited and given to some hospital or charitable institution and receipt therefor sent to the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission. All furs or hides or fur-bearing animals seized under the authority of this chapter shall, upon conviction of the offender, be forfeited and sent to the commission, which shall sell the same and deposit the proceeds of such sale to the credit of the State Game Trust Fund or into the commission's Federal Law Enforcement Trust Fund as provided in s. 372.107, as applicable. If any such hides or furs are seized and the offender is unknown, the court shall order such hides or furs sent to the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, which shall sell such hides and furs and deposit the proceeds of such sale to the credit of the State Game Trust Fund or into the commission's Federal Law Enforcement Trust Fund as provided in s. 372.107, as applicable.

Section 158. Section 372.74, Florida Statutes, is amended to read:

372.74 Cooperative agreements with U. S. Forest Service; penalty.—The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission is authorized and empowered:

(1) To enter into cooperative agreements with the United States Forest Service for the development of game, bird, fish, reptile or fur-bearing animal management and demonstration projects on and in the Osceola National Forest in Columbia and Baker Counties, and in the Ocala National Forest in Marion, Lake, and Putnam Counties and in the Apalachicola National Forest in Liberty County. Provided, however, that no such cooperative agreements shall become effective in any county concerned until confirmed by the board of county commissioners of such county expressed through appropriate resolution.

(2) In cooperation with the United States Forest Service, to make, adopt, promulgate, amend and repeal rules and regulations, consistent with law, for the further or better control of hunting, fishing, and control of wildlife in the above National Forests or parts thereof; to shorten seasons and reduce bag limits, or shorten or close seasons on any species of game, bird, fish, reptile, or fur-bearing animal within the limits prescribed by the Florida law, in the above enumerated National Forests or parts thereof, when it shall find after investigation that such action is necessary to assure the maintenance of an adequate supply of wildlife.

(3) To fix a charge not to exceed $5, for persons 18 years of age and over, and not to exceed $2 for persons under the age of 18 years, over and above the license fee for hunting now required by law. This additional fee is to apply only on areas covered by above cooperative agreements. The proceeds from this additional license fee shall be used in the development, propagation of wildlife and protection of the areas covered by the cooperative agreements as the commission and the United States Forest Service may deem proper. Nothing in this section shall be construed as authorizing the commission to change any penalty prescribed by law or to change the amount of general license fees or the general authority conferred by licenses prescribed by law.

(4) In addition to the requirements of chapter 120, notice of the making, adoption, and promulgation of the above rules and regulations shall be given by posting said notices, or copies of the rules and regulations, in the offices of the county judges and in the post offices within the area to be affected and within 10 miles thereof. In addition to the posting of said notices, as aforesaid, copies of said notices or of said rules and regulations shall also be published in newspapers published at the county seats of Baker, Columbia, Marion, Lake, Putnam, and Liberty Counties, or so many thereof as have newspapers, once not more than 35 nor less than 28 days and once not more than 21 nor less than 14 days prior to the opening of the state hunting season in said areas. Any person violating any rules or regulations promulgated by the commission to cover these areas under cooperative agreements between the *Fish and Wildlife Conservation Commission* ~~State Commission of Game and Fresh Water Fish~~ and the United States Forest Service, none of which shall be in conflict with the laws of Florida, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 159. Section 372.76, Florida Statutes, is amended to read:

372.76 Search and seizure authorized and limited.—The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission and its conservation officers shall have authority when they have reasonable and probable cause to believe that the provisions of this chapter have been violated, to board any vessel, boat, or vehicle or to enter any fish-house or warehouse or other building, exclusive of residence, in which game, hides, fur-bearing animals, fish, or fish nets are kept and to search for and seize any such game, hides, fur-bearing animals, fish, or fish nets had or held therein in violation of law. Provided, however, that no search without warrant shall be made under any of the provisions of this chapter, unless the officer making such search has such information from a reliable source as would lead a prudent and cautious person to believe that some provision of this chapter is being violated.

Section 160. Subsection (1) of section 372.761, Florida Statutes, is amended to read:

372.761 Issuance of warrant for search of private dwelling.—

(1) A search warrant may be issued on application by a commissioned officer of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission to search any private dwelling occupied as such when it is being used for the unlawful sale or purchase of wildlife or freshwater fish being unlawfully kept therein. The term "private dwelling" shall be construed to include the room or rooms used and occupied, not transiently but solely as a residence, in an apartment house, hotel, boardinghouse, or lodginghouse. No warrant for the search of any private dwelling shall be issued except upon probable cause supported by sworn affidavit of some creditable witness that she or he has reason to believe that the said conditions exist, which affidavit shall set forth the facts on which such reason for belief is based.

Section 161. Subsections (1) and (2) of section 372.77, Florida Statutes, are amended to read:

372.77 Assent to provisions of Act of Congress of September 2, 1937.—

(1) The state hereby assents to the provisions of the Act of Congress entitled "An Act to provide that the United States shall aid the States in Wildlife Restoration Projects, and for other purposes," approved September 2, 1937 (Pub. L. No. 415, 75th Congress), and the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission is hereby authorized, empowered, and directed to perform such acts as may be necessary to the conduct and establishment of cooperative wildlife restoration projects, as defined in said Act of Congress, in compliance with said act and rules and regulations promulgated by the Secretary of Agriculture thereunder.

(2) From and after the passage of this section it shall be unlawful to divert any funds accruing to the state from license fees paid by hunters for any purpose other than the administration of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission of the state.

Section 162. Section 372.7701, Florida Statutes, is amended to read:

372.7701 Assent to federal acts.—

(1) The state hereby assents to the provisions of the Federal Aid in Fish Restoration Act of August 9, 1950, as amended. The *Fish and Wildlife Conservation* ~~Department of Environmental Protection and the Game and Fresh Water Fish~~ Commission shall ~~work cooperatively and~~ perform such activities as are necessary to conduct wildlife and sportfish restoration projects, as defined in such Act of Congress and in compliance with the act and rules adopted thereunder by the United States Department of the Interior. Furthermore, the *commission* ~~Department of Environmental Protection~~ shall develop and implement programs to manage, protect, restore and conserve marine mammals and the marine fishery, and ~~the Game and Fresh Water Fish Commission~~ shall develop and implement similar programs for wild animal life and freshwater aquatic life.

(2) Revenues from fees paid by hunters and sport fishers may not be diverted to purposes other than the administration of fish and wildlife programs by the *Fish and Wildlife Conservation* ~~Department of Environmental Protection and the Game and Fresh Water Fish~~ Commission. Administration of the state fish and wildlife programs includes only those functions of fish and wildlife management as are the responsibility of and under the authority of the *Fish and Wildlife Conservation* ~~Department of Environmental Protection and the Game and Fresh Water Fish~~ Commission.

(3) This section shall be construed in harmony with s. 372.77.

Section 163. Subsection (2) of section 372.771, Florida Statutes, is amended to read:

372.771 Federal conservation of fish and wildlife; limited jurisdiction.—

(2) The United States may exercise concurrent jurisdiction over lands so acquired and carry out the intent and purpose of the authority except that the existing laws of Florida relating to the Department of Environmental Protection or the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall prevail relating to any area under their supervision.

Section 164. Subsection (1) of section 372.85, Florida Statutes, is amended to read:

372.85 Contaminating fresh waters.—

(1) It shall be unlawful for any person or persons, firm or corporation to cause any dyestuff, coal tar, oil, sawdust, poison or deleterious substances to be thrown, run or drained into any of the fresh running waters of this state in quantities sufficient to injure, stupefy, or kill fish which may inhabit the same at or below the point where any such substances are discharged, or caused to flow or be thrown into such waters; provided, that it shall not be a violation of this section for any person, firm or corporation engaged in any mining industry to cause any water handled or used in any branch of such industry to be discharged on the surface of land where such industry or branch thereof is being carried on under such precautionary measures as shall be approved by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

Section 165. Section 372.86, Florida Statutes, is amended to read:

372.86 Possessing, exhibiting poisonous or venomous reptile; license required.—No person, firm, or corporation shall keep, possess or exhibit any poisonous or venomous reptile without first having obtained a special permit or license therefor from the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission as herein provided.

Section 166. Section 372.87, Florida Statutes, is amended to read:

372.87 License fee; renewal, revocation.—The *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission is hereby authorized and empowered to issue a license or permit for the keeping, possessing or exhibiting of poisonous or venomous reptiles, upon payment of an annual fee of $5 and upon assurance that all of the provisions of ss. 372.86-372.91 and such other reasonable rules and regulations as said commission may prescribe will be fully complied with in all respects. Such permit may be revoked by the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission upon violation of any of the provisions of ss. 372.86-372.91 or upon violation of any of the rules and regulations prescribed by said commission relating to the keeping, possessing and exhibiting of any poisonous and venomous reptiles. Such permits or licenses shall be for an annual period to be prescribed by the said commission and shall be renewable from year to year upon the payment of said $5 fee and shall be subject to the same conditions, limitations and restrictions as herein set forth.

Section 167. Section 372.88, Florida Statutes, is amended to read:

372.88 Bond required, amount.—No person, party, firm, or corporation shall exhibit to the public either with or without charge, or admission fee any poisonous or venomous reptile without having first posted a good and sufficient bond in writing in the penal sum of $1,000 payable to the Governor of the state, and the Governor's successors in office, conditioned that such exhibitor will indemnify and save harmless all persons from injury or damage from such poisonous or venomous reptiles so exhibited and shall fully comply with all laws of the state and all rules and regulations of the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission governing the keeping, possessing, or exhibiting of poisonous or venomous reptiles; provided, however, that the aggregate liability of the surety for all such injuries or damages shall, in no event, exceed the penal sum of said bond. The surety for said bond must be a surety company authorized to do business under the laws of the state or in lieu of such a surety, cash in the sum of $1,000 may be posted with the said commission to ensure compliance with the conditions of said bond.

Section 168. Section 372.89, Florida Statutes, is amended to read:

372.89 Safe housing required.—All persons, firms, or corporations licensed under this law to keep, possess or exhibit poisonous or venomous reptiles shall provide safe, secure and proper housing for said reptiles in cases, cages, pits or enclosures. It shall be unlawful for any person, firm or corporation, whether licensed hereunder or not, to keep, possess or exhibit any poisonous or venomous reptiles in any manner not approved as safe, secure and proper by the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission.

Section 169. Section 372.901, Florida Statutes, is amended to read:

372.901 Inspection.—Poisonous or venomous reptiles, held in captivity, shall be subject to inspection by an inspecting officer from the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission. The inspecting officer shall determine whether the said reptiles are securely, properly and safely penned. In the event that the reptiles are not safely penned, the inspecting officer shall report the situation in writing to the person or firm owning the said reptiles. Failure of the owner or exhibitor to correct the situation within 30 days after such written notice shall be grounds for revocation of the license or permit of said owner or exhibitor.

Section 170. Section 372.911, Florida Statutes, is amended to read:

372.911 Rewards.—The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission is authorized to offer rewards in amounts of up to $500 to any person furnishing information leading to the arrest and conviction of any person who has inflicted or attempted to inflict bodily injury upon any wildlife officer engaged in the enforcement of the provisions of this chapter or the rules and regulations of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

Section 171. Subsection (3) of section 372.912, Florida Statutes, is amended to read:

372.912 Organized poisonous reptile hunts.—

(3) All organized poisonous reptile hunts in the state shall be registered with the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission and be subject to reasonable rules and regulations promulgated by said commission.

Section 172. Section 372.92, Florida Statutes, is amended to read:

372.92 Rules and regulations.—The *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission may prescribe such other rules and regulations as it may deem necessary to prevent the escape of poisonous and venomous reptiles, either in connection of construction of such cages or otherwise to carry out the intent of ss. 372.86-372.91.

Section 173. Subsections (1), (2), (3), and (4) of section 372.921, Florida Statutes, 1998 Supplement, are amended to read:

372.921 Exhibition of wildlife.—

(1) In order to provide humane treatment and sanitary surroundings for wild animals kept in captivity, no person, firm, corporation, or association shall have, or be in possession of, in captivity for the purpose of public display with or without charge or for public sale any wildlife, specifically birds, mammals, and reptiles, whether indigenous to Florida or not, without having first secured a permit from the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission authorizing such person, firm, or corporation to have in its possession in captivity the species and number of wildlife specified within such permit; however, this section does not apply to any wildlife not protected by law and the regulations of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

(2) The fees to be paid for the issuance of permits required by subsection (1) shall be as follows:

(a) For not more than 10 individual specimens in the aggregate of all species, the sum of $5 per annum.

(b) For over 10 individual specimens in the aggregate of all species, the sum of $25 per annum.

The fees prescribed by this section shall be submitted to the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission with the application for permit required by subsection (1) and shall be deposited in the State Game Fund.

(3) An applicant for a permit shall be required to include in her or his application a statement showing the place, number, and species of wildlife to be held in captivity by the applicant and shall be required upon request by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission to show when, where, and in what manner she or he came into possession of any wildlife acquired subsequent to the effective date of this act. The source of acquisition of such wildlife shall not be divulged by the commission except in connection with a violation of this section or a regulation of the commission in which information as to source of wildlife is required as evidence in the prosecution of such violation.

(4) Permits issued pursuant to this section and places where wildlife is kept or held in captivity shall be subject to inspection by officers of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission at all times. The commission shall have the power to release or confiscate any specimens of any wildlife, specifically birds, mammals, or reptiles, whether indigenous to the state or not, when it is found that conditions under which they are being confined are unsanitary, or unsafe to the public in any manner, or that the species of wildlife are being maltreated, mistreated, or neglected or kept in any manner contrary to the provisions of chapter 828, any such permit to the contrary notwithstanding. Before any such wildlife is confiscated or released under the authority of this section, the owner thereof shall have been advised in writing of the existence of such unsatisfactory conditions; the owner shall have been given 30 days in which to correct such conditions; the owner shall have failed to correct such conditions; the owner shall have had an opportunity for a proceeding pursuant to chapter 120; and the commission shall have ordered such confiscation or release after careful consideration of all evidence in the particular case in question. The final order of the commission shall constitute final agency action.

Section 174. Subsection (1) of section 372.922, Florida Statutes, 1998 Supplement, is amended to read:

372.922 Personal possession of wildlife.—

(1) It is unlawful for any person or persons to possess any wildlife as defined in this act, whether indigenous to Florida or not, until she or he has obtained a permit as provided by this section from the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

Section 175. Section 372.97, Florida Statutes, is amended to read:

372.97 Jim Woodruff Dam; reciprocity agreements.—The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission of the state is hereby authorized to enter into an agreement of the reciprocity with the game and fish commissioners or the appropriate officials or departments of the State of Georgia and the State of Alabama relative to the taking of game and freshwater fish from the waters of the lake created by the Jim Woodruff Dam by permitting reciprocal license privileges.

Section 176. Section 372.971, Florida Statutes, is amended to read:

372.971 St. Mary's River; reciprocity agreements.—The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission of the state is hereby authorized to enter into an agreement of reciprocity with the game and fish commissioner or the appropriate officials or departments of the State of Georgia relative to the taking of game and freshwater fish from the waters of the St. Mary's River by permitting reciprocal agreement license privileges.

Section 177. Section 372.98, Florida Statutes, is amended to read:

372.98 Possession of nutria; license; inspection; penalty for violation.—

(1) No person shall release, permit to be released, or be responsible for the release of, within the state, any animal of the species myocastor coypu and known commonly in Florida and referred to herein as nutria.

(2) No person shall have in her or his possession for sale or otherwise any nutria until such person has obtained a license as provided herein. The fee for such license shall be $25 per year. Application for such license shall be made with the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission on forms providing therefor.

(3) All persons licensed under this law to keep, possess or exhibit nutria shall provide safe, secure and proper housing for said nutria which will adequately safeguard against the escape of any nutria. Requirements for the construction of such pens or housing shall be as prescribed by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

(4) All premises upon which nutria are kept shall be subject to inspection by authorized representatives of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission. Such officers shall determine whether the said nutria are securely, properly and safely housed. In the event the said nutria are not securely, properly and safely housed, the inspecting officer shall so advise in writing the person owning said nutria. Failure of the owner to provide within 30 days after such written notice secure, proper, and safe housing as prescribed by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall be grounds for revocation of the license herein provided and confiscation and disposal of the said nutria as a public nuisance.

(5) Any person violating any provision of this section or any rule and regulation of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission pursuant hereto shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 178. Section 372.981, Florida Statutes, is amended to read:

372.981 Regulation of importation of caiman.—The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall promulgate regulations to control the importation of caiman.

Section 179. Subsections (1), (3), and (4) of section 372.99, Florida Statutes, are amended to read:

372.99 Illegal taking and possession of deer and wild turkey; evidence; penalty.—

(1) Whoever takes or kills any deer or wild turkey, or possesses a freshly killed deer or wild turkey, during the closed season prescribed by law or by the rules and regulations of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, or whoever takes or attempts to take any deer or wild turkey by the use of gun and light in or out of closed season, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and shall forfeit any license or permit issued to her or him under the provisions of this chapter. No license shall be issued to such person for a period of 3 years following any such violation on the first offense. Any person guilty of a second or subsequent violation shall be permanently ineligible for issuance of a license or permit thereafter.

(3) Whoever takes or kills any doe deer; fawn or baby deer; or deer, whether male or female, which does not have one or more antlers at least 5 inches in length, except as provided by law or the rules of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, during the open season prescribed by the rules of the commission, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and may be required to forfeit any license or permit issued to such person for a period of 3 years following any such violation on the first offense. Any person guilty of a second or subsequent violation shall be permanently ineligible for issuance of a license or permit thereafter.

(4) Any person who cultivates agricultural crops may apply to the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission for a permit to take or kill deer on land which that person is currently cultivating. When said person can show, to the satisfaction of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, that such taking or killing of deer is justified because of damage to the person's crops caused by deer, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission may issue a limited permit to the applicant to take or kill deer without being in violation of subsection (1) or subsection (3).

Section 180. Subsections (1) and (3) of section 372.9901, Florida Statutes, 1998 Supplement, are amended to read:

372.9901 Seizure of illegal devices; disposition; appraisal; forfeiture.—

(1) Any vehicle, vessel, animal, gun, light, or other hunting device used in the commission of an offense prohibited by s. 372.99, shall be seized by the arresting officer, who shall promptly make return of the seizure and deliver the property to the Director of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission. The return shall describe the property seized and recite in detail the facts and circumstances under which it was seized, together with the reason that the property was subject to seizure. The return shall also contain the names of all persons known to the officer to be interested in the property.

(3) Upon conviction of the violator, the property, if owned by the person convicted, shall be forfeited to the state under the procedure set forth in ss. 372.312 through 372.318, where not inconsistent with this section. All amounts received from the sale or other disposition of the property shall be paid into the State Game Trust Fund or into the commission's Federal Law Enforcement Trust Fund as provided in s. 372.107, as applicable. If the property is not sold or converted, it shall be delivered to the director of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

Section 181. Subsection (1) of section 372.9903, Florida Statutes, is amended to read:

372.9903 Illegal possession or transportation of freshwater game fish in commercial quantities; penalty.—

(1) Whoever possesses, moves, or transports any black bass, bream, speckled perch, or other freshwater game fish in commercial quantities in violation of law or the rules of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 182. Subsections (1) and (3) of section 372.9904, Florida Statutes, 1998 Supplement, are amended to read:

372.9904 Seizure of illegal devices; disposition; appraisal; forfeiture.—

(1) Any vehicle, vessel, or other transportation device used in the commission of the offense prohibited by s. 372.9903, except a vehicle, vessel, or other transportation device duly registered as a common carrier and operated in lawful transaction of business as such carrier, shall be seized by the arresting officer, who shall promptly make return of the seizure and deliver the property to the director of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission. The return shall describe the property seized and recite in detail the facts and circumstances under which it was seized, together with the reason that the property was subject to seizure. The return shall also contain the names of all persons known to the officer to be interested in the property.

(3) Upon conviction of the violator, the property, if owned by the person convicted, shall be forfeited to the state under the procedure set forth in ss. 372.312-372.318, when not inconsistent with this section. All amounts received from the sale or other disposition of the property shall be paid into the State Game Trust Fund or into the commission's Federal Law Enforcement Trust Fund as provided in s. 372.107, as applicable. If the property is not sold or converted, it shall be delivered to the director of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

Section 183. Section 372.9906, Florida Statutes, is amended to read:

372.9906 Wildlife Law Enforcement Program; creation; purposes.—There is established within the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission the Wildlife Law Enforcement Program. The commission may establish and operate law enforcement programs that relate to the conservation, enhancement, and regulation of wildlife and freshwater aquatic resources of the state and to conduct programs to educate the public about the enforcement of laws and regulations relating to the wildlife and freshwater aquatic resources of the state. Moneys that accrue to the program by law and moneys donated to the program must be deposited into the State Game Trust Fund.

Section 184. Subsection (2) of section 372.991, Florida Statutes, is amended to read:

372.991 Nongame Wildlife Trust Fund.—

(2)(a) There is established within the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission the Nongame Wildlife Trust Fund. The fund shall be credited with moneys collected pursuant to ss. 319.32(3) and 320.02(8). Additional funds may be provided from legislative appropriations and by donations from interested individuals and organizations. The commission shall designate an identifiable unit to administer the trust fund.

(b) Proceeds from the trust fund shall be used for the following purposes:

1. Documentation of population trends of nongame wildlife and assessment of wildlife habitat, in coordination with the database of Florida natural areas inventory.

2. Establishment of effective conservation, management, and regulatory programs for nongame wildlife of the state.

3. Public education programs.

Section 185. Subsection (1) of section 372.992, Florida Statutes, is amended to read:

372.992 Nongame Wildlife Advisory Council.—

(1) There is created the Nongame Wildlife Advisory Council, which shall consist of the following 11 members appointed by the Governor: one representative each from the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the Department of Environmental Protection, and the United States Fish and Wildlife Services; the director of the Florida Museum of Natural History or her or his designee; one representative from a professional wildlife organization; one representative from a private wildlife institution; one representative from a Florida university or college who has expertise in nongame biology; one representative of business interests from a private consulting firm who has expertise in nongame biology; one representative of a statewide organization of landowner interests; and two members from conservation organizations. All appointments shall be for 4-year terms. Members shall be eligible for reappointment.

Section 186. Subsection (2) of section 372.995, Florida Statutes, is amended to read:

372.995 Release of balloons.—

(2) It is unlawful for any person, firm, or corporation to intentionally release, organize the release, or intentionally cause to be released within a 24-hour period 10 or more balloons inflated with a gas that is lighter than air except for:

(a) Balloons released by a person on behalf of a governmental agency or pursuant to a governmental contract for scientific or meteorological purposes;

(b) Hot air balloons that are recovered after launching;

(c) Balloons released indoors; or

(d) Balloons that are either biodegradable or photodegradable, as determined by rule of the *Fish and Wildlife Conservation* ~~Marine Fisheries~~ Commission, and which are closed by a hand-tied knot in the stem of the balloon without string, ribbon, or other attachments. In the event that any balloons are released pursuant to the exemption established in this paragraph, the party responsible for the release shall make available to any law enforcement officer evidence of the biodegradability or photodegradability of said balloons in the form of a certificate executed by the manufacturer. Failure to provide said evidence shall be prima facie evidence of a violation of this act.

Section 187. Subsections (1), (2), and (5) of section 373.453, Florida Statutes, are amended to read:

373.453 Surface water improvement and management plans and programs.—

(1)(a) Each water management district, in cooperation with the department, the Department of Agriculture and Consumer Services, the Department of Community Affairs, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, and local governments shall prepare and maintain a list which shall prioritize water bodies of regional or statewide significance within each water management district. The list shall be reviewed and updated every 3 years. The list shall be based on criteria adopted by rule of the department and shall assign priorities to the water bodies based on their need for protection and restoration.

(b) Criteria developed by the department shall include, but need not be limited to, consideration of violations of water quality standards occurring in the water body, the amounts of nutrients entering the water body and the water body's trophic state, the existence of or need for a continuous aquatic weed control program in the water body, the biological condition of the water body, reduced fish and wildlife values, and threats to agricultural and urban water supplies and public recreational opportunities.

(c) In developing their respective priority lists, water management districts shall give consideration to the following priority areas:

1. The South Florida Water Management District shall give priority to the restoration needs of Lake Okeechobee, Biscayne Bay, and the Indian River Lagoon system and their tributaries.

2. The Southwest Florida Water Management District shall give priority to the restoration needs of Tampa Bay and its tributaries.

3. The St. Johns River Water Management District shall give priority to the restoration needs of Lake Apopka, the Lower St. Johns River, and the Indian River Lagoon system and their tributaries.

(2) Once the priority lists are approved by the department, the water management districts, in cooperation with the department, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the Department of Community Affairs, the Department of Agriculture and Consumer Services, and local governments, shall develop surface water improvement and management plans for the water bodies based on the priority lists. The department shall establish a uniform format for such plans and a schedule for reviewing and updating the plans. These plans shall include, but not be limited to:

(a) A description of the water body system, its historical and current uses, its hydrology, and a history of the conditions which have led to the need for restoration or protection;

(b) An identification of all governmental units that have jurisdiction over the water body and its drainage basin within the approved surface water improvement and management plan area, including local, regional, state, and federal units;

(c) A description of land uses within the drainage basin within the approved surface water improvement and management plan area and those of important tributaries, point and nonpoint sources of pollution, and permitted discharge activities;

(d) A list of the owners of point and nonpoint sources of water pollution that are discharged into each water body and tributary thereto and that adversely affect the public interest, including separate lists of those sources that are:

1. Operating without a permit;

2. Operating with a temporary operating permit; and

3. Presently violating effluent limits or water quality standards.

The plan shall also include recommendations and schedules for bringing all sources into compliance with state standards when not contrary to the public interest. This paragraph does not authorize any existing or future violation of any applicable statute, regulation, or permit requirement, and does not diminish the authority of the department or the water management district;

(e) A description of strategies and potential strategies for restoring or protecting the water body to Class III or better;

(f) A listing of studies that are being or have been prepared for the water body;

(g) A description of the research and feasibility studies which will be performed to determine the particular strategy or strategies to restore or protect the water body;

(h) A description of the measures needed to manage and maintain the water body once it has been restored and to prevent future degradation;

(i) A schedule for restoration and protection of the water body; and

(j) An estimate of the funding needed to carry out the restoration or protection strategies.

(5) The governing board of each water management district is encouraged to appoint advisory committees as necessary to assist in formulating and evaluating strategies for water body protection and restoration activities and to increase public awareness and intergovernmental cooperation. Such committees should include representatives of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the Department of Agriculture and Consumer Services, appropriate local governments, federal agencies, existing advisory councils for the subject water body, and representatives of the public who use the water body.

Section 188. Subsections (1) and (3) of section 373.455, Florida Statutes, are amended to read:

373.455 Review of surface water improvement and management plans.—

(1) At least 60 days prior to consideration by the governing board pursuant to s. 373.456(1) of its surface water improvement and management plan, a water management district shall transmit its proposed plan to the department, the Department of Agriculture and Consumer Services, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the Department of Community Affairs, and local governments.

(3) The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall review each proposed surface water improvement and management plan to determine the effects of the plan on wild animal life and fresh water aquatic life and their habitats. If the commission determines that the plan has adverse effects on these resources and that such adverse effects exceed the beneficial effects on these resources, the commission shall recommend modifications of or additions to the plan to the district governing board at the time it considers the plan pursuant to s. 373.456(1), or any modifications or additions which would result in additional beneficial effects on wild animal life or fresh water aquatic life or their habitats.

Section 189. Subsection (2) of section 373.4595, Florida Statutes, is amended to read:

373.4595 Lake Okeechobee improvement and management.—

(2) DIVERSIONS; LAKE OKEECHOBEE TECHNICAL ADVISORY COUNCIL.—

(a) The Legislature finds that efforts to reduce nutrient levels in Lake Okeechobee have resulted in diversions of nutrient-laden waters to other environmentally sensitive areas, which diversions have resulted in adverse environmental effects. The Legislature also finds that both the agriculture industry and the environmental community are committed to protecting Lake Okeechobee and these environmentally sensitive areas from further harm and that this crisis must be addressed immediately. Therefore:

1. The South Florida Water Management District shall not divert waters to the Indian River estuary, the Caloosahatchee River or its estuary, or the Everglades National Park, in such a way that the state water quality standards are violated, that the nutrients in such diverted waters adversely affect indigenous vegetation communities or wildlife, or that fresh waters diverted to the Caloosahatchee or Indian River estuaries adversely affect the estuarine vegetation or wildlife, unless the receiving waters will biologically benefit by the diversion. However, diversion is permitted when an emergency is declared by the water management district, if the Secretary of Environmental Protection concurs.

2. The South Florida Water Management district may divert waters to other areas, including Lake Hicpochee, unless otherwise provided by law. However, the district shall monitor the effects of such diversions to determine the extent of adverse or positive environmental effects on indigenous vegetation and wildlife. The results of the monitoring shall be reported to the Lake Okeechobee Technical Advisory Council. If the monitoring of such diversions reveals continuing adverse environmental effects, the district shall make recommendations to the Legislature by July 1, 1988, on how to cease the diversions.

(b)1. There is hereby created a Lake Okeechobee Technical Advisory Council. Council members shall be experts in the fields of botany, wildlife biology, aquatic biology, water quality chemistry, or hydrology and shall consist of:

a. Three members appointed by the Governor;

b. Three members appointed by the Speaker of the House of Representatives;

c. Three members appointed by the President of the Senate;

d. One member from the Institute of Food and Agricultural Sciences, University of Florida, appointed by the President of the University of Florida; and

e. One member from the College of Natural Sciences, University of South Florida, appointed by the President of the University of South Florida.

Members shall be appointed not later than July 15, 1987.

2. The purpose of the council shall be to investigate the adverse effects of past diversions of water and potential effects of future diversions on indigenous wildlife and vegetation and to report to the Legislature, no later than March 1, 1988, with findings and recommendations proposing permanent solutions to eliminate such adverse effects.

3. The South Florida Water Management District shall provide staff and assistance to the council. The Department of Environmental Protection, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, and the district shall cooperate with the council.

4. The council shall meet not less than once every 2 months at the call of the chair, or at the call of four other members of the council. The council shall elect from its members a chair and vice chair and such other officers as the council deems necessary. The council may establish other procedures for the conduct of its business.

5. The members of the council are not entitled to compensation but are eligible for per diem and travel expenses pursuant to s. 112.061.

Section 190. Paragraph (b) of subsection (1) of section 373.465, Florida Statutes, 1998 Supplement, is amended to read:

373.465 Lake Panasoffkee Restoration Council.—There is created within the Southwest Florida Water Management District the Lake Panasoffkee Restoration Council.

(1)

(b) The council advisory group to the council shall consist of: one representative each from the Southwest Florida Water Management District, the Florida Department of Environmental Protection, the Florida Department of Transportation, the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission, the Withlacoochee River Basin Board, and the United States Army Corps of Engineers, to be appointed by their respective agencies, all of whom must have training in biology or another scientific discipline.

Section 191. Subsections (1) and (2) of section 373.466, Florida Statutes, 1998 Supplement, are amended to read:

373.466 Lake Panasoffkee restoration program.—

(1) The Southwest Florida Water Management District, in conjunction with the Department of Environmental Protection, the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission, the Sumter County Commission, and the Lake Panasoffkee Restoration Council, shall review existing restoration proposals to determine which ones are the most environmentally sound and economically feasible methods of improving the fisheries and natural systems of Lake Panasoffkee.

(2) The Southwest Florida Water Management District, in consultation and by agreement with the Department of Environmental Protection, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, and pertinent local governments, shall develop tasks to be undertaken by those entities necessary to initiate the Lake Panasoffkee restoration program recommended by the Lake Panasoffkee Restoration Council. These agencies shall:

(a) Evaluate different methodologies for removing the extensive tussocks and build-up of organic matter along the shoreline and of the aquatic vegetation in the lake; and

(b) Conduct any additional studies as recommended by the Lake Panasoffkee Restoration Council.

Section 192. Subsection (1) of section 373.591, Florida Statutes, 1998 Supplement, is amended to read:

373.591 Management review teams.—

(1) To determine whether conservation, preservation, and recreation lands titled in the name of the water management districts are being managed for the purposes for which they were acquired and in accordance with land management objectives, the water management districts shall establish land management review teams to conduct periodic management reviews. The land management review teams shall be composed of the following members:

(a) One individual from the county or local community in which the parcel is located.

(b) One employee of the water management district.

(c) A private land manager mutually agreeable to the governmental agency representatives.

(d) A member of the local soil and water conservation district board of supervisors.

(e) One individual from the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

(f) One individual from the Department of Environmental Protection.

(g) One individual representing a conservation organization.

(h) One individual from the Department of Agriculture and Consumer Services' Division of Forestry.

Section 193. Subsection (1) of section 375.021, Florida Statutes, is amended to read:

375.021 Comprehensive multipurpose outdoor recreation plan.—

(1) The department is given the responsibility, authority, and power to develop and execute a comprehensive multipurpose outdoor recreation plan for this state with the cooperation of the Department of Agriculture and Consumer Services, the Department of Transportation, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the Department of Commerce, and the water management districts.

Section 194. Section 375.311, Florida Statutes, is amended to read:

375.311 Legislative intent.—To protect and manage Florida's wildlife environment on lands conveyed for recreational purposes by private owners and public custodians, the Legislature hereby intends that the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall regulate motor vehicle access and traffic control on Florida's public lands.

Section 195. Subsection (3) of section 375.312, Florida Statutes, is amended to read:

375.312 Definitions.—As used in this act, unless the context requires otherwise:

(3) "Commission" means the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission.

Section 196. Subsections (6) and (8) of section 376.121, Florida Statutes, are amended to read:

376.121 Liability for damage to natural resources.—The Legislature finds that extensive damage to the state's natural resources is the likely result of a pollutant discharge and that it is essential that the state adequately assess and recover the cost of such damage from responsible parties. It is the state's goal to recover the costs of restoration from the responsible parties and to restore damaged natural resources to their predischarge condition. In many instances, however, restoration is not technically feasible. In such instances, the state has the responsibility to its citizens to recover the cost of all damage to natural resources. To ensure that the public does not bear a substantial loss as a result of the destruction of natural resources, the procedures set out in this section shall be used to assess the cost of damage to such resources. Natural resources include coastal waters, wetlands, estuaries, tidal flats, beaches, lands adjoining the seacoasts of the state, and all living things except human beings. The Legislature recognizes the difficulty historically encountered in calculating the value of damaged natural resources. The value of certain qualities of the state's natural resources is not readily quantifiable, yet the resources and their qualities have an intrinsic value to the residents of the state, and any damage to natural resources and their qualities should not be dismissed as nonrecoverable merely because of the difficulty in quantifying their value. In order to avoid unnecessary speculation and expenditure of limited resources to determine these values, the Legislature hereby establishes a schedule for compensation for damage to the state's natural resources and the quality of said resources.

(6) It is understood that a pollutant will, by its very nature, result in damage to the flora and fauna of the waters of the state and the adjoining land. Therefore, compensation for such resources, which is difficult to calculate, is included in the compensation schedule. Not included, however, in this base figure is compensation for the death of endangered or threatened species directly attributable to the pollutant discharged. Compensation for the death of any animal designated by rule as endangered by the *Fish and Wildlife Conservation* ~~Florida Game~~

~~and Fresh Water Fish~~ Commission is $10,000. Compensation for the death of any animal designated by rule as threatened by the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission is $5,000. These amounts are not intended to reflect the actual value of said endangered or threatened species, but are included for the purposes of this section.

(8) When assessing the amount of damages to natural resources, the department shall be assisted, if requested by the department, by representatives of other state agencies and local governments that would enhance the department's damage assessment. The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall assist the department in the assessment of damages to wildlife impacted by a pollutant discharge and shall assist the department in recovering the costs of such damages.

Section 197. Subsection (1) of section 378.011, Florida Statutes, is amended to read:

378.011 Land Use Advisory Committee.—

(1) There is hereby created a Land Use Advisory Committee which shall be composed of the following:

(a) One member from the Bureau of Geology of the ~~Division of Resource Management of the~~ Department of Environmental Protection, who shall serve as chair, to be appointed by the executive director of said department;

(b) One member from the Executive Office of the Governor, to be appointed by the Governor;

(c) One member from the Tampa Bay Regional Planning Council, one member from the Central Florida Regional Planning Council, and one member from the North Central Florida Regional Planning Council, to be appointed by the respective directors of said regional planning councils;

(d) One member to represent the Board of County Commissioners of Polk County, one member to represent the Board of County Commissioners of Hillsborough County, and one member to represent the Board of County Commissioners of Hamilton County, to be appointed by the chairs of said boards;

(e) One member from the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, to be appointed by the Executive Director of said commission; and

(f) Two members of the public, to be appointed by the Governor.

Section 198. Subsection (5) of section 378.036, Florida Statutes, is amended to read:

378.036 Land acquisitions financed by Nonmandatory Land Reclamation Trust Fund moneys.—

(5) By July 1, 1986, the department, in cooperation with the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, shall develop a list identifying those nonmandatory lands which have been or may be naturally reclaimed and which the state may seek to acquire through purchase or donation for hunting, fishing, or other outdoor recreational purposes or for wildlife habitat restoration. The list shall separately indicate which of the nonmandatory lands are eligible lands.

Section 199. Subsection (2) of section 378.409, Florida Statutes, is amended to read:

378.409 Civil liability.—

(2) In assessing damages for animal, plant, or aquatic life, the value shall be determined in accordance with the tables of values established by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission and the department.

Section 200. Subsections (3) and (6) of section 380.061, Florida Statutes, 1998 Supplement, are amended to read:

380.061 The Florida Quality Developments program.—

(3)(a) To be eligible for designation under this program, the developer shall comply with each of the following requirements which is applicable to the site of a qualified development:

1. Have donated or entered into a binding commitment to donate the fee or a lesser interest sufficient to protect, in perpetuity, the natural attributes of the types of land listed below. In lieu of the above requirement, the developer may enter into a binding commitment which runs with the land to set aside such areas on the property, in perpetuity, as open space to be retained in a natural condition or as otherwise permitted under this subparagraph. Under the requirements of this subparagraph, the developer may reserve the right to use such areas for the purpose of passive recreation that is consistent with the purposes for which the land was preserved.

a. Those wetlands and water bodies throughout the state as would be delineated if the provisions of s. 373.4145(1)(b) were applied. The developer may use such areas for the purpose of site access, provided other routes of access are unavailable or impracticable; may use such areas for the purpose of stormwater or domestic sewage management and other necessary utilities to the extent that such uses are permitted pursuant to chapter 403; or may redesign or alter wetlands and water bodies within the jurisdiction of the Department of Environmental Protection which have been artificially created, if the redesign or alteration is done so as to produce a more naturally functioning system.

b. Active beach or primary and, where appropriate, secondary dunes, to maintain the integrity of the dune system and adequate public accessways to the beach. However, the developer may retain the right to construct and maintain elevated walkways over the dunes to provide access to the beach.

c. Known archaeological sites determined to be of significance by the Division of Historical Resources of the Department of State.

d. Areas known to be important to animal species designated as endangered or threatened animal species by the United States Fish and Wildlife Service or by the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission, for reproduction, feeding, or nesting; for traveling between such areas used for reproduction, feeding, or nesting; or for escape from predation.

e. Areas known to contain plant species designated as endangered plant species by the Department of Agriculture and Consumer Services.

2. Produce, or dispose of, no substances designated as hazardous or toxic substances by the United States Environmental Protection Agency or by the Department of Environmental Protection or the Department of Agriculture and Consumer Services. This subparagraph is not intended to apply to the production of these substances in nonsignificant amounts as would occur through household use or incidental use by businesses.

3. Participate in a downtown reuse or redevelopment program to improve and rehabilitate a declining downtown area.

4. Incorporate no dredge and fill activities in, and no stormwater discharge into, waters designated as Class II, aquatic preserves, or Outstanding Florida Waters, except as activities in those waters are permitted pursuant to s. 403.813(2) and the developer demonstrates that those activities meet the standards under Class II waters, Outstanding Florida Waters, or aquatic preserves, as applicable.

5. Include open space, recreation areas, Xeriscape as defined in s. 373.185, and energy conservation and minimize impermeable surfaces as appropriate to the location and type of project.

6. Provide for construction and maintenance of all onsite infrastructure necessary to support the project and enter into a binding commitment with local government to provide an appropriate fair-share contribution toward the offsite impacts which the development will impose on publicly funded facilities and services, except offsite transportation, and condition or phase the commencement of development to ensure that public facilities and services, except offsite transportation, will be available concurrent with the impacts of the development. For the purposes of offsite transportation impacts, the developer shall comply, at a minimum, with the standards of the state land planning agency's development-of-regional-impact transportation rule, the approved strategic regional policy plan, any applicable regional planning council transporta-

tion rule, and the approved local government comprehensive plan and land development regulations adopted pursuant to part II of chapter 163.

7. Design and construct the development in a manner that is consistent with the adopted state plan, the applicable strategic regional policy plan, and the applicable adopted local government comprehensive plan.

(b) In addition to the foregoing requirements, the developer shall plan and design his or her development in a manner which includes the needs of the people in this state as identified in the state comprehensive plan and the quality of life of the people who will live and work in or near the development. The developer is encouraged to plan and design his or her development in an innovative manner. These planning and design features may include, but are not limited to, such things as affordable housing, care for the elderly, urban renewal or redevelopment, mass transit, the protection and preservation of wetlands outside the jurisdiction of the Department of Environmental Protection or of uplands as wildlife habitat, provision for the recycling of solid waste, provision for onsite child care, enhancement of emergency management capabilities, the preservation of areas known to be primary habitat for significant populations of species of special concern designated by the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission, or community economic development. These additional amenities will be considered in determining whether the development qualifies for designation under this program.

(6)(a) In the event that the development is not designated under subsection (5), the developer may appeal that determination to the Quality Developments Review Board. The board shall consist of the secretary of the state land planning agency, the Secretary of Environmental Protection and a member designated by the secretary, the Secretary of Transportation, the executive director of the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission, the executive director of the appropriate water management district created pursuant to chapter 373, and the chief executive officer of the appropriate local government. When there is a significant historical or archaeological site within the boundaries of a development which is appealed to the board, the director of the Division of Historical Resources of the Department of State shall also sit on the board. The staff of the state land planning agency shall serve as staff to the board.

(b) The board shall meet once each quarter of the year. However, a meeting may be waived if no appeals are pending.

(c) On appeal, the sole issue shall be whether the development meets the statutory criteria for designation under this program. An affirmative vote of at least five members of the board, including the affirmative vote of the chief executive officer of the appropriate local government, shall be necessary to designate the development by the board.

(d) The state land planning agency shall adopt procedural rules for consideration of appeals under this subsection.

Section 201. Section 388.45, Florida Statutes, is amended to read:

388.45 Threat to public health; emergency declarations.—The State Health Officer has the authority to declare that a threat to public health exists when the Department of Health discovers in the human or surrogate population the occurrence of an infectious disease that can be transmitted from arthropods to humans. The State Health Officer must immediately notify the Commissioner of Agriculture of the declaration of this threat to public health. The Commissioner of Agriculture is authorized to issue an emergency declaration based on the State Health Officer's declaration of a threat to the public health or based on other threats to animal health. Each declaration must contain the geographical boundaries and the duration of the declaration. The State Health Officer shall order such human medical preventive treatment and the Commissioner of Agriculture shall order such ameliorative arthropod control measures as are necessary to prevent the spread of disease, notwithstanding contrary provisions of this chapter or the rules adopted under this chapter. Within 24 hours after a declaration of a threat to the public health, the State Health Officer must also notify the agency heads of the Department of Environmental Protection and the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission of the declaration. Within 24 hours after an emergency declaration based on the public health declaration or based on other threats to animal health, the Commissioner of Agriculture must notify the agency heads of the Department of Environmental Protection and the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission of the declaration. Within 24 hours after an emergency declaration based on other threats to animal health, the Commissioner of Agriculture must also notify the agency head of the Department of Health of the declaration.

Section 202. Subsection (2) of section 388.46, Florida Statutes, is amended to read:

388.46 Florida Coordinating Council on Mosquito Control; establishment; membership; organization; responsibilities.—

(2) MEMBERSHIP, ORGANIZATION, AND RESPONSIBILITIES.—

(a) Membership.—The Florida Coordinating Council on Mosquito Control shall be comprised of the following representatives or their authorized designees:

1. The Secretary of Environmental Protection and the Secretary of Health;

2. The executive director of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission;

3. The state epidemiologist;

4. The Commissioner of Agriculture; and

5. Representatives from:

a. The University of Florida, Institute of Food and Agricultural Sciences, Florida Medical Entomological Research Laboratory;

b. Florida Agricultural and Mechanical University;

c. The United States Environmental Protection Agency;

d. The United States Department of Agriculture, Insects Affecting Man Laboratory;

e. The United States Fish and Wildlife Service;

f. Two mosquito control directors to be nominated by the Florida Mosquito Control Association, two representatives of Florida environmental groups, and two private citizens who are property owners whose lands are regularly subject to mosquito control operations, to be appointed to 4-year terms by the Commissioner of Agriculture; and

g. The Board of Trustees of the Internal Improvement Trust Fund.

(b) Organization.—The council shall be chaired by the Commissioner of Agriculture or the commissioner's authorized designee. A majority of the membership of the council shall constitute a quorum for the conduct of business. The chair shall be responsible for recording and distributing to the members a summary of the proceedings of all council meetings. The council shall meet at least three times each year, or as needed. The council may designate subcommittees from time to time to assist in carrying out its responsibilities, provided that the Subcommittee on Managed Marshes shall be the first subcommittee appointed by the council. The subcommittee shall continue to provide technical assistance and guidance on mosquito impoundment management plans and develop and review research proposals for mosquito source reduction techniques.

(c) Responsibilities.—The council shall:

1. Develop and implement guidelines to assist the department in resolving disputes arising over the control of arthropods on publicly owned lands.

2. Identify and recommend to Florida Agricultural and Mechanical University research priorities for arthropod control practices and technologies.

3. Develop and recommend to the department a request for proposal process for arthropod control research.

4. Identify potential funding sources for research or implementation projects and evaluate and prioritize proposals upon request by the funding source.

5. Prepare and present reports, as needed, on arthropod control activities in the state to the Pesticide Review Council, the Florida Coastal Management Program Interagency Management Committee, and other governmental organizations, as appropriate.

Section 203. Subsection (5) of section 403.0752, Florida Statutes, is amended to read:

403.0752 Ecosystem management agreements.—

(5) The Secretary of Community Affairs, the Secretary of Transportation, the Commissioner of Agriculture, the Executive Director of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, and the executive directors of the water management districts are authorized to participate in the development of ecosystem management agreements with regulated entities and other governmental agencies as necessary to effectuate the provisions of this section. Local governments are encouraged to participate in ecosystem management agreements.

Section 204. Subsection (4) of section 403.0885, Florida Statutes, 1998 Supplement, is amended to read:

403.0885 Establishment of federally approved state National Pollutant Discharge Elimination System (NPDES) Program.—

(4) The department shall respond, in writing, to any written comments on a pending application for a state NPDES permit which the department receives from the executive director, or his or her designee, of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission on matters within the commenting agency's jurisdiction. The department's response shall not constitute agency action for purposes of ss. 120.569 and 120.57 or other provisions of chapter 120.

Section 205. Subsection (2) of section 403.413, Florida Statutes, is amended to read:

403.413 Florida Litter Law.—

(2) DEFINITIONS.—As used in this section:

(a) "Litter" means any garbage; rubbish; trash; refuse; can; bottle; box; container; paper; tobacco product; tire; appliance; mechanical equipment or part; building or construction material; tool; machinery; wood; motor vehicle or motor vehicle part; vessel; aircraft; farm machinery or equipment; sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility; or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

(b) "Person" means any individual, firm, sole proprietorship, partnership, corporation, or unincorporated association.

(c) "Law enforcement officer" means any officer of the Florida Highway Patrol, a county sheriff's department, a municipal law enforcement department, a law enforcement department of any other political subdivision, the department, or the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission. In addition, and solely for the purposes of this section, "law enforcement officer" means any employee of a county or municipal park or recreation department designated by the department head as a litter enforcement officer.

(d) "Aircraft" means a motor vehicle or other vehicle that is used or designed to fly but does not include a parachute or any other device used primarily as safety equipment.

(e) "Commercial purpose" means for the purpose of economic gain.

(f) "Commercial vehicle" means a vehicle that is owned or used by a business, corporation, association, partnership, or sole proprietorship or any other entity conducting business for a commercial purpose.

(g) "Dump" means to dump, throw, discard, place, deposit, or dispose of.

(h) "Motor vehicle" means an automobile, motorcycle, truck, trailer, semitrailer, truck tractor, or semitrailer combination or any other vehicle that is powered by a motor.

(i) "Vessel" means a boat, barge, or airboat or any other vehicle used for transportation on water.

Section 206. Subsection (2) of section 403.507, Florida Statutes, is amended to read:

403.507 Preliminary statements of issues, reports, and studies.—

(2)(a) The following agencies shall prepare reports as provided below and shall submit them to the department and the applicant within 150 days after distribution of the complete application:

1. The Department of Community Affairs shall prepare a report containing recommendations which address the impact upon the public of the proposed electrical power plant, based on the degree to which the electrical power plant is consistent with the applicable portions of the state comprehensive plan and other such matters within its jurisdiction. The Department of Community Affairs may also comment on the consistency of the proposed electrical power plant with applicable strategic regional policy plans or local comprehensive plans and land development regulations.

2. The Public Service Commission shall prepare a report as to the present and future need for the electrical generating capacity to be supplied by the proposed electrical power plant. The report shall include the commission's determination pursuant to s. 403.519 and may include the commission's comments with respect to any other matters within its jurisdiction.

3. The water management district shall prepare a report as to matters within its jurisdiction.

4. Each local government in whose jurisdiction the proposed electrical power plant is to be located shall prepare a report as to the consistency of the proposed electrical power plant with all applicable local ordinances, regulations, standards, or criteria that apply to the proposed electrical power plant, including adopted local comprehensive plans, land development regulations, and any applicable local environmental regulations adopted pursuant to s. 403.182 or by other means.

5. The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall prepare a report as to matters within its jurisdiction.

6. The regional planning council shall prepare a report containing recommendations that address the impact upon the public of the proposed electrical power plant, based on the degree to which the electrical power plant is consistent with the applicable provisions of the strategic regional policy plan adopted pursuant to chapter 186 and other matters within its jurisdiction.

7. Any other agency, if requested by the department, shall also perform studies or prepare reports as to matters within that agency's jurisdiction which may potentially be affected by the proposed electrical power plant.

(b) As needed to verify or supplement the studies made by the applicant in support of the application, it shall be the duty of the department to conduct, or contract for, studies of the proposed electrical power plant and site, including, but not limited to, the following, which shall be completed no later than 210 days after the complete application is filed with the department:

1. Cooling system requirements.

2. Construction and operational safeguards.

3. Proximity to transportation systems.

4. Soil and foundation conditions.

5. Impact on suitable present and projected water supplies for this and other competing uses.

6. Impact on surrounding land uses.

7. Accessibility to transmission corridors.

8. Environmental impacts.

9. Requirements applicable under any federally delegated or approved permit program.

(c) Each report described in paragraphs (a) and (b) shall contain all information on variances, exemptions, exceptions, or other relief which may be required by s. 403.511(2) and any proposed conditions of certification on matters within the jurisdiction of such agency. For each condition proposed by an agency in its report, the agency shall list the specific statute, rule, or ordinance which authorizes the proposed condition.

(d) The agencies shall initiate the activities required by this section no later than 30 days after the complete application is distributed. The agencies shall keep the applicant and the department informed as to the progress of the studies and any issues raised thereby.

Section 207. Paragraph (a) of subsection (4) of section 403.508, Florida Statutes, is amended to read:

403.508 Land use and certification proceedings, parties, participants.—

(4)(a) Parties to the proceeding shall include:

1. The applicant.

2. The Public Service Commission.

3. The Department of Community Affairs.

4. The *Fish and Wildlife Conservation Commission* ~~Game and Fresh Water Fish Commission~~.

5. The water management district.

6. The department.

7. The regional planning council.

8. The local government.

Section 208. Paragraph (b) of subsection (1) of section 403.518, Florida Statutes, is amended to read:

403.518 Fees; disposition.—

(1) The department shall charge the applicant the following fees, as appropriate, which shall be paid into the Florida Permit Fee Trust Fund:

(b) An application fee, which shall not exceed $200,000. The fee shall be fixed by rule on a sliding scale related to the size, type, ultimate site capacity, increase in generating capacity proposed by the application, or the number and size of local governments in whose jurisdiction the electrical power plant is located.

1. Sixty percent of the fee shall go to the department to cover any costs associated with reviewing and acting upon the application, to cover any field services associated with monitoring construction and operation of the facility, and to cover the costs of the public notices published by the department.

2. Twenty percent of the fee or $25,000, whichever is greater, shall be transferred to the Administrative Trust Fund of the Division of Administrative Hearings of the Department of Management Services.

3. Upon written request with proper itemized accounting within 90 days after final agency action by the board or withdrawal of the application, the department shall reimburse the Department of Community Affairs, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, and any water management district created pursuant to chapter 373, regional planning council, and local government in the jurisdiction of which the proposed electrical power plant is to be located, and any other agency from which the department requests special studies pursuant to s. 403.507(2)(a)7. Such reimbursement shall be authorized for the preparation of any studies required of the agencies by this act, and for agency travel and per diem to attend any hearing held pursuant to this act, and for local governments to participate in the proceedings. In the event the amount available for allocation is insufficient to provide for complete reimbursement to the agencies, reimbursement shall be on a prorated basis.

4. If any sums are remaining, the department shall retain them for its use in the same manner as is otherwise authorized by this act; provided, however, that if the certification application is withdrawn, the remaining sums shall be refunded to the applicant within 90 days after withdrawal.

Section 209. Paragraph (a) of subsection (2) of section 403.526, Florida Statutes, is amended to read:

403.526 Preliminary statements of issues, reports, and studies.—

(2)(a) The affected agencies shall prepare reports as provided below and shall submit them to the department and the applicant within 90 days after distribution of the complete application:

1. The department shall prepare a report as to the impact of each proposed transmission line or corridor as it relates to matters within its jurisdiction.

2. Each water management district in the jurisdiction of which a proposed transmission line or corridor is to be located shall prepare a report as to the impact on water resources and other matters within its jurisdiction.

3. The Department of Community Affairs shall prepare a report containing recommendations which address the impact upon the public of the proposed transmission line or corridor, based on the degree to which the proposed transmission line or corridor is consistent with the applicable portions of the state comprehensive plan and other matters within its jurisdiction. The Department of Community Affairs may also comment on the consistency of the proposed transmission line or corridor with applicable strategic regional policy plans or local comprehensive plans and land development regulations.

4. The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall prepare a report as to the impact of each proposed transmission line or corridor on fish and wildlife resources and other matters within its jurisdiction.

5. Each local government shall prepare a report as to the impact of each proposed transmission line or corridor on matters within its jurisdiction, including the consistency of the proposed transmission line or corridor with all applicable local ordinances, regulations, standards, or criteria that apply to the proposed transmission line or corridor, including local comprehensive plans, zoning regulations, land development regulations, and any applicable local environmental regulations adopted pursuant to s. 403.182 or by other means. No change by the responsible local government or local agency in local comprehensive plans, zoning ordinances, or other regulations made after the date required for the filing of the local government's report required by this section shall be applicable to the certification of the proposed transmission line or corridor unless the certification is denied or the application is withdrawn.

6. Each regional planning council shall present a report containing recommendations that address the impact upon the public of the proposed transmission line or corridor based on the degree to which the transmission line or corridor is consistent with the applicable provisions of the strategic regional policy plan adopted pursuant to chapter 186 and other impacts of each proposed transmission line or corridor on matters within its jurisdiction.

Section 210. Paragraph (a) of subsection (4) of section 403.527, Florida Statutes, is amended to read:

403.527 Notice, proceedings, parties, participants.—

(4)(a) Parties to the proceeding shall be:

1. The applicant.

2. The department.

3. The commission.

4. The Department of Community Affairs.

5. The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

6. Each water management district in the jurisdiction of which the proposed transmission line or corridor is to be located.

7. The local government.

8. The regional planning council.

Section 211. Paragraph (c) of subsection (1) of section 403.5365, Florida Statutes, is amended to read:

403.5365 Fees; disposition.—The department shall charge the applicant the following fees, as appropriate, which shall be paid into the Florida Permit Fee Trust Fund:

(1) An application fee of $100,000, plus $750 per mile for each mile of corridor in which the transmission line right-of-way is proposed to be located within an existing electrical transmission line right-of-way or within any existing right-of-way for any road, highway, railroad, or other aboveground linear facility, or $1,000 per mile for each mile of transmission line corridor proposed to be located outside such existing right-of-way.

(c) Upon written request with proper itemized accounting within 90 days after final agency action by the board or withdrawal of the application, the department shall reimburse the expenses and costs of the Department of Community Affairs, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the water management district, regional planning council, and local government in the jurisdiction of which the transmission line is to be located. Such reimbursement shall be authorized for the preparation of any studies required of the agencies by this act, and for agency travel and per diem to attend any hearing held pursuant to this act, and for the local government to participate in the proceedings. In the event the amount available for allocation is insufficient to provide for complete reimbursement to the agencies, reimbursement shall be on a prorated basis.

Section 212. Subsection (3) of section 403.7841, Florida Statutes, is amended to read:

403.7841 Application for certification.—

(3) Within 7 days after filing the application with the department, the applicant shall provide two copies of the application as filed to each of the following: the Department of Community Affairs, the water management district which has jurisdiction over the area wherein the proposed project is to be located, the Department of Transportation, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the Department of Health and Rehabilitative Services, the Department of Agriculture and Consumer Services, and the local governmental entities which have jurisdiction.

Section 213. Subsection (1) of section 403.786, Florida Statutes, is amended to read:

403.786 Report and studies.—

(1) The Department of Community Affairs, the water management district which has jurisdiction over the area wherein the proposed project is to be located, the Department of Transportation, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the Department of Health and Rehabilitative Services, the Department of Agriculture and Consumer Services, and each local government which has jurisdiction shall each submit a report of matters within their jurisdiction to the department within 90 days after their receipt of the application. Any other agency may submit comments relating to matters within its jurisdiction to the department within 90 days after the filing of the application with the Division of Administrative Hearings.

Section 214. Paragraph (a) of subsection (4) of section 403.787, Florida Statutes, is amended to read:

403.787 Notice, proceedings, parties, participants.—

(4)(a) Parties to the proceeding shall be:

1. The applicant.

2. The department.

3. The Department of Community Affairs.

4. The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

5. Each water management district in the jurisdiction of which the proposed project is to be located.

6. Any affected local government.

Section 215. Subsection (6) of section 403.9325, Florida Statutes, is amended to read:

403.9325 Definitions.—For the purposes of ss. 403.9321-403.9333, the term:

(6) "Public lands set aside for conservation or preservation" means:

(a) Conservation and recreation lands under chapter 259;

(b) State and national parks;

(c) State and national reserves and preserves, except as provided in s. 403.9326(3);

(d) State and national wilderness areas;

(e) National wildlife refuges (only those lands under Federal Government ownership);

(f) Lands acquired through the Water Management Lands Trust Fund, Save Our Rivers Program;

(g) Lands acquired under the Save Our Coast program;

(h) Lands acquired under the environmentally endangered lands bond program;

(i) Public lands designated as conservation or preservation under a local government comprehensive plan;

(j) Lands purchased by a water management district, the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission, or any other state agency for conservation or preservation purposes;

(k) Public lands encumbered by a conservation easement that does not provide for the trimming of mangroves; and

(l) Public lands designated as critical wildlife areas by the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission.

Section 216. Paragraph (a) of subsection (2) of section 403.941, Florida Statutes, is amended to read:

403.941 Preliminary statements of issues, reports, and studies.—

(2)(a) The affected agencies shall prepare reports as provided in this paragraph and shall submit them to the department and the applicant within 60 days after the application is determined sufficient:

1. The department shall prepare a report as to the impact of each proposed natural gas transmission pipeline or corridor as it relates to matters within its jurisdiction.

2. Each water management district in the jurisdiction of which a proposed natural gas transmission pipeline or corridor is to be located shall prepare a report as to the impact on water resources and other matters within its jurisdiction.

3. The Department of Community Affairs shall prepare a report containing recommendations which address the impact upon the public of the proposed natural gas transmission pipeline or corridor, based on the degree to which the proposed natural gas transmission pipeline or corridor is consistent with the applicable portions of the state comprehensive plan and other matters within its jurisdiction. The Department of Community Affairs may also comment on the consistency of the proposed natural gas transmission pipeline or corridor with applicable strategic regional policy plans or local comprehensive plans and land development regulations.

4. The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall prepare a report as to the impact of each proposed natural gas transmission pipeline or corridor on fish and wildlife resources and other matters within its jurisdiction.

5. Each local government in which the natural gas transmission pipeline or natural gas transmission pipeline corridor will be located shall prepare a report as to the impact of each proposed natural gas transmission pipeline or corridor on matters within its jurisdiction, including the consistency of the proposed natural gas transmission pipeline or corridor with all applicable local ordinances, regulations, standards, or criteria that apply to the proposed natural gas transmission pipeline or corridor, including local comprehensive plans, zoning regulations, land development regulations, and any applicable local environmental regulations adopted pursuant to s. 403.182 or by other means. No change by the responsible local government or local agency in local comprehensive plans, zoning ordinances, or other regulations made after the date required for the filing of the local government's report required by this section shall be applicable to the certification of the proposed natural gas transmission pipeline or corridor unless the certification is denied or the application is withdrawn.

6. Each regional planning council in which the natural gas transmission pipeline or natural gas transmission pipeline corridor will be located shall present a report containing recommendations that address the impact upon the public of the proposed natural gas transmission pipeline or corridor, based on the degree to which the natural gas transmission pipeline or corridor is consistent with the applicable provisions of the strategic regional policy plan adopted pursuant to chapter 186 and other impacts of each proposed natural gas transmission pipeline or corridor on matters within its jurisdiction.

7. The Department of Transportation shall prepare a report on the effect of the natural gas transmission pipeline or natural gas transmission pipeline corridor on matters within its jurisdiction, including roadway crossings by the pipeline. The report shall contain at a minimum:

a. A report by the applicant to the department stating that all requirements of the department's utilities accommodation guide have been or will be met in regard to the proposed pipeline or pipeline corridor; and

b. A statement by the department as to the adequacy of the report to the department by the applicant.

8. The Department of State, Division of Historical Resources, shall prepare a report on the impact of the natural gas transmission pipeline or natural gas transmission pipeline corridor on matters within its jurisdiction.

9. The commission shall prepare a report addressing matters within its jurisdiction. The commission's report shall include its determination of need issued pursuant to s. 403.9422.

Section 217. Paragraph (a) of subsection (4) of section 403.9411, Florida Statutes, is amended to read:

403.9411 Notice; proceedings; parties and participants.—

(4)(a) Parties to the proceeding shall be:

1. The applicant.

2. The department.

3. The commission.

4. The Department of Community Affairs.

5. The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

6. Each water management district in the jurisdiction of which the proposed natural gas transmission pipeline or corridor is to be located.

7. The local government.

8. The regional planning council.

9. The Department of Transportation.

10. The Department of State, Division of Historical Resources.

Section 218. Subsection (2) of section 403.961, Florida Statutes, is amended to read:

403.961 Statements of issues and reports; written analyses.—

(2) Each of the following agencies shall prepare a report as to matters within its jurisdiction expected to be affected by the proposed project, which report shall be submitted to the applicant, the Department of Commerce, the Department of Environmental Protection, the affected local governments, and all other affected agencies, no later than 65 days after the date the application is determined to be sufficient:

(a) The Department of Transportation.

(b) The Department of Community Affairs.

(c) The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

(d) Each water management district having jurisdiction over any proposed site or installation.

(e) Each regional planning council having jurisdiction over any proposed site or installation.

(f) Any other agency, if requested by the Department of Commerce, shall also prepare reports as to matters within that agency's jurisdiction expected to be affected by the proposed project.

Section 219. Paragraph (b) of subsection (1) of section 403.962, Florida Statutes, is amended to read:

403.962 Certification hearing; cancellation; parties.—

(1) The assigned administrative law judge shall conduct a certification hearing in the county of the proposed site no later than 150 days after the application for project certification is deemed to be sufficient or an applicant has requested that its application be processed on the basis of information already submitted. All proceedings are governed by chapter 120 except as modified by this act. The hearing shall only be conducted in the event that a hearing is requested by the applicant, an affected agency, a person having a substantial interest which is affected by the proposed certification, a qualified organization, or an affected person who files a petition pursuant to s. 403.9615(4). In determining whether a hearing shall be conducted, the following procedures shall apply:

(b) The following agencies shall be entitled to request the conduct of a certification hearing under this section:

1. The Department of Environmental Protection.

2. The *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

3. The Department of Community Affairs.

4. The Department of Transportation.

5. Any water management district having jurisdiction over a site or installation associated with the proposed project.

6. Any local government having jurisdiction over a site or installation associated with the proposed project.

Section 220. Paragraph (c) of subsection (2) of section 403.972, Florida Statutes, is amended to read:

403.972 Fees; disposition.—The Department of Commerce shall charge the following fees, as appropriate, which shall be paid into the Department of Commerce Economic Development Trust Fund:

(2) An application fee, which shall not exceed $150,000. The fee shall be fixed by rule on a sliding scale related to the proposed project size and the number and size of local governments in whose jurisdiction the project is located.

(c) Upon written request with proper itemized accounting within 90 days after final agency action or withdrawal of the application, the Department of Commerce shall reimburse the Department of Environmental Protection, the Department of Community Affairs, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, and any water management district created pursuant to chapter 373, regional

planning council, and affected local governments in the jurisdiction of which the proposed project is to be located, and any other agency from which the Department of Commerce requests special reports pursuant to s. 403.961(2)(f) or with which the Department of Commerce contracts for field services associated with the monitoring, construction, and operation of the facility. Such reimbursement shall be authorized for the preparation of any reports or studies or the conduct of any compliance monitoring required of the agencies by this act, and for agency travel and per diem to attend any hearing held pursuant to this act, and for local governments to participate in the proceedings. In the event the amount available for allocation is insufficient to provide for complete reimbursement to the agencies, reimbursement shall be on a prorated basis.

Section 221. Subsection (4) of section 403.973, Florida Statutes, is amended to read:

403.973 Expedited permitting; comprehensive plan amendments.—

(4) The regional teams shall be established through the execution of memoranda of agreement between the office and the respective heads of the Departments of Environmental Protection, Community Affairs, Transportation, Agriculture and Consumer Services, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, appropriate regional planning councils, appropriate water management districts, and voluntarily participating municipalities and counties. The memoranda of agreement should also accommodate participation in this expedited process by other local governments and federal agencies as circumstances warrant.

Section 222. Paragraph (b) of subsection (1) of section 487.0615, Florida Statutes, is amended to read:

487.0615 Pesticide Review Council.—

(1)

(b) The council shall consist of 11 scientific members as follows: a scientific representative from the Department of Agriculture and Consumer Services, a scientific representative from the Department of Environmental Protection, a scientific representative from the Department of Health and Rehabilitative Services, and a scientific representative from the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, each to be appointed by the respective agency; the dean of research of the Institute of Food and Agricultural Sciences of the University of Florida; and six members to be appointed by the Governor. The six members to be appointed by the Governor must be a pesticide industry representative, a representative of an environmental group, a hydrologist, a toxicologist, a scientific representative from one of the five water management districts rotated among the five districts, and a grower representative from a list of three persons nominated by the statewide grower associations. Each member shall be appointed for a term of 4 years and shall serve until a successor is appointed. A vacancy shall be filled for the remainder of the unexpired term.

Section 223. Subsection (4) of section 581.186, Florida Statutes, is amended to read:

581.186 Endangered Plant Advisory Council; organization; meetings; powers and duties.—

(4) COOPERATION.—The Division of Plant Industry, the Department of Environmental Protection, the Department of Transportation, and the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission shall cooperate with the council whenever necessary to aid it in carrying out its duties under this section.

Section 224. Subsection (3) of section 585.21, Florida Statutes, is amended to read:

585.21 Sale of biological products.—

(3) Any biological product for animals which is used or proposed to be used in a field test in this state must be approved for such use by the department. Before issuing approval, the department shall consult with the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission if wildlife are involved and the Department of Health and Rehabilitative Services if the disease may affect humans.

Section 225. Paragraph (c) of subsection (1) of section 597.003, Florida Statutes, is amended to read:

597.003 Powers and duties of Department of Agriculture and Consumer Services.—

(1) The department is hereby designated as the lead agency in encouraging the development of aquaculture in the state and shall have and exercise the following functions, powers, and duties with regard to aquaculture:

(c) Develop memorandums of agreement, as needed, with the Department of Environmental Protection, the *Fish and Wildlife Conservation* ~~Florida Game and Fresh Water Fish~~ Commission, the Florida Sea Grant Program, and other groups as provided in the state aquaculture plan.

Section 226. Subsection (1) of section 597.006, Florida Statutes, is amended to read:

597.006 Aquaculture Interagency Coordinating Council.—

(1) CREATION.—The Legislature finds and declares that there is a need for interagency coordination with regard to aquaculture by the following agencies: the Department of Agriculture and Consumer Services, the Department of Commerce, the Department of Community Affairs, the Department of Environmental Protection, the Department of Labor and Employment Security, the *Fish and Wildlife Conservation* ~~Marine Fisheries Commission, the Game and Fresh Water Fish~~ Commission, the statewide consortium of universities under the Florida Institute of Oceanography, Florida Agricultural and Mechanical University, the Institute of Food and Agricultural Sciences at the University of Florida, the Florida Sea Grant Program, and each water management district. It is therefore the intent of the Legislature to hereby create an Aquaculture Interagency Coordinating Council to act as an advisory body as defined in s. 20.03(9).

Section 227. Paragraph (a) of subsection (1) of section 784.07, Florida Statutes, 1998 Supplement, is 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.—

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

(a) "Law enforcement officer" includes a law enforcement officer, a correctional officer, a correctional probation officer, a part-time law enforcement officer, a part-time correctional officer, an auxiliary law enforcement officer, and an auxiliary correctional officer, as those terms are respectively defined in s. 943.10, and any county probation officer; employee or agent of the Department of Corrections who supervises or provides services to inmates; officer of the Parole Commission; and law enforcement personnel of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, the Department of Environmental Protection, or the Department of Law Enforcement.

Section 228. Subsection (2) of section 790.06, Florida Statutes, 1998 Supplement, is amended to read:

790.06 License to carry concealed weapon or firearm.—

(2) The Department of State shall issue a license if the applicant:

(a) Is a resident of the United States or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;

(b) Is 21 years of age or older;

(c) Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm;

(d) Is not ineligible to possess a firearm pursuant to s. 790.23 by virtue of having been convicted of a felony;

(e) Has not been committed for the abuse of a controlled substance or been found guilty of a crime under the provisions of chapter 893 or similar laws of any other state relating to controlled substances within

a 3-year period immediately preceding the date on which the application is submitted;

(f) Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if the applicant has been committed under chapter 397 or under the provisions of former chapter 396 or has been convicted under s. 790.151 or has been deemed a habitual offender under s. 856.011(3), or has had two or more convictions under s. 316.193 or similar laws of any other state, within the 3-year period immediately preceding the date on which the application is submitted;

(g) Desires a legal means to carry a concealed weapon or firearm for lawful self-defense;

(h) Demonstrates competence with a firearm by any one of the following:

1. Completion of any hunter education or hunter safety course approved by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission or a similar agency of another state;

2. Completion of any National Rifle Association firearms safety or training course;

3. Completion of any firearms safety or training course or class available to the general public offered by a law enforcement, junior college, college, or private or public institution or organization or firearms training school, utilizing instructors certified by the National Rifle Association, Criminal Justice Standards and Training Commission, or the Department of State;

4. Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presents evidence of equivalent experience with a firearm through participation in organized shooting competition or military service;

6. Is licensed or has been licensed to carry a firearm in this state or a county or municipality of this state, unless such license has been revoked for cause; or

7. Completion of any firearms training or safety course or class conducted by a state-certified or National Rifle Association certified firearms instructor;

A photocopy of a certificate of completion of any of the courses or classes; or an affidavit from the instructor, school, club, organization, or group that conducted or taught said course or class attesting to the completion of the course or class by the applicant; or a copy of any document which shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this paragraph; any person who conducts a course pursuant to subparagraph 2., subparagraph 3., or subparagraph 7., or who, as an instructor, attests to the completion of such courses, must maintain records certifying that he or she observed the student safely handle and discharge the firearm;

(i) Has not been adjudicated an incapacitated person under s. 744.331, or similar laws of any other state, unless 5 years have elapsed since the applicant's restoration to capacity by court order;

(j) Has not been committed to a mental institution under chapter 394, or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least 5 years prior to the date of submission of the application;

(k) Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been sealed or expunged; and

(l) Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence.

Section 229. Subsection (1) of section 790.15, Florida Statutes, is amended to read:

790.15 Discharging firearm in public.—

(1) Except as provided in subsection (2) or subsection (3), any person who knowingly discharges a firearm in any public place or on the right-of-way of any paved public road, highway, or street or whosoever knowingly discharges any firearm over the right-of-way of any paved public road, highway, or street or over any occupied premises is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. This section does not apply to a person lawfully defending life or property or performing official duties requiring the discharge of a firearm or to a person discharging a firearm on public roads or properties expressly approved for hunting by the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission or Division of Forestry.

Section 230. Paragraph (b) of subsection (6) of section 828.122, Florida Statutes, is amended to read:

828.122 Fighting or baiting animals; offenses; penalties.—

(6) The provisions of subsection (3) and paragraph (4)(b) shall not apply to:

(b) Any person using animals to pursue or take wildlife or to participate in any hunting regulated or subject to being regulated by the rules and regulations of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission.

Section 231. Subsection (1) of section 832.06, Florida Statutes, is amended to read:

832.06 Prosecution for worthless checks given tax collector for licenses or taxes; refunds.—

(1) Whenever any person, firm, or corporation violates the provisions of s. 832.05 by drawing, making, uttering, issuing, or delivering to any county tax collector any check, draft, or other written order on any bank or depository for the payment of money or its equivalent for any tag, title, lien, tax (except ad valorem taxes), penalty, or fee relative to a boat, airplane, or motor vehicle; any occupational license, beverage license, or sales or use tax; or any hunting or fishing license, the county tax collector, after the exercise of due diligence to locate the person, firm, or corporation which drew, made, uttered, issued, or delivered the check, draft, or other written order for the payment of money, or to collect the same by the exercise of due diligence and prudence, shall swear out a complaint in the proper court against the person, firm, or corporation for the issuance of the worthless check or draft. If the state attorney cannot sign the information due to lack of proof, as determined by the state attorney in good faith, for a prima facie case in court, he or she shall issue a certificate so stating to the tax collector. If payment of the dishonored check, draft, or other written order, together with court costs expended, is not received in full by the county tax collector within 30 days after service of the warrant, 30 days after conviction, or 60 days after the collector swears out the complaint or receives the certificate of the state attorney, whichever is first, the county tax collector shall make a written report to this effect to the Department of Highway Safety and Motor Vehicles relative to airplanes and motor vehicles, to the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ relative to boats, to the Department of Revenue relative to occupational licenses and the sales and use tax, to the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation relative to beverage licenses, or to the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission relative to hunting and fishing licenses, containing a statement of the amount remaining unpaid on the worthless check or draft. If the information is not signed, the certificate of the state attorney is issued, and the written report of the amount remaining unpaid is made, the county tax collector may request the sum be forthwith refunded by the appropriate governmental entity, agency, or department. If a warrant has been issued and served, he or she shall certify to that effect, together with the court costs and amount remaining unpaid on the check. The county tax collector may request that the sum of money certified by him or her be forthwith refunded by the Department of Highway Safety and Motor Vehicles, ~~the Department of Environmental Protection,~~ the Department of Revenue, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation, or the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission to the county tax collector. Within 30

days after receipt of the request, the Department of Highway Safety and Motor Vehicles, ~~the Department of Environmental Protection,~~ the Department of Revenue, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation, or the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, upon being satisfied as to the correctness of the certificate of the tax collector, or the report, shall refund to the county tax collector the sums of money so certified or reported. If any officer of any court issuing the warrant is unable to serve it within 60 days after the issuance and delivery of it to the officer for service, the officer shall make a written return to the county tax collector to this effect. Thereafter, the county tax collector may certify that the warrant has been issued and that service has not been had upon the defendant and further certify the amount of the worthless check or draft and the amount of court costs expended by the county tax collector, and the county tax collector may file the certificate with the Department of Highway Safety and Motor Vehicles relative to motor vehicles and airplanes, with the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ relative to boats, with the Department of Revenue relative to occupational licenses and the sales and use tax, with the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation relative to beverage licenses, or with the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission relative to hunting and fishing licenses, together with a request that the sums of money so certified be forthwith refunded by the Department of Highway Safety and Motor Vehicles, ~~the Department of Environmental Protection,~~ the Department of Revenue, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation, or the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission to the county tax collector, and within 30 days after receipt of the request, the Department of Highway Safety and Motor Vehicles, ~~the Department of Environmental Protection,~~ the Department of Revenue, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation, or the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, upon being satisfied as to the correctness of the certificate, shall refund the sums of money so certified to the county tax collector.

Section 232. Section 843.08, Florida Statutes, is amended to read:

843.08 Falsely personating officer, etc.—A person who falsely assumes or pretends to be a sheriff, officer of the Florida Highway Patrol, officer of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, officer of the Department of Environmental Protection, officer of the Department of Transportation, officer of the Department of Corrections, correctional probation officer, deputy sheriff, state attorney or assistant state attorney, statewide prosecutor or assistant statewide prosecutor, state attorney investigator, coroner, police officer, lottery special agent or lottery investigator, beverage enforcement agent, or watchman, or any member of the Parole Commission and any administrative aide or supervisor employed by the commission, or any personnel or representative of the Department of Law Enforcement, and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084; however, a person who falsely personates any such officer during the course of the commission of a felony commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084; except that if the commission of the felony results in the death or personal injury of another human being, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 233. Section 870.04, Florida Statutes, is amended to read:

870.04 Specified officers to disperse riotous assembly.—If any number of persons, whether armed or not, are unlawfully, riotously or tumultuously assembled in any county, city or municipality, the sheriff or the sheriff's deputies, or the mayor, or any commissioner, council member, alderman or police officer of the said city or municipality, or any officer or member of the Florida Highway Patrol, or any officer or agent of the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, Department of Environmental Protection, or beverage enforcement agent, any personnel or representatives of the Department of Law Enforcement or its successor, or any other peace officer, shall go among the persons so assembled, or as near to them as may be with safety, and shall in the name of the state command all the persons so assembled immediately and peaceably to disperse; and if such persons do not thereupon immediately and peaceably disperse, said officers shall command the assistance of all such persons in seizing, arresting and securing such persons in custody; and if any person present being so commanded to aid and assist in seizing and securing such rioter or persons so unlawfully assembled, or in suppressing such riot or unlawful assembly, refuses or neglects to obey such command, or, when required by such officers to depart from the place, refuses and neglects to do so, the person shall be deemed one of the rioters or persons unlawfully assembled, and may be prosecuted and punished accordingly.

Section 234. Section 943.1728, Florida Statutes, is amended to read:

943.1728 Basic skills training relating to the protection of archaeological sites.—The commission shall establish standards for instruction of law enforcement officers in the subject of skills relating to the protection of archaeological sites and artifacts. In developing such standards and skills, the commission shall consult with representatives of the following agencies: the Division of Historical Resources of the Department of State, the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission, and the Department of Environmental Protection. The commission shall develop the standards for training in any of the following: basic recruit courses, advanced and specialized courses, or other appropriate training courses as determined by the commission.

Section 235. Subsection (2) of section 252.937, Florida Statutes, 1998 Supplement, is amended to read:

252.937 Department powers and duties.—

(2) To ensure that this program is self-supporting, the department shall provide administrative support, including staff, facilities, materials, and services to implement this part for specified stationary sources subject to s. 252.939 and shall provide necessary funding to local emergency planning committees and county emergency management agencies for work performed to implement this part. Each state agency with regulatory, inspection, or technical assistance programs for specified stationary sources subject to this part shall enter into a memorandum of understanding with the department which specifically outlines how each agency's staff, facilities, materials, and services will be utilized to support implementation. At a minimum, these agencies and programs include: the Department of Environmental Protection's Division of Air Resources Management and Division of Water *Resource Management* ~~Facilities~~, and the Department of Labor and Employment Security's Division of Safety. It is the Legislature's intent to implement this part as efficiently and economically as possible, using existing expertise and resources, if available and appropriate.

Section 236. Subsections (2), (3), and (4) of section 309.01, Florida Statutes, are amended to read:

309.01 Deposit of material in tidewater regulated.—

(2) This section shall not prohibit Escambia County from placing in Pensacola Bay, on the Escambia County side, beside the old Pensacola Bay Bridge, certain materials, as recommended by the ~~Division of Marine Resources of the~~ Department of Environmental Protection, *in coordination with the Fish and Wildlife Conservation Commission,* to increase the number of fish available for persons fishing from the old Pensacola Bay Bridge.

(3) This section shall not prohibit Manatee County from placing in the Manatee County portions of Sarasota Bay and Tampa Bay and in the Manatee River, certain materials, as recommended by the ~~Division of Marine Resources of the~~ Department of Environmental Protection, *in coordination with the Fish and Wildlife Conservation Commission,* to increase the number of fish available for persons fishing in the above areas.

(4) This section shall not prohibit Pinellas County from placing in Tampa Bay certain materials as recommended by the ~~Division of Marine Resources of the~~ Department of Environmental Protection, *in coordination with the Fish and Wildlife Conservation Commission,* to increase the number of fish available for persons fishing in the bay.

Section 237. Section 370.023, Florida Statutes, is amended to read:

370.023 Administration of *commission* ~~department~~ grant programs.—

(1) The *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ is authorized to establish grant programs

that ~~which~~ are consistent with statutory authority and legislative appropriations. The *commission* ~~department~~ is further authorized to receive funds from any legal source for purposes of matching state dollars or for passing through the agency as grants to other entities whether or not matching funds or in-kind matches are required.

(2) For any grant program established by the *commission* ~~department~~, the *commission* ~~department~~ shall adopt rules, pursuant to the requirements of chapter 120, for each grant program which shall include, but are not limited to: the method or methods of payment; the supporting documents required before payment will be made; when matching funds or in-kind matches are allowed; what moneys, services, or other sources and amounts of matching funds or in-kind matches will be eligible for use for matching the grant by the *commission* ~~department~~; who is eligible to participate in the program; and other provisions *that* ~~which~~ the *commission* ~~department~~ finds necessary to achieve program objectives and an accounting for state funds in accordance with law and generally accepted accounting principles.

(3) The *commission* ~~department~~ is authorized to preaudit or postaudit account books and other documentation of a grant recipient to assure that grant funds *have been* ~~were~~ used in accordance with the terms of the grant and state rules and statutes. When such audit reveals that moneys *have* ~~were~~ not *been* spent in accordance with grant requirements, the *commission* ~~department~~ may withhold moneys or recover moneys previously paid. A grant recipient will be allowed a maximum of 60 days to submit any additional pertinent documentation to offset the amount identified as being due the *commission* ~~department~~.

Section 238. Subsections (2), (3), and (4) of section 370.03, Florida Statutes, are amended to read:

370.03 Water bottoms.—

(2) CONTROL.—The ~~Division of Marine Resources of the~~ Department of Environmental Protection has exclusive power and control over all water bottoms, not held under some grant or alienation heretofore made, including such as may revert to the state by cancellation or otherwise, and may lease the same to any person irrespective of residence or citizenship, upon such terms, conditions and restrictions as said division may elect to impose, without limitation as to area to any one person, for the purpose of granting exclusive right to plant oysters or clams thereon and for the purpose of fishing, taking, catching, bedding and raising oysters, clams and other shellfish. No such lessee shall re-lease, sublease, sell or transfer any such water bottom or property; provided, that nothing herein contained shall be construed as giving said *department* ~~division~~ authority to lease sponge beds.

(3) FEES FOR BOTTOM LEASES, ETC.—The *department* ~~division~~ shall charge and receive a fee of $2 for each lease granted, and in all other cases, not specifically provided by this chapter, the same fees as are allowed clerks of the circuit court for like services. All fees shall be paid by the party served.

(4) CONFIRMATION OF FORMER GRANTS; PROVISO.—All grants prior to June 1, 1913, made in pursuance of heretofore existing laws, where the person receiving such grant, the person's heirs or assigns, have bona fide complied with the requirements of said law, are hereby confirmed; provided, that if any material or natural oyster or clam reefs or beds on such granted premises are 100 square yards in area and contained natural oysters and clams (coon oysters not included) in sufficient quantity to have been resorted to by the general public for the purpose of gathering oysters or clams to sell for a livelihood, at the time they were planted by such grantee, his or her heirs or assigns, such reefs or beds are declared to be the property of the state; and when such beds or reefs exist within the territory heretofore granted as above set forth, or that may hereafter be leased, such grantee or lessee shall mark the boundaries of such oyster and clam reefs or beds as may be designated by the *department* ~~division~~ as natural oyster or clam reefs or beds, clearly defining the boundaries of the same, and shall post notice or other device, as shall be required by the *department* ~~division~~, giving notice to the public that such oyster or clam beds or reefs are the property of the state, which said notice shall be maintained from September 1 to June 1 of each and every year, on each oyster bed or reef and on each clam bed for such period of each year as the board may direct, at the expense of the grantee or lessee. The *department* ~~division~~ shall investigate all grants heretofore made, and where, in its opinion, the lessee or grantee has not bona fide complied with the law under which he or she received his or her grant or lease, and ~~it shall report the same to~~ the department ~~which~~ is authorized and required to institute legal proceedings to vacate the same, in order to use such lands for the benefit of the public, subject to the same dispositions as other bottoms.

Section 239. Section 370.0607, Florida Statutes, is amended to read:

370.0607 Marine information system.—The *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ shall establish by rule a marine information system in conjunction with the licensing program to gather marine fisheries data.

Section 240. Section 370.0609, Florida Statutes, is amended to read:

370.0609 Expenditure of funds.—Any moneys available pursuant to s. 370.0608(1)(c)1.c. shall be expended by the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ within Florida through grants and contracts for research with research institutions including but not limited to: Florida Sea Grant; Florida Marine Resources Council; Harbour Branch Oceanographic Institute; Technological Research and Development Authority; Florida Marine Research Institute of the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~; Indian River Region Research Institute; Mote Marine Laboratory; Marine Resources Development Foundation; Florida Institute of Oceanography; and Rosentiel School of Marine and Atmospheric Science.

Section 241. Section 370.061, Florida Statutes, 1998 Supplement, is amended to read:

370.061 Confiscation of property and products.—

(1) CONFISCATION; PROCEDURE.—In all cases of arrest and conviction for the illegal taking, or attempted taking, sale, possession, or transportation of saltwater fish or other saltwater products, such saltwater products and seines, nets, boats, motors, other fishing devices or equipment, and vehicles or other means of transportation used in connection with such illegal taking or attempted taking are hereby declared to be nuisances and may be seized and carried before the court having jurisdiction of such offense, and said court may order such nuisances forfeited to the *Fish and Wildlife Conservation Commission* ~~Division of Marine Resources of the department~~ immediately after trial and conviction of the person or persons in whose possession they were found, except that, if a motor vehicle is seized under the provisions of this act and is subject to any existing liens recorded under the provisions of s. 319.27, all further proceedings shall be governed by the expressed intent of the Legislature not to divest any innocent person, firm, or corporation holding such a recorded lien of any of its reversionary rights in such motor vehicle or of any of its rights as prescribed in s. 319.27, and that, upon any default by the violator purchaser, the said lienholder may foreclose its lien and take possession of the motor vehicle involved. When any illegal or illegally used seine, net, trap, or other fishing device or equipment or illegally taken, possessed, or transported saltwater products are found and taken into custody, and the owner thereof shall not be known to the officer finding the same, such officer shall immediately procure from the county court judge of the county wherein they were found an order forfeiting said saltwater products, seines, nets, traps, boats, motors, or other fishing devices to the *commission* ~~division~~. All things forfeited under the provisions of this law may be destroyed, used by the *commission* ~~division~~, disposed of by gift to charitable or state institutions, or sold and the proceeds derived from said sale deposited in the Marine Resources Conservation Trust Fund to be used for law enforcement purposes or into the *commission's* ~~department's~~ Federal Law Enforcement Trust Fund as provided in *s. 372.107* ~~s. 20.2553~~, as applicable. However, forfeited boats, motors, and legal fishing devices only, may be purchased from the *commission* ~~division~~ for $1 by the person or persons holding title thereto at the time of the illegal act causing the forfeiture, if such person shall prove that he or she in no way participated in, gave consent to, or had knowledge of such act.

(2) CONFISCATION AND SALE OF PERISHABLE PRODUCTS; PROCEDURE.—When an arrest is made pursuant to the provisions of this chapter and illegal, perishable products or perishable products illegally taken or landed are apprehended, the defendant may post bond or cash deposit in an amount determined by the judge to be the fair value of such products, and said defendant shall have 24 hours to transport said products outside the limits of Florida for sale or other disposition. Should no bond or cash deposit be given within the time fixed by the judge, the judge shall order the sale of such products at the highest price

obtainable, and, when feasible, at least three bids shall be requested. In either event, the amounts received by the judge shall be remitted to the *commission* ~~division~~ to be deposited into a special escrow account in the State Treasury and held in trust pending the outcome of the trial of the accused. If a bond is posted by the defendant, it shall also be remitted to the *commission* ~~division~~ to be held in escrow pending the outcome of the trial of the accused. In the event of acquittal, the bond or cash deposit shall be returned to the defendant, or the proceeds of the sale shall be paid over to the defendant. In the event of conviction, the proceeds of the sale, or proceeds of the bond or cash deposit, shall be deposited by said *commission* ~~division~~ into the Marine Resources Conservation Trust Fund to be used for law enforcement purposes or into the *commission's* ~~department's~~ Federal Law Enforcement Trust Fund as provided in *s. 372.107* ~~s. 20.2553~~, as applicable. Such deposit into the Marine Resources Conservation Trust Fund or the *commission's* ~~department's~~ Federal Law Enforcement Trust Fund shall constitute confiscation.

(3) MUNICIPAL OR COUNTY ENFORCEMENT; SUPPLEMENTAL FUNDING.—

(a) Any municipal or county law enforcement agency *that* ~~which~~ enforces, or assists the *commission* ~~department~~ in enforcing, the provisions of this chapter *resulting* ~~which results~~ in a forfeiture of property as provided in this section~~,~~ shall be entitled to receive all or a share of any such property based upon their participation in such enforcement.

(b) Any property delivered to any municipal or county law enforcement agency as provided in paragraph (a) may be retained or sold by the law enforcement agency and the property or any proceeds shall, if the agency operates a marine enforcement unit, be utilized to enforce the provisions of this chapter and chapters 327 and 328. In the event the law enforcement agency does not operate a marine enforcement unit, any such property or proceeds shall be disposed of pursuant to the Florida Contraband Forfeiture Act.

(c) Any funds received by a municipal or county law enforcement agency pursuant to this subsection shall be supplemental funds and may not be used as replacement funds by the municipality or county.

Section 242. Subsection (7) of section 370.08, Florida Statutes, 1998 Supplement, is amended to read:

370.08 Fishers and equipment; regulation.—

(7) ILLEGAL USE OF POISONS, DRUGS, OR CHEMICALS.—

(a) It is unlawful for any person to place poisons, drugs, or other chemicals in the marine waters of this state unless that person has first obtained a special activity license for such use pursuant to s. 370.06 from the *Fish and Wildlife Conservation Commission* ~~Division of Marine Resources of the Department of Environmental Protection~~.

(b) Upon application on forms furnished by the *commission* ~~division~~, the *commission* ~~division~~ may issue a license to use poisons, drugs, or other chemicals in the marine waters of this state for the purpose of capturing live marine species. The application and license shall specify the area in which collecting will be done, the drugs, chemicals, or poisons to be used, and the maximum amounts and concentrations at each sampling.

Section 243. Subsection (3) of section 370.0821, Florida Statutes, 1998 Supplement, is amended to read:

370.0821 St. Johns County; use of nets.—

(3) No person, firm, or corporation shall use, or cause to be used, any manner of seine net, other than a recreational net as hereafter defined, in the salt waters of St. Johns County, or within 1 mile seaward of the Atlantic Ocean beaches and coast thereof, without a permit issued by the *Fish and Wildlife Conservation Commission* ~~Division of Marine Resources of the Department of Environmental Protection~~. Applications for such permits shall be made on forms to be supplied by the *commission* ~~division~~, which shall require the applicant to furnish such information as may be deemed pertinent to the best interests of saltwater conservation. The fee for such permits shall be $250 per year. Each permit shall entitle the holder thereof to use no more than one seine net at any one time, subject to the provisions of subsections (1), (2), and (3). The *commission* ~~division~~ may refuse to grant any permit when it is apparent that the best interests of saltwater conservation will be served by such denial. All permits granted shall be in the holder's possession whenever the holder is engaged in using a seine net. Each permit is subject to immediate revocation upon conviction of a violation of any provision of this section or when it is apparent that the best interests of saltwater conservation will be served by such revocation.

Section 244. Section 370.103, Florida Statutes, is amended to read:

370.103 Agreements with Federal Government for the preservation of saltwater fisheries; authority of *commission* ~~department~~.—The *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ is authorized and empowered to enter into cooperative agreements with the Federal Government or agencies thereof for the purpose of preserving saltwater fisheries within and without state waters and for the purpose of protecting against overfishing, waste, depletion, or any abuse whatsoever. Such authority includes the authority to enter into cooperative agreements whereby *officers of the Fish and Wildlife Conservation Commission are* ~~the Division of Law Enforcement of the department is~~ empowered to enforce federal statutes and rules pertaining to fisheries management. When differences between state and federal laws occur, state laws shall take precedence.

Section 245. Section 370.135, Florida Statutes, 1998 Supplement, is amended to read:

370.135 Blue crab; regulation.—

(1) No person, firm, or corporation shall transport on the water, fish with or cause to be fished with, set, or place any trap designed for taking blue crabs unless such person, firm, or corporation is the holder of a valid saltwater products license issued pursuant to s. 370.06 and the trap has a current state number permanently attached to the buoy. The trap number shall be affixed in legible figures at least 1 inch high on each buoy used. The saltwater products license must be on board the boat, and both the license and the crabs shall be subject to inspection at all times. Only one trap number may be issued for each boat by the *commission* ~~department~~ upon receipt of an application on forms prescribed by it. This subsection shall not apply to an individual fishing with no more than five traps. It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully to molest any traps, lines, or buoys, as defined herein, belonging to another without permission of the licenseholder.

(2) No person shall harvest blue crabs with more than five traps, harvest blue crabs in commercial quantities, or sell blue crabs unless such person holds a valid saltwater products license with a restricted species endorsement and a blue crab endorsement (trap number) issued pursuant to this subsection.

(a) Effective June 1, 1998, and until July 1, 2002, no blue crab endorsement (trap number), except those endorsements that are active during the 1997-1998 fiscal year, shall be renewed or replaced.

(b) In 1998, persons holding an endorsement that was active in the 1997-1998 fiscal year, or an immediate family member of that person, must request approval of the endorsement prior to December 31, 1998.

(c) In subsequent years and until July 1, 2002, a trap number holder, or members of his or her immediate family, must request renewal of the endorsement prior to September 30 of each year.

(d) If a person holding an active blue crab endorsement, or a member of that person's immediate family, does not request renewal of the endorsement before the applicable dates as specified in this subsection, the *commission* ~~department~~ shall deactivate that endorsement.

(e) In the event of the death or disability of a person holding an active blue crab endorsement, the endorsement may be transferred by the person to a member of his or her immediate family or may be renewed by any person so designated by the executor of the person's estate.

(f) Persons who hold saltwater products licenses with blue crab endorsements issued to their boat registration numbers and who subsequently replace their existing vessels with new vessels shall be permitted to transfer the existing licenses to the new boat registration numbers.

Section 246. Section 370.143, Florida Statutes, is amended to read:

370.143 Retrieval of lobster and stone crab traps during closed season; *commission* ~~department~~ authority; fees.—

(1) The *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ is authorized to implement a trap retrieval program for retrieval of lobster and stone crab traps remaining in the water during the closed season for each species. The *commission* ~~department~~ is authorized to contract with outside agents for the program operation.

(2) A retrieval fee of $10 per trap retrieved shall be assessed trap owners. Traps recovered under this program shall become the property of the *commission* ~~department~~ or its contract agent and shall be either destroyed or resold to the original owner. Revenue from retrieval fees shall be deposited in the Marine Resources Conservation Trust Fund and used for operation of the trap retrieval program.

(3) Payment of the assessed retrieval fee shall be required prior to renewal of the trap owner's trap number as a condition of number renewal. Retrieval fees assessed under this program shall stand in lieu of other penalties imposed for such trap violations.

(4) In the event of a major natural disaster, such as hurricane or major storm causing massive trap losses, the *commission* ~~department~~ shall waive the trap retrieval fee.

Section 247. Subsections (1), (3), (4), and (6) of section 370.15, Florida Statutes, 1998 Supplement, are amended to read:

370.15 Shrimp; regulation.—

(1) GENERAL AUTHORITY; CONSERVATION.—The *commission* ~~department~~ has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section. The *commission* ~~department~~ shall encourage the production of the maximum sustained yield consistent with the preservation and protection of breeding stock, taking into consideration the recommendations of the various marine laboratories, as well as those of interested and experienced groups of private citizens. Rules shall control the method, manner, and equipment used in the taking of shrimp or prawn, as well as limiting and defining the areas where taken.

(3) SHRIMP TRAPS.—

(a) It is unlawful for any person, firm, or corporation to take or attempt to take shrimp by the use of any trap which:

1. Exceeds the following dimensions: 36 inches long (from rear of the heart to the leading edge of the trap), by 24 inches wide (between the leading edges of the trap, or heart opening), by 12 inches high; or

2. Has external or unattached wings, weirs, or other devices intended to funnel shrimp to the trap heart.

(b) This subsection shall not be construed to restrict the allowable shape or configuration of any shrimp trap so long as the trap, together with all of its parts, conforms to the specifications of paragraph (a).

(c) Any shrimp trap which conforms to the specifications of paragraph (a) shall not be considered a pound net.

(d) The user of any trap shall affix his or her name and address securely to each trap. Any such trap not having proper identification is subject to confiscation by the *commission* ~~department~~. No person, firm, or corporation shall have more than four traps in use at any time. The *commission* ~~department~~ shall have the authority to inspect such traps when being used in or on the waters of the state.

(e) The presence of unattended shrimp traps on or attached to beaches, causeways, seawalls, bridges, or any other structures open for use by the public is hereby declared to be a nuisance. Any such trap which is not attended by the person whose name is affixed to the trap is subject to confiscation by the *commission* ~~department~~.

(4) SHRIMP TRAWLING.—All persons, firms, and corporations desiring to trawl for shrimp within areas in which trawling is permitted shall have a noncommercial trawl or net registration or purchase a saltwater products license issued to a valid boat registration or in the name of an individual pursuant to s. 370.06. The saltwater products license shall remain on board at all times and is subject to immediate revocation upon conviction for violation of this section or when it becomes apparent that the best interests of saltwater conservation will be served by such action. A noncommercial trawl or net registration must be issued to each net used to take shrimp for noncommercial purposes. Such net or trawl shall have a corkline measurement of 16 feet or less. Possession of shrimp under a noncommercial registration is limited to 25 pounds while on the water. Due to the varied habitats and types of bottoms and hydrographic conditions embraced by the open fishing area, the *commission* ~~division~~ shall have the authority to specify and regulate the types of gear that may be used in the different sections of the open areas.

(6) LIVE BAIT SHRIMPING; LICENSES.—Live bait shrimp may be caught at any time but only under license issued by the *commission* ~~department~~. Licensees must fish with gear and under those conditions specified by the *commission* ~~department~~. Application for such licenses shall be on forms supplied by the *commission* ~~department~~. A live bait shrimping license shall be revocable when the holder does not comply with the laws and regulations applicable to saltwater conservation. All vessels fishing for live bait shrimp must be equipped with live bait shrimp tanks, and no more than 5 pounds of dead shrimp will be allowed on board such vessel per day.

Section 248. Subsection (2) of section 370.151, Florida Statutes, 1998 Supplement, is amended to read:

370.151 Tortugas shrimp beds; penalties.—

(2)(a) The *Fish and Wildlife Conservation Commission* ~~Division of Law Enforcement~~ is authorized to take title in the name of the state to any vessel or vessels suitable for use in carrying out the inspection and patrol of the Tortugas Bed which may be offered as a gift to the state by any person, firm, corporation, or association in the shrimp industry for the purpose of carrying out the provisions of this section. In the event such title is taken to such vessel or vessels, the *commission* ~~division~~ is authorized to operate and keep said vessel or vessels in proper repair.

(b) The *commission* ~~division~~ is further authorized to accept the temporary loan of any vessel or vessels, suitable for use in carrying out the provisions of this section, for periods not exceeding 1 year. However, the state shall not assume any liability to the owner or owners of said vessels for any damage done by said vessels to other vessels, persons, or property. In the operation of said loaned vessels, upkeep and repair shall consist only of minor repairs and routine maintenance. The owner or owners shall carry full marine insurance coverage on said loaned vessel or vessels for the duration of the period during which said vessels are operated by the state.

Section 249. Section 370.153, Florida Statutes, 1998 Supplement, is amended to read:

370.153 Regulation of shrimp fishing; Clay, Duval, Nassau, Putnam, Flagler, and St. Johns Counties.—

(1) DEFINITIONS.—When used in this section, unless the context clearly requires otherwise:

(a) "Inland waters" means all creeks, rivers, bayous, bays, inlets, and canals.

(b) "Sample" means one or more shrimp taken from an accurately defined part of the area defined.

(c) "Series" means 10 or more samples taken within a period of not more than 1 week, each sample being taken at a different station within the pattern.

(d) "Pattern" means 10 or more stations.

(e) "Station" means a single location on the water of the areas defined.

(f) "Licensed live bait shrimp producer" means any individual licensed by the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ to employ the use of any trawl for the taking of live bait shrimp within the inland waters of Nassau, Duval, St. Johns, Putnam, Flagler, or Clay Counties.

(g) "Licensed dead shrimp producer" means any individual licensed by the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ to employ the use of any trawl for the taking of shrimp within the inland waters of Nassau, Duval, St. Johns, Putnam, Flagler, or Clay Counties.

(2) SHRIMPING PROHIBITED.—It is unlawful to employ the use of any trawl or other net, except a common cast net, designed for or capable of taking shrimp, within the inland waters of Nassau, Duval, St. Johns, Putnam, Flagler, or Clay Counties, except as hereinafter provided.

(3) LIVE BAIT SHRIMP PRODUCTION.—

(a) A live bait shrimp production license shall be issued by the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ upon the receipt of an application by a person intending to use a boat, not to exceed 35 feet in length in Duval, St. Johns, Putnam, Flagler, and Clay Counties and not to exceed 45 feet in length in Nassau County, for live shrimp production within the inland waters of Nassau, Duval, St. Johns, Putnam, Flagler, or Clay Counties and the payment of a fee of $250. The annual fee of $250 shall be collected by the *commission* ~~department~~ for the issuance of the license during a 60-day period beginning June 1 of each year. The design of the application and permit shall be determined by the *commission* ~~department~~. The proceeds of the fee imposed by this paragraph shall be used by the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ for the purposes of enforcement of marine resource laws.

(b) The *Executive Director of the Fish and Wildlife Conservation Commission* ~~Secretary of Environmental Protection~~, or his or her designated representative, may by order close certain areas to live bait shrimp production when sampling procedures justify the closing based upon sound conservation practices. The revocation of any order to close has the effect of opening the area.

(c) Every live bait shrimp producer shall produce evidence satisfactory to the *commission* ~~department~~ that he or she has the necessary equipment to maintain the shrimp alive while aboard the shrimp fishing vessel. All vessels fishing for live bait shrimp must be equipped with live bait shrimp tanks of a type and capacity satisfactory to the *commission* ~~department~~, and no more than 5 pounds of dead shrimp will be allowed on board such vessel per day.

(d)1. Each licensed live bait shrimp producer who stores his or her catch for sale or sells his or her catch shall either:

a. Maintain onshore facilities which have been annually checked and approved by the local *commission* ~~Marine Patrol~~ office to assure the facilities' ability to maintain the catch alive when the live bait shrimp producer produces for his or her own facility; or

b. Sell his or her catch only to persons who have onshore facilities *that* ~~which~~ have been annually checked and approved by the local *commission* ~~Marine Patrol~~ office to assure the facilities' ability to maintain the catch alive, when the producer sells his or her catch to an onshore facility. The producer shall provide the *commission* ~~Department of Environmental Protection~~ with the wholesale number of the facility to which the shrimp have been sold and shall submit this number on a form designed and approved by the *commission* ~~department~~.

2. All persons who maintain onshore facilities as described in this paragraph, whether the facilities are maintained by the licensed live bait shrimp producer or by another party who purchases shrimp from live bait shrimp producers, shall keep records of their transactions in conformance with the provisions of s. 370.07(6).

(e) All commercial trawling in Clay, Duval, and St. Johns Counties shall be restricted to the inland waters of the St. Johns River proper in the area north of the Acosta Bridge in Jacksonville and at least 100 yards from the nearest shoreline.

(f) A live shrimp producer must also be a licensed wholesale dealer. Such person shall not sell live bait shrimp unless he or she produces a live bait shrimp production license at the time of sale.

(g) The *commission* ~~department~~ shall rename the Live Bait Shrimp Production License as the Commercial Live Shrimp Production License.

(4) DEAD SHRIMP PRODUCTION.—Any person may operate as a commercial dead shrimp producer provided that:

(a) A dead shrimp production permit is procured from the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ upon the receipt by the *commission* ~~department~~ of a properly filled out and approved application by a person intending to use a boat, not to exceed 35 feet in length in Duval, St. Johns, Putnam, and Clay Counties, and not to exceed 45 feet in length in Nassau County, for dead shrimp production within the inland waters of Nassau County and the inland waters of the St. Johns River of Duval, Putnam, St. Johns, Flagler, or Clay Counties, which permit shall cost $250 and shall be required for each vessel used for dead shrimp production. The design of the application and permit shall be determined by the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~. The proceeds of the fees imposed by this paragraph shall be deposited into the account of the Marine Resources Conservation Trust Fund to be used by the *commission* ~~department~~ for the purpose of enforcement of marine resource laws.

(b) All commercial trawling in the St. Johns River proper shall be restricted to the area north of the Acosta Bridge in Jacksonville and at least 100 yards from the nearest shoreline.

(c) All commercial shrimping activities shall be allowed during daylight hours from Tuesday through Friday each week.

(d) No person holding a dead shrimp production permit issued pursuant to this subsection shall simultaneously hold a permit for noncommercial trawling under the provisions of subsection (5). The number of permits issued by the *commission* ~~department~~ for commercial trawling or dead shrimp production in any one year shall be the number issued in the base year, 1976. All permits shall be inheritable or transferable to an immediate family member and annually renewable by the holder thereof. Such inheritance or transfer shall be valid upon being registered with the *commission* ~~department~~. All permits not renewed shall expire and shall not be renewed under any circumstances.

(e) It is illegal for any person to sell dead shrimp caught in the inland waters of Nassau, Duval, Clay, Putnam, and St. Johns Counties, unless the seller is in possession of a dead shrimp production license issued pursuant to this subsection.

(f) It is illegal for any person to purchase shrimp for consumption or bait from any seller (with respect to shrimp caught in the inland waters of Nassau, Duval, Clay, Putnam, and St. Johns Counties (St. Johns River)) who does not produce his or her dead shrimp production license prior to the sale of the shrimp.

(g) In addition to any other penalties provided for in this section, any person who violates the provisions of this subsection shall have his or her license revoked by the *commission* ~~department~~.

(h) The *commission* ~~department~~ shall rename the Dead Shrimp Production License as the Commercial Food Shrimp Production License.

(5) NONCOMMERCIAL TRAWLING.—Any person may harvest shrimp in the St. Johns River for his or her own use as food and may trawl for such shrimp under the following conditions:

(a) Each person who desires to trawl for shrimp for use as food shall obtain a noncommercial trawling permit from the local ~~Marine Patrol~~ office of the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ upon filling out an application on a form prescribed by the *commission* ~~department~~ and upon paying a fee for the permit, which shall cost $50.

(b) All trawling shall be restricted to the confines of the St. Johns River proper in the area north of the Acosta Bridge in Jacksonville and at least 100 yards from the nearest shoreline.

(c) No shrimp caught by a person licensed under the provisions of this subsection may be sold or offered for sale.

(6) SAMPLING PROCEDURE.—

(a) The *Executive Director of the Fish and Wildlife Conservation Commission* ~~Secretary of Environmental Protection~~ shall have samples taken at established stations within patterns at frequent intervals.

(b) No area may be closed to live bait shrimp production unless a series of samples has been taken and it has been determined that the shrimp are undersized or that continued shrimping in this area would have an adverse effect on conservation. Standards for size may be established by rule of the *commission* ~~department~~.

(c) No area may be opened to dead shrimp production unless a series of samples has been taken and it has been determined that the shrimp are of legal size. Legal-sized shrimp shall be defined as not more than 47 shrimp with heads on, or 70 shrimp with heads off, per pound.

(7) LICENSE POSSESSION.—The operator of a boat employing the use of any trawl for shrimp production must be in possession of a current shrimp production license issued to him or her pursuant to the provisions of this section.

(8) USE OF TRAWL; LIMITATION.—

(a) The use of a trawl by either a live bait shrimp producer or dead shrimp producer shall be limited to the daylight hours, and the taking of dead shrimp shall not take place on Saturdays, Sundays, or legal state holidays.

(b) The use of a trawl by either a live bait shrimp producer or dead shrimp producer within 100 yards of any shoreline is prohibited. The *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~, by rule or order, may define the area or areas where this subsection shall apply.

(c)1. It is unlawful to employ the use of any trawl designed for, or capable of, taking shrimp within ¼ mile of any natural or manmade inlet in Duval County or St. Johns County.

2. It is unlawful for anyone to trawl in the Trout River west of the bridge on U.S. 17 in Duval County.

~~(9) ST. JOHNS RIVER; RULEMAKING PROHIBITED.—The Department of Environmental Protection may not adopt any rule which regulates shrimping in the St. Johns River.~~

(9)~~(10)~~ CREDITS.—Fees paid pursuant to paragraphs (3)(a) and (4)(a) of this section shall be credited against the saltwater products license fee.

Section 250. Subsection (2) of section 370.1603, Florida Statutes, is amended to read:

370.1603 Oysters produced in and outside state; labeling; tracing; rules.—

(1) No wholesale or retail dealer, as defined in s. 370.07(1), shall sell any oysters produced outside this state unless they are labeled as such, or unless it is otherwise reasonably made known to the purchaser that the oysters were not produced in this state.

(2) The *Department of Agriculture and Consumer Services* ~~Department of Environmental Protection~~ shall promulgate rules whereby oysters produced in Florida waters can be traced to the location from which they were harvested. A wholesale or retail dealer may not sell any oysters produced in this state unless they are labeled so that they may be traced to the point of harvesting.

Section 251. Subsections (2) and (3) of section 370.172, Florida Statutes, are amended to read:

370.172 Spearfishing; definition; limitations; penalty.—

(2)(a) Spearfishing is prohibited within the boundaries of the John Pennekamp Coral Reef State Park, the waters of Collier County, and the area in Monroe County known as Upper Keys, which includes all salt waters under the jurisdiction of the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ beginning at the county line between Dade and Monroe Counties and running south, including all of the keys down to and including Long Key.

(b) For the purposes of this subsection, the possession in the water of a spear, gig, or lance by a person swimming at or below the surface of the water in a prohibited area is prima facie evidence of a violation of the provisions of this subsection regarding spearfishing.

(3) The *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ shall have the power to establish restricted areas when it is determined that safety hazards exist or when needs are determined by biological findings. Restricted areas shall be established only after an investigation has been conducted and upon application by the governing body of the county or municipality in which the restricted areas are to be located and one publication in a local newspaper of general circulation in said county or municipality in addition to any other notice required by law. Prior to promulgation of regulations, the local governing body of the area affected shall agree to post and maintain notices in the area affected.

Section 252. Section 370.18, Florida Statutes, is amended to read:

370.18 Compacts and agreements; generally.—The *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ may enter into agreements of reciprocity with the fish commissioners or other departments or other proper officials of other states, whereby the citizens of the state may be permitted to take or catch shrimp or prawn from the waters under the jurisdiction of such other states, upon similar agreements to allow such nonresidents or aliens to fish for or catch seafood products within the jurisdiction of the state regardless of residence.

Section 253. Subsection (2) of section 370.19, Florida Statutes, is amended to read:

370.19 Atlantic States Marine Fisheries Compact; implementing legislation.—

(2) COMMISSIONERS; APPOINTMENT AND REMOVAL.—In pursuance of Article III of said compact there shall be three members (hereinafter called commissioners) of the Atlantic State Marine Fisheries Commission (hereinafter called commission) from this state. The first commissioner from this state shall be the *Executive Director of the Fish and Wildlife Conservation Commission* ~~Secretary of Environmental Protection~~, ex officio, and the term of any such ex officio commissioner shall terminate at the time he or she ceases to hold said office of *Executive Director of the Fish and Wildlife Conservation Commission* ~~Secretary of Environmental Protection~~, and his or her successor as commissioner shall be his or her successor as *executive director* ~~secretary~~. The second commissioner from this state shall be a legislator and member of the house committee on commerce and reciprocal trade (of the State of Florida, ex officio, designated by said house committee on commerce and reciprocal trade), and the term of any such ex officio commissioner shall terminate at the time he or she ceases to hold said legislative office as commissioner on interstate cooperation, and his or her successor as commissioner shall be named in like manner. The Governor (subject to confirmation by the Senate), shall appoint a citizen as a third commissioner who shall have a knowledge of, and interest in, the marine fisheries problem. The term of said commissioner shall be 3 years and the commissioner shall hold office until a successor shall be appointed and qualified. Vacancies occurring in the office of such commissioner from any reason or cause shall be filled by appointment by the Governor (subject to confirmation by the Senate), for the unexpired term. The *Executive Director of the Fish and Wildlife Conservation Commission* ~~Secretary of Environmental Protection~~ as ex officio commissioner may delegate, from time to time, to any deputy or other subordinate in his or her department or office, the power to be present and participate, including voting, as his or her representative or substitute at any meeting of or hearing by or other proceeding of the commission. The terms of each of the initial three members shall begin at the date of the appointment of the appointive commissioner, provided the said compact shall then have gone into effect in accordance with Article II of the compact; otherwise, they shall begin upon the date upon which said compact shall become effective in accordance with said Article II. Any commissioner may be removed from office by the Governor upon charges and after a hearing.

Section 254. Subsection (2) of section 370.20, Florida Statutes, is amended to read:

370.20 Gulf States Marine Fisheries Compact; implementing legislation.—

(2) MEMBERS OF COMMISSION; TERM OF OFFICE.—In pursuance of article III of said compact, there shall be three members (hereinafter called commissioners) of the Gulf States Marine Fisheries Commission (hereafter called commission) from the State of Florida. The first

commissioner from the State of Florida shall be the *Executive Director of the Fish and Wildlife Conservation Commission* ~~Secretary of Environmental Protection~~, ex officio, and the term of any such ex officio commissioner shall terminate at the time he or she ceases to hold said office of *Executive Director of the Fish and Wildlife Conservation Commission* ~~Secretary of Environmental Protection~~, and his or her successor as commissioner shall be his or her successor as *executive director* ~~secretary~~. The second commissioner from the State of Florida shall be a legislator and a member of the house committee on commerce and reciprocal trade (of the State of Florida ex officio, designated by said house committee on commerce and reciprocal trade), and the term of any such ex officio commissioner shall terminate at the time he or she ceases to hold said legislative office as commissioner on interstate cooperation, and his or her successor as commissioner shall be named in like manner. The Governor (subject to confirmation by the Senate) shall appoint a citizen as a third commissioner who shall have a knowledge of and interest in the marine fisheries problem. The term of said commissioner shall be 3 years and the commissioner shall hold office until a successor shall be appointed and qualified. Vacancies occurring in the office of such commissioner from any reason or cause shall be filled by appointment by the Governor (subject to confirmation by the Senate) for the unexpired term. The *Executive Director of the Fish and Wildlife Conservation Commission* ~~Secretary of Environmental Protection~~, as ex officio commissioner, may delegate, from time to time, to any deputy or other subordinate in his or her department or office, the power to be present and participate, including voting, as his or her representative or substitute at any meeting of or hearing by or other proceeding of the commission. The terms of each of the initial three members shall begin at the date of the appointment of the appointive commissioner, provided the said compact shall then have gone into effect in accordance with article II of the compact; otherwise they shall begin upon the date upon which said compact shall become effective in accordance with said article II.

Any commissioner may be removed from office by the Governor upon charges and after a hearing.

Section 255. Subsections (3), (5), and (7) of section 370.21, Florida Statutes, are amended to read:

370.21 Florida Territorial Waters Act; alien-owned commercial fishing vessels; prohibited acts; enforcement.—

(3) No license shall be issued by the *Fish and Wildlife Conservation Commission* ~~Division of Marine Resources of the Department of Environmental Protection~~ under s. 370.06, to any vessel owned in whole or in part by any alien power, which subscribes to the doctrine of international communism, or any subject or national thereof, who subscribes to the doctrine of international communism, or any individual who subscribes to the doctrine of international communism, or who shall have signed a treaty of trade, friendship and alliance or a nonaggression pact with any communist power. The *commission* ~~division~~ shall grant or withhold said licenses where other alien vessels are involved on the basis of reciprocity and retorsion, unless the nation concerned shall be designated as a friendly ally or neutral by a formal suggestion transmitted to the Governor of Florida by the Secretary of State of the United States. Upon the receipt of such suggestion licenses shall be granted under s. 370.06, without regard to reciprocity and retorsion, to vessels of such nations.

(5) It is the duty of all harbormasters of the state to prevent the use of any port facility in a manner which they reasonably suspect may assist in the violation of this act. Harbormasters shall endeavor by all reasonable means, which may include the inspection of nautical logs, to ascertain from masters of newly arrived vessels of all types other than warships of the United States, the presence of alien commercial fishing vessels within the territorial waters of the state, and shall transmit such information promptly to the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ and such law enforcement agencies of the state as the situation may indicate. Harbormasters shall request assistance from the United States Coast Guard in appropriate cases to prevent unauthorized departure from any port facility.

(7) All law enforcement agencies of the state, including but not limited to sheriffs and *officers of the Fish and Wildlife Conservation Commission* ~~agents of the Department of Environmental Protection~~ are empowered and directed to arrest the masters and crews of vessels who are reasonably believed to be in violation of this law, and to seize and detain such vessels, their equipment and catch. Such arresting officers shall take the offending crews or property before the court having jurisdiction of such offenses. All such agencies are directed to request assistance from the United States Coast Guard in the enforcement of this act when having knowledge of vessels operating in violation or probable violation of this act within their jurisdictions when such agencies are without means to effectuate arrest and restraint of vessels and their crews.

Section 256. Subsection (1) of section 372.107, Florida Statutes, 1998 Supplement, is amended to read:

372.107 Federal Law Enforcement Trust Fund.—

(1) The Federal Law Enforcement Trust Fund is created within the *Fish and Wildlife Conservation* ~~Game and Fresh Water Fish~~ Commission. The commission may deposit into the trust fund receipts and revenues received as a result of federal criminal, administrative, or civil forfeiture proceedings and receipts and revenues received from federal asset-sharing programs. The trust fund is exempt from the service charges imposed by s. 215.20.

Section 257. Section 376.15, Florida Statutes, is amended to read:

376.15 Derelict vessels; removal from public waters.—

(1) It is unlawful for any person, firm, or corporation to store or leave any vessel in a wrecked, junked, or substantially dismantled condition or abandoned upon any public waters or at any port in this state without the consent of the agency having jurisdiction thereof or docked at any private property without the consent of the owner of the private property.

(2)(a) The *Fish and Wildlife Conservation Commission* ~~department~~ is hereby designated as the agency of the state authorized and empowered to remove any derelict vessel as described in subsection (1) from public waters.

(b) The *commission* ~~department~~ may establish a program to provide grants to coastal local governments for the removal of derelict vessels from the public waters of the state. The program shall be funded from the Florida Coastal Protection Trust Fund. Notwithstanding the provisions in s. 216.181(10), funds available for grants may only be authorized by appropriations acts of the Legislature.

(c) The *commission* ~~department~~ shall adopt by rule procedures for submitting a grant application and criteria for allocating available funds. Such criteria shall include, but not be limited to, the following:

1. The number of derelict vessels within the jurisdiction of the applicant.

2. The threat posed by such vessels to public health or safety, the environment, navigation, or the aesthetic condition of the general vicinity.

3. The degree of commitment of the local government to maintain waters free of abandoned and derelict vessels and to seek legal action against those who abandon vessels in the waters of the state.

(d) This section shall constitute the authority of the *commission* ~~department~~ for such removal, but is not intended to be in contravention of any applicable federal act.

(e) The Department of Legal Affairs shall represent the *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection~~ in such actions.

Section 258. Subsection (2) of section 823.11, Florida Statutes, is amended to read:

823.11 Abandoned and derelict vessels; removal; penalty.—

(2) The *Fish and Wildlife Conservation Commission* ~~Department of Environmental Protection, Division of Marine Resources,~~ is ~~hereby~~ designated as the agency of the state authorized and empowered to remove or cause to be removed any abandoned or derelict vessel from public waters in any instance when the same obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment. All costs incurred by the *commission* ~~department~~ in the removal of any abandoned or derelict vessel as set out above shall be recoverable against the owner thereof. Pursuant to an agreement with the governing body of a county or municipality, and upon a finding by the *commission*

~~division~~ that the county or municipality is competent to undertake said responsibilities, the *commission* ~~division~~ may delegate to the county or municipality its authority to remove or cause to be removed an abandoned or derelict vessel from public waters within the county or municipality. This act shall take effect July 1, 1999.

And the title is amended as follows:

On page 1, line 1, thru page 5, line 5, remove from the title: all of said lines and insert in lieu thereof: A bill to be entitled An act relating to the Fish and Wildlife Conservation Commission; creating s. 20.331, F.S.; creating the Fish and Wildlife Conservation Commission; establishing administrative units within the new commission; establishing sources of funding; transferring the Game and Fresh Water Fish Commission, the Marine Fisheries Commission, and various bureaus of the Department of Environmental Protection to the Fish and Wildlife Conservation Commission; providing for administrative transfer of certain offices; providing legislative intent; providing for an operating agreement and an annual work plan regarding responsibilities shared by the department and the commission; providing for submission of the work plan to the Governor and the Legislature; providing for a memorandum of agreement between the commission and the department regarding responsibilities of the Florida Marine Research Institute to the department; amending s. 20.255, F.S.; revising language with respect to the administrative makeup of the Department of Environmental Protection to conform to the act; providing for the appropriation of certain revenues and federal funds to the commission; providing for limitation on expenditures by the commission; providing for the appointment of a working group by the Executive Office of the Governor; amending s. 20.14, F.S.; adding a Division of Aquaculture of the Department of Agriculture and Consumer Services; amending s. 206.606, F.S.; adjusting distribution of fuel tax proceeds in conformance to the act to the commission; amending s. 320.08058, F.S.; conforming terminology to the act; amending s. 327.02, F.S.; providing definitions and repealing s. 327.02(6), F.S.; to remove reference to the Department of Environmental Protection; amending s. 327.25, F.S.; providing for classification and registration of vessels; adjusting location of antique license vessel decal; amending s. 327.26, F.S.; providing for stickers or emblems for the Save the Manatee Trust Fund; amending s. 327.28, F.S.; providing for the appropriation and distribution of vessel registration funds; amending s. 327.30, F.S.; providing requirements regarding collisions, accidents, and casualties; amending s. 327.35215, F.S.; providing penalties; amending s. 327.395, F.S.; providing for boating safety identification cards; amending s. 327.41, F.S.; providing for uniform watering regulatory markers; amending s. 327.43, F.S.; providing for navigation channel requirements; amending s. 327.46, F.S.; providing for the establishment of restricted areas on the waters of the state; repealing s. 258.398, F.S.; amending s. 327.48, F.S.; providing requirements for regattas, races, marine parades, tournaments, or exhibitions; amending s. 327.70, F.S.; providing for the enforcement of chapters 327 and 328, F.S.; amending s. 327.71, F.S.; providing an exemption; amending s. 327.731, F.S.; providing for mandatory education for violators; amending s. 327.74, F.S.; providing for uniform boating citations; amending s. 327.803, F.S.; providing for a Boating Advisory Council; amending s. 327.804, F.S.; providing for statistics on boating accidents and violations; amending s. 327.90, F.S.; providing for electronic or telephonic transactions; amending s. 328.01, F.S.; providing for application for certificate of title; amending s. 339.281, F.S.; providing for marine accident reports; amending s. 370.025, F.S.; providing marine policy and standards, and rulemaking authority for the Fish and Wildlife Conservation Commission; repealing s. 370.027(1), (2), and (3), F.S.; deleting provisions relating to rulemaking authority with respect to marine life; amending s. 370.06, F.S.; transferring responsibilities for issuing certain licenses related to marine life to the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services; amending s. 370.0608, F.S.; providing for the deposit of license fees; allocating of federal funds; amending s. 370.063, F.S.; correcting references; deleting obsolete dates; adjusting use of fees; amending s. 370.071, F.S.; transferring responsibilities for the regulation of shellfish processors to the Department of Agriculture and Consumer Services; amending s. 370.12, F.S.; providing rulemaking guidance related to endangered marine mammals; correcting obsolete references; amending s. 370.26, F.S.; transferring certain activities related to aquaculture to the Fish and Wildlife Conservation Commission; amending s. 372.072, F.S.; relating to the Endangered and Threatened Species Act; correcting obsolete references; amending s. 372.0725, F.S.; providing penalties for the killing or wounding of any species designated as endangered, threatened, or of special concern; amending s. 372.073, F.S.; transferring responsibility for the Endangered and Threatened Species Reward Program to the Fish and Wildlife Conservation Commission; amending s. 370.093, F.S.; correcting cross references; amending s. 376.11, F.S., authorizing additional users of the Coastal Protection Trust Fund; providing for the transfer of employee benefits for employees of designated state agencies; authorizing the Department of Environmental Protection to restructure and reorganize; providing for a report to the Legislature on the restructure and reorganization; repealing s. 20.325, F.S.; abolishing the Game and Fresh Water Fish Commission; repealing s. 370.026, F.S.; abolishing the Marine Fisheries Commission; instructing Division of Statutory Revision to draft reviser's bill for year 2000 Regular Session; amending s. 370.0603, F.S.; establishing the Marine Resources Conservation Trust Fund in the Fish and Wildlife Conservation Commission; amending s. 370.16; transferring certain activities related to oysters and shellfish to the Fish and Wildlife Conservation Commission; amending s. 932.7055, F.S.; providing for funds to be deposited into the Forfeited Property Trust Fund; amending ss. 20.055, 23.21, 120.52, 120.81, 163.3244, 186.003, 186.005, 229.8058, 240.155, 252.365, 253.05, 253.45, 253.75, 253.7829, 255.502, 258.157, 258.397, 258.501, 259.035, 259.036, 282.1095, 282.404, 285.09, 285.10, 288.021, 288.975, 316.640, 320.08058, 341.352, 369.20, 369.22, 369.25, 370.01, 370.021, 370.028, 370.06, 370.0605, 370.0615, 370.062, 370.0805, 370.081, 370.092, 370.1107, 370.1111, 370.13, 370.14, 370.1405, 370.142, 370.1535, 370.17, 370.31, 372.001, 372.01, 372.0215, 372.0222, 372.0225, 372.023, 372.025, 372.03, 372.051, 372.06, 372.07, 372.071, 372.074, 372.105, 372.106, 372.12, 372.121, 372.16, 372.26, 372.265, 372.27, 372.31, 372.57, 372.5714, 372.5717, 372.5718, 372.574, 372.651, 372.653, 372.66, 372.661, 372.662, 372.663, 372.664, 372.6645, 372.667, 372.6672, 372.672, 372.673, 372.674, 372.70, 372.701, 372.7015, 372.7016, 372.72, 372.73, 372.74, 372.76, 372.761, 372.77, 372.7701, 372.771, 372.85, 372.86, 372.87, 372.88, 372.89, 372.901, 372.911, 372.912, 372.92, 372.921, 372.922, 372.97, 372.971, 372.98, 372.981, 372.99, 372.9901, 372.9903, 372.9904, 372.9906, 372.991, 372.992, 372.995, 373.453, 373.455, 373.4595, 373.465, 373.466, 373.591, 375.021, 375.311, 375.312, 376.121, 378.011, 378.036, 378.409, 380.061, 388.45, 388.46, 403.0752, 403.0885, 403.413, 403.507, 403.508, 403.518, 403.526, 403.527, 403.5365, 403.7841, 403.786, 403.787, 403.9325, 403.941, 403.9411, 403.961, 403.962, 403.972, 403.973, 487.0615, 581.186, 585.21, 597.003, 597.006, 784.07, 790.06, 790.15, 828.122, 832.06, 843.08, 870.04, 943.1728, 252.937, 309.01, 370.023, 370.03, 370.0607, 370.0609, 370.061, 370.07, 370.071, 370.08, 370.0821, 370.10, 370.103, 370.135, 370.143, 370.15, 370.151, 370.153, 370.1603, 370.172, 370.18, 370.19, 370.20, 370.21, 372.107, 376.15, 823.11, F.S.; conforming provisions to the State Constitution and this act; providing an effective date.

House Amendment 1 (310481) to House Amendment 1—On page 331, lines 10-11, remove from the amendment: all of said lines and insert in lieu thereof: within the county or municipality.

Section 259. This act shall take effect July 1, 1999.

On motion by Senator Bronson, the Senate concurred in the House amendments.

CS for CS for SB 864 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Rossin
Brown-Waite	Dyer	Kirkpatrick	Saunders
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

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB 888, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 888—A bill to be entitled An act relating to tax administration; repealing s. 198.12, F.S., and amending ss. 198.13, 198.23, 198.26, 198.32, 198.33, 198.39, F.S.; discontinuing the use of unnecessary estate tax returns for small estates that owe no tax; amending s. 199.106, F.S.; granting a credit against the intangibles tax to natural persons for an identical tax paid in another state; creating s. 201.165, F.S.; granting a credit against the documentary stamp tax for an identical tax paid in another state; amending s. 212.02, F.S.; amending the definition of the term "retail sale" with respect to materials that are incorporated into repaired motor vehicles, airplanes, or boats; amending ss. 212.04, 212.12, F.S., and creating s. 213.757, F.S.; increasing the criminal penalties for willful violations of certain tax provisions; amending s. 212.0602, F.S.; providing additional exemption to facilitate investment in education and job training; clarifying qualification requirements for exemption; amending s. 212.08, F.S.; amending the exemption for electricity and steam used for manufacturing; revising provisions which specify application of tax to the sale of a motor vehicle in this state to a resident of another state; revising the time within which the purchaser must license the vehicle in his or her home state; providing construction regarding removal of the vehicle from this state; amending s. 212.11, F.S.; conforming a cross-reference; amending s. 213.27, F.S.; authorizing the Department of Revenue to enter into contracts with private vendors to develop an automated case-tracking system; amending s. 213.67, F.S.; authorizing the Department of Revenue to reduce the amount of an administrative garnishment which is subject to a freeze to the amount equal to the delinquent amount; amending ss. 220.151, 220.21, 220.221, 220.222, F.S.; authorizing the Department of Revenue to accept electronic or telephonic corporate income tax returns in lieu of written paper returns; creating s. 166.235, F.S.; providing procedures for purchasers to obtain refund of or credit for public service taxes collected in error; providing transitional provisions; providing an effective date.

House Amendment 1 (203671)(with title amendment)—remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. (1) Section 166.235, Florida Statutes, is created to read:

166.235 Procedure on purchaser's request for refund or credit—

(1) A purchaser seeking a refund of or credit for public service tax shall submit a written request therefor to the seller within the time prescribed in s. 166.234(6) and in accordance with this section. No such request shall be granted unless the amount claimed was collected from the purchaser and was not due to any municipality.

(a) The request shall be signed by the purchaser and shall be deemed completed for purposes of this section and the limitation period if it states the purchaser's name, mailing address, account number, the tax amounts claimed, the specific months during which those amounts were collected, and the reason for the purchaser's claim that such amounts were not due to any municipality. Upon receipt of a completed request, the seller shall ascertain whether it collected the tax claimed from the purchaser and whether the request is timely.

(b) Within 30 days following receipt of a completed request, the seller shall determine whether lists available pursuant to s. 166.233(3) support the purchaser's claim and whether all or any portion of the tax timely claimed was not due to any municipality and was collected solely as a result of the seller's error. The seller shall refund or credit the purchaser's account for any such amount within 45 days following its determination thereof.

(c) With respect to all amounts timely claimed which the seller collected from the purchaser and which the seller has not determined to be subject to refund or credit pursuant to paragraph (b), the seller shall, within 30 days following receipt of the completed request, provide a copy thereof to each municipality to which the taxes claimed were remitted and to each municipality which has asserted in writing the right to impose the tax in a geographic area that includes the purchaser's billing address or service address, as the case may be. Within 30 days following receipt of such information, each such municipality shall notify the seller in writing if it approves the issuance of a refund or credit for all or a specified portion of the purchaser's claim. A municipality shall approve the refund or credit except to the extent the tax was due to such municipality. Within 45 days following receipt of notifications establishing that all of the municipalities receiving the request have approved a refund or credit, the seller shall issue a refund or credit the purchaser's account for the amount approved by all such municipalities. The seller's obligation to issue a refund or credit the purchaser's account shall be limited to amounts approved in accordance with this section. The seller shall be entitled to a corresponding refund or credit from any municipality to which the tax was remitted.

(d) The seller shall issue a written response advising the purchaser of the disposition of his or her request. The response shall specify any portion of the tax claimed that is being refunded or credited to the purchaser's account, and the reason for denial of any portion of the request. Reasons for denial include untimely submission of the request, that the seller did not collect the tax claimed, the absence of municipal approval to issue a refund or credit, that the purchaser previously received a refund of or credit for the same tax, and failure to provide information required to complete the request. A copy of each notification received from a municipality pursuant to paragraph (c) shall accompany the response. If the seller submitted the request to a municipality but received no such notification, the response shall so state. With respect to any portion of the request that is granted, the response shall be issued at the time of the refund or credit to the purchaser's account. With respect to any portion of the request which is denied, the response shall be issued within 90 days following receipt of a purchaser's completed request.

(e) The seller may deduct from any refund or credit under this section any amount owed by the purchaser to the seller which is delinquent.

(2) This section provides the sole and exclusive procedure and remedy for a purchaser who claims that a seller has collected municipal public service taxes that were not due. No action arising as a result of the claimed collection of municipal public service taxes that were not due may be commenced or maintained by or on behalf of a purchaser against a seller or municipality unless the purchaser pleads and proves that he or she has exhausted the procedures in subsection (1) and that the defendant has failed to comply with said subsection; however, no determination of a seller under paragraph (1)(b) shall be deemed a failure to comply with subsection (1) if the seller has complied with paragraphs (1)(c) and (d). In any such action it shall be a complete defense that the seller or municipality has refunded the taxes claimed or credited the purchaser's account therewith; further, in such an action against a seller it shall be a complete defense that the seller collected the tax in reliance upon written information provided by a municipality pursuant to s. 166.233(3) or supplementing such information. Such action shall be commenced no later than 180 days following the purchaser's submission of a completed request, or shall be barred. The relief available to a purchaser as a result of collection of municipal public service taxes that were not due shall be limited to a refund of or credit for such taxes.

(2) *This section is remedial in nature, and shall apply to all claims asserted by purchasers prior or subsequent to the effective date of this section based upon the alleged collection of municipal public service taxes that were not due, except for claims that have been finally resolved by judgment, settlement, or the issuance of refunds or credits prior to the effective date of this section. With respect to any claim which was properly asserted prior to the effective date of this section and which is the subject of pending litigation in a trial or appellate court on or after the effective date of this section, the court shall upon motion direct the parties to comply with the procedures prescribed in s. 166.235, Florida Statutes, and allow such amendments of the pleadings and enter such other orders as are appropriate to dispose of the cause in a manner consistent with said section.*

Section 2. (1) Subsection (1) of section 196.1975, Florida Statutes, is amended to read:

196.1975 Exemption for property used by nonprofit homes for the aged.—Nonprofit homes for the aged are exempt to the extent that they meet the following criteria:

(1) The applicant must be a corporation not for profit *or a Florida limited partnership, the sole general partner of which is a corporation not*

for profit, and the corporation not for profit must have ~~that has~~ been exempt as of January 1 of the year for which exemption from ad valorem property taxes is requested from federal income taxation by having qualified as an exempt charitable organization under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1954 or of the corresponding section of a subsequently enacted federal revenue act. ~~A corporation will not be disqualified under this subsection if, for purposes of allocating tax credits, under s. 42(h)(5) of the Internal Revenue Code of 1986, by the Florida Housing Finance Agency as defined by s. 420.0004(4), the property is leased to a Florida limited partnership, the sole general partner of which is the nonprofit corporation, and the home for the aged was in existence or under construction on or before April 1, 1995.~~

(2) *Notwithstanding anything contained in this section to the contrary, any nonprofit home for the aged that was subject to ad valorem taxation for the year ending December 31, 1998, because of a failure to qualify for exemption under the provisions of s. 196.1975(1), Florida Statutes, shall not become exempt from ad valorem taxation by virtue of the amendment to s. 196.1975(1), Florida Statutes, by this section.*

Section 3. (1) *Section 198.12, Florida Statutes, is repealed.*

(2) This section shall take effect January 1, 2000, and shall apply with respect to decedents whose death occurs on or after that date.

Section 4. (1) Subsection (2) of section 198.13, Florida Statutes, is renumbered as subsection (3), and a new subsection (2) is added to said section to read:

198.13 Tax return to be made in certain cases*; certificate of nonliability.*—

(2) Whenever it is made to appear to the department that an estate that has filed a return owes no taxes under this chapter, the department shall issue to the personal representative a certificate in writing to that effect, which certificate shall have the same force and effect as a receipt showing payment. The certificate shall be subject to record and admissible in evidence in like manner as a receipt showing payment of taxes. A fee of $5 shall be paid to the department for each certificate so issued.

(2) This section shall take effect January 1, 2000, and shall apply with respect to decedents whose death occurs on or after that date.

Section 5. (1) Section 198.23, Florida Statutes, is amended to read:

198.23 Personal liability of personal representative.—If any personal representative shall make distribution either in whole or in part of any of the property of an estate to the heirs, next of kin, distributees, legatees, or devisees without having paid or secured the tax due the state under this chapter, or having obtained the release of such property from the lien of such tax *either by the department or pursuant to s. 198.32(2),* he or she shall become personally liable for the tax so due the state, or so much thereof as may remain due and unpaid, to the full extent of the full value of any property belonging to such person or estate which may come into the personal representative's hands, custody, or control.

(2) This section shall take effect January 1, 2000, and shall apply with respect to decedents whose death occurs on or after that date.

Section 6. (1) Section 198.26, Florida Statutes, is amended to read:

198.26 No discharge of personal representative until tax is paid.—No final account of a personal representative ~~of the estate of a nonresident, nor of the estate of a resident when the value of the gross estate wherever situate exceeds $60,000~~ shall be allowed by any court unless and until such account shows, and the judge of said court finds, that the tax imposed by the provisions of this chapter upon the personal representative, which has become payable, has been paid. The certificate of the department of nonliability for the tax or its receipt for the amount of tax therein certified shall be conclusive in such proceedings as to the liability or the payment of the tax to the extent of said certificate. *In the case of a nontaxable estate, the court may consider the affidavit prepared pursuant to s. 198.32(2) as evidence of the nonliability for tax.*

(2) This section shall take effect January 1, 2000, and shall apply with respect to decedents whose death occurs on or after that date.

Section 7. (1) Section 198.32, Florida Statutes, is amended to read:

198.32 Prima facie liability for tax.—

(1) The estate of each decedent whose property is subject to the laws of the state shall be deemed prima facie liable for estate taxes under this chapter and shall be subject to a lien therefor in such amount as may be later determined to be due and payable on the estate as provided in this chapter. This presumption of liability shall begin on the date of the death of the decedent and shall continue until the full settlement of all taxes which may be found to be due under this chapter, the settlement to be shown by receipts for all taxes due to be issued by the department as provided for in this chapter. ~~Whenever it is made to appear to the department that an estate is not subject to any tax under this chapter, the department shall issue to the personal representative, administrator, or curator, or to the heirs, devisees, or legatees of the decedent, a certificate in writing to that effect, showing such nonliability to tax, which certificate of nonliability shall have the same force and effect as a receipt showing payment. The certificate of nonliability shall be subject to record and admissible in evidence in like manner as receipts showing payment of taxes. A fee of $5 shall be paid to the department for each certificate so issued.~~

(2) Whenever an estate is not subject to tax under this chapter and is not required to file a return, the personal representative may execute an affidavit attesting that the estate is not taxable. The form of the affidavit shall be prescribed by the department, and shall include, but not be limited to, statements regarding the decedent's domicile and whether a federal estate tax return will be filed, and acknowledgment of the personal representative's personal liability under s. 198.23. This affidavit shall be subject to record and admissible in evidence to show nonliability for tax.

(2) This section shall take effect January 1, 2000, and shall apply with respect to decedents whose death occurs on or after that date.

Section 8. (1) Subsection (1) of section 198.33, Florida Statutes, is amended to read:

198.33 Discharge of estate, notice of lien, limitation on lien, etc.—

(1) Where no receipt for the payment of taxes, or no *affidavit or certificate* ~~receipt~~ of nonliability for taxes has been issued or recorded as provided for in this chapter, the property constituting the estate of the decedent in this state shall be deemed fully acquitted and discharged of all liability for estate and inheritance taxes under this chapter after a lapse of 10 years ~~from the date of the filing with the department of notice of the decedent's death, or after a lapse of 10 years~~ from the date of the filing with the department of an estate tax return, ~~whichever date shall be earlier,~~ unless the department shall make out and file and have recorded in the public records of the county wherein any part of the estate of the decedent may be situated in this state, a notice of lien against the property of the estate, specifying the amount or approximate amount of taxes claimed to be due to the state under this chapter, which notice of lien shall continue said lien in force for an additional period of 5 years or until payment is made. Such notice of lien shall be filed and recorded in the book of deeds in the office of the clerk of the circuit court; provided, where no receipt for the payment of taxes, or no *affidavit or* certificate of nonliability for taxes, has been issued or recorded as provided for in this chapter, the property constituting the estate of the decedent in this state, if said decedent was a resident of this state at the time of death, shall be deemed fully acquitted and discharged of all liability for tax under this chapter after a lapse of 10 years from the date of the death of the decedent, unless the department shall make out and file and have recorded notice of lien as herein provided, which notice shall continue said lien in force against such property of the estate as is situate in the county wherein said notice of lien was recorded for an additional period of 5 years or until payment is made.

(2) This section shall take effect January 1, 2000, and shall apply with respect to decedents whose death occurs on or after that date.

Section 9. (1) Section 198.39, Florida Statutes, is amended to read:

198.39 False statement in return; penalty.—Whoever knowingly makes any false statement in any notice, *affidavit,* or return required to be filed *or made* under this chapter is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) This section shall take effect January 1, 2000, and shall apply with respect to decedents whose death occurs on or after that date.

Section 10. Subsections (2) and (3) of section 199.106, Florida Statutes, are amended to read:

199.106 Credit for taxes imposed by other states.—

(2) For intangible personal property that has a taxable situs in this state under s. 199.175(1) or any similar predecessor statute, a credit against the tax imposed by s. 199.032 is allowed to a taxpayer~~, other than a natural person,~~ in an amount equal to a like tax lawfully imposed and paid by that taxpayer on the same property in another state, territory of the United States, or the District of Columbia when the other taxing authority is also claiming situs under provisions similar or identical to those in s. 199.175(1) or any similar predecessor statute. For purposes of this subsection, "like tax" means an ad valorem tax on intangible personal property which is also subject to tax under s. 199.032. The credit may not exceed the tax imposed on the property under s. 199.032. Proof of entitlement to such a credit must be made pursuant to rules and forms adopted by the department.

(3) The credits provided by *this section* ~~subsections (1) and (2)~~ apply retroactively ~~to December 31, 1979~~. However, notwithstanding the retroactivity of these credit provisions, this section does not reopen a closed period of nonclaim under s. 215.26 or any other statute or extend the period of nonclaim under s. 215.26 or any other statute.

Section 11. Section 201.165, Florida Statutes, is created to read:

201.165 Credit for tax paid to other states.—

(1) For a tax imposed by any section of this chapter, a credit against the specific tax imposed by that section is allowed in an amount equal to a like tax lawfully imposed and paid on the same document or instrument in another state, territory of the United States, or the District of Columbia. For purposes of this subsection, "like tax" means an excise tax on documents that is in substance identical to the tax imposed by this chapter on the same document. The credit may not exceed the tax imposed by this chapter on the document. Proof of entitlement to such a credit must be provided to the department. The department may adopt rules to implement this credit and designate forms that establish what proof is required.

(2) The credit provided by this section applies retroactively. Notwithstanding the retroactivity of this credit provision, this section does not reopen a closed period of nonclaim under s. 215.26 or any other statute or extend the period of nonclaim under s. 215.26 or any other statute.

Section 12. Paragraph (c) of subsection (14) of section 212.02, Florida Statutes, 1998 Supplement, is amended to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(14)

(c) "Retail sales," "sale at retail," "use," "storage," and "consumption" do not include materials, containers, labels, sacks, bags, or similar items intended to accompany a product sold to a customer without which delivery of the product would be impracticable because of the character of the contents and be used one time only for packaging tangible personal property for sale or for the convenience of the customer or for packaging in the process of providing a service taxable under this chapter. When a separate charge for packaging materials is made, the charge shall be considered part of the sales price or rental charge for purposes of determining the applicability of tax. The *terms do* ~~term also does~~ not include the sale, use, storage, or consumption of industrial materials, including chemicals and fuels except as provided herein, for future processing, manufacture, or conversion into articles of tangible personal property for resale when such industrial materials, including chemicals and fuels except as provided herein, become a component or ingredient of the finished product ~~and do not include the sale, use, storage, or consumption of materials for use in repairing a motor vehicle, airplane, or boat, when such materials are incorporated into the repaired vehicle, airplane, or boat~~. However, the terms include the sale, use, storage, or consumption of tangible personal property, including machinery and equipment or parts thereof, purchased electricity, and fuels used to power machinery, when such items are used and dissipated in fabricating, converting, or processing tangible personal property for sale, even though they may become ingredients or components of the tangible personal property for sale through accident, wear, tear, erosion, corrosion, or similar means. *The terms do not include the sale of materials to a registered repair facility for use in repairing a motor vehicle, airplane, or boat, when such materials are incorporated into and sold as part of the repair. Such a sale shall be deemed a purchase for resale by the repair facility, even though every material is not separately stated or separately priced on the repair invoice.*

Section 13. Effective January 1, 2000, subsections (4) and (5) of section 212.04, Florida Statutes, 1998 Supplement, are amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(4) Each person who exercises the privilege of charging admission taxes, as herein defined, shall apply for, and at that time shall furnish the information and comply with the provisions of s. 212.18 not inconsistent herewith and receive from the department, a certificate of right to exercise such privilege, which certificate shall apply to each place of business where such privilege is exercised and shall be in the manner and form prescribed by the department. Such certificate shall be issued upon payment to the department of a registration fee of $5 by the applicant. Each person exercising the privilege of charging such admission taxes as herein defined shall cause to be kept records and accounts showing the admission which shall be in the form as the department may from time to time prescribe, inclusive of records of all tickets numbered and issued for a period of not less than the time within which the department may, as permitted by s. 95.091(3), make an assessment with respect to any admission evidenced by such records and accounts, and inclusive of all bills or checks of customers who are charged any of the taxes defined herein, showing the charge made to each for that period. The department is empowered to use each and every one of the powers granted herein to the department to discover the amount of tax to be paid by each such person and to enforce the payment thereof as are hereby granted the department for the discovery and enforcement of the payment of taxes hereinafter levied on the sales of tangible personal property. ~~The failure of any person to pay such taxes before the 21st day of the succeeding month after the taxes are collected shall render such person liable to the same penalties that are hereafter imposed upon such person for being delinquent in the payment of taxes imposed upon the sales of tangible personal property; the failure of any person to render returns and to pay taxes as prescribed herein shall render such person subject to the same penalties, by way of charges for delinquencies, at the rate of 10 percent per month for a total amount of tax delinquent up to a total of 50 percent of such tax and at the rate of 100 percent penalty for attempted evasion of payment of any such tax or for any attempt to file false or misleading returns that are required to be filed by the department.~~

(5) All of the provisions of this chapter relating to collection, investigation, discovery, and aids to collection of taxes upon sales of tangible personal property shall likewise apply to all privileges described or referred to in this section, and the obligations imposed in this chapter upon retailers are hereby imposed upon the seller of such admissions. *All penalties applicable to a dealer in tangible personal property for failure to meet any such obligation, including, but not limited to, any failure related to the filing of returns, the payment of taxes, or the maintenance and production of records, are applicable to the seller of admissions.* When tickets or admissions are sold and not used but returned and credited by the seller, the seller may apply to the department for a credit allowance for such returned tickets or admissions if advance payments have been made by the buyer and have been returned by the seller, upon such form and in such manner as the department may from time to time prescribe. The department may, upon obtaining satisfactory proof of the refunds on the part of the seller, credit the seller for taxes paid upon admissions that have been returned unused to the purchaser of those admissions. The seller of admissions, upon the payment of the taxes before they become delinquent and the rendering of the returns in accordance with the requirement of the department and as provided in this law, shall be entitled to a discount of 2.5 percent of the amount of taxes upon the payment thereof before such taxes become delinquent, in the same manner as permitted the sellers of tangible personal property in this chapter. However, if the amount of the tax due and remitted to the department for the reporting period exceeds $1,200, no discount shall be allowed for all amounts in excess of $1,200.

Section 14. Effective January 1, 2000, subsections (2) and (13) of section 212.12, Florida Statutes, 1998 Supplement, are amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(2)(a) When any person, firm, or corporation required hereunder to make any return or to pay any tax or fee imposed by this chapter fails to timely file such return or fails to pay the tax or fee due within the time required hereunder, in addition to all other penalties provided herein and by the laws of this state in respect to such taxes or fees, a specific penalty shall be added to the tax or fee in the amount of 10 percent of any unpaid tax or fee if the failure is for not more than 30 days, with an additional 10 percent of any unpaid tax or fee for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed a total penalty of 50 percent, in the aggregate, of any unpaid tax or fee. In no event may the penalty be less than $10 for failure to timely file a tax return required by s. 212.11(1)(b) or $5 for failure to timely file a tax return authorized by s. 212.11(1)(c) or (d). ~~In the case of a false or fraudulent return or a willful intent to evade payment of any tax or fee imposed under this chapter, in addition to the other penalties provided by law, the person making such false or fraudulent return or willfully attempting to evade the payment of such a tax or fee shall be liable for a specific penalty of 100 percent of the tax bill or fee and for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree.~~

(b) Any person who knowingly and with a willful intent to evade any tax imposed under this chapter fails to file six consecutive returns as required by law commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Any person who makes a false or fraudulent return with a willful intent to evade payment of any tax or fee imposed under this chapter shall, in addition to the other penalties provided by law, be liable for a specific penalty of 100 percent of the tax bill or fee and, upon conviction, for fine and punishment as provided in s. 775.082, s. 775.083, or s. 775.084.

1. If the total amount of unreported taxes or fees is less than $300, the first offense resulting in conviction is a misdemeanor of the second degree, the second offense resulting in conviction is a misdemeanor of the first degree, and the third and all subsequent offenses resulting in conviction are felonies of the third degree.

2. If the total amount of unreported taxes or fees is $300 or more but less than $20,000, the offense is a felony of the third degree.

3. If the total amount of unreported taxes or fees is $20,000 or more but less than $100,000, the offense is a felony of the second degree.

4. If the total amount of unreported taxes or fees is $100,000 or more, the offense is a felony of the first degree.

(d)~~(b)~~ When any person, firm, or corporation fails to timely remit the proper estimated payment required under s. 212.11, a specific penalty shall be added in an amount equal to 10 percent of any unpaid estimated tax. Beginning with January 1, 1985, returns, the department, upon a showing of reasonable cause, is authorized to waive or compromise penalties imposed by this paragraph. However, other penalties and interest shall be due and payable if the return on which the estimated payment was due was not timely or properly filed.

(e)~~(c)~~ Dealers filing a consolidated return pursuant to s. 212.11(1)*(e)*~~(d)~~ shall be subject to the penalty established in paragraph *(d)* ~~(b)~~ unless the dealer has paid the required estimated tax for his or her consolidated return as a whole without regard to each location. If the dealer fails to pay the required estimated tax for his or her consolidated return as a whole, each filing location shall stand on its own with respect to calculating penalties pursuant to paragraph *(d)* ~~(b)~~.

(13) In order to aid the administration and enforcement of the provisions of this chapter with respect to the rentals and license fees, each lessor or person granting the use of any hotel, apartment house, roominghouse, tourist or trailer camp, real property, or any interest therein, or any portion thereof, inclusive of owners; property managers; lessors; landlords; hotel, apartment house, and roominghouse operators; and all licensed real estate agents within the state leasing, granting the use of, or renting such property, shall be required to keep a record of each and every such lease, license, or rental transaction which is taxable under this chapter, in such a manner and upon such forms as the department may prescribe, and to report such transaction to the department or its designated agents, and to maintain such records as long as required by s. 213.35, subject to the inspection of the department and its agents. Upon the failure by such owner; property manager; lessor; landlord; hotel, apartment house, roominghouse, tourist or trailer camp operator; or real estate agent to keep and maintain such records and to make such reports upon the forms and in the manner prescribed, such owner; property manager; lessor; landlord; hotel, apartment house, roominghouse, tourist or trailer camp operator; receiver of rent or license fees; or real estate agent is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for the first offense; for subsequent offenses, they are each guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. *If, however, any subsequent offense involves intentional destruction of such records with an intent to evade payment of or deprive the state of any tax revenues, such subsequent offense shall be a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.*

Section 15. Effective January 1, 2000, paragraph (e) of subsection (4) of section 212.11, Florida Statutes, 1998 Supplement, is amended to read:

212.11 Tax returns and regulations.—

(4)

(e) The penalty provisions of this chapter, except s. 212.12(2)*(e)*~~(c)~~, apply to the provisions of this subsection.

Section 16. Effective January 1, 2000, subsections (1) and (2) of section 212.13, Florida Statutes, are amended to read:

212.13 Records required to be kept; power to inspect; audit procedure.—

(1) For the purpose of enforcing the collection of the tax levied by this chapter, the department is hereby specifically authorized and empowered to examine at all reasonable hours the books, records, and other documents of all transportation companies, agencies, or firms that conduct their business by truck, rail, water, aircraft, or otherwise, in order to determine what dealers, or other persons charged with the duty to report or pay a tax under this chapter, are importing or are otherwise shipping in articles or tangible personal property which are liable for said tax. In the event said transportation company, agency, or firm refuses to permit such examination of its books, records, or other documents by the department as aforesaid, it is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. *If, however, any subsequent offense involves intentional destruction of such records with an intent to evade payment of or deprive the state of any tax revenues, such subsequent offense shall be a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.* The department shall have the right to proceed in any chancery court to seek a mandatory injunction or other appropriate remedy to enforce its right against the offender, as granted by this section, to require an examination of the books and records of such transportation company or carrier.

(2) Each dealer, as defined in this chapter, shall secure, maintain, and keep as long as required by s. 213.35 a complete record of tangible personal property or services received, used, sold at retail, distributed or stored, leased or rented by said dealer, together with invoices, bills of lading, gross receipts from such sales, and other pertinent records and papers as may be required by the department for the reasonable administration of this chapter; all such records which are located or maintained in this state shall be open for inspection by the department at all reasonable hours at such dealer's store, sales office, general office, warehouse, or place of business located in this state. Any dealer who maintains such books and records at a point outside this state must make such books and records available for inspection by the department where the general records are kept. Any dealer subject to the provisions of this chapter who violates these provisions is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. *If, however, any subsequent offense involves intentional destruction of such records with an intent to evade payment of or deprive the state of any tax revenues, such subsequent offense shall be a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.*

Section 17. Effective January 1, 2000, section 213.757, Florida Statutes, is created to read:

213.757 Willful failure to pay over funds or destruction of records by agent.—Any person who accepts money from a taxpayer that is due to the department, for the purpose of acting as the taxpayer's agent to make the payment to the department, but who willfully fails to remit such payment to the department when due, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any person who has possession as a taxpayer's agent of the taxpayer's records that are required to be maintained under the revenue laws of this state and who intentionally destroys those records with the intent of depriving the state of tax revenues commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 18. Effective February 1, 2000, paragraph (b) of subsection (1) of section 212.07, Florida Statutes, 1998 Supplement, is amended to read:

212.07 Sales, storage, use tax; tax added to purchase price; dealer not to absorb; liability of purchasers who cannot prove payment of the tax; penalties; general exemptions.—

(1)

(b) A resale must be in strict compliance with *s. 212.18 and* the rules and regulations, and any dealer who makes a sale for resale which is not in strict compliance with *s. 212.18 and* the rules and regulations shall himself or herself be liable for and pay the tax. *Any dealer who makes a sale for resale shall document the exempt nature of the transaction, as established by rules promulgated by the department, by retaining a copy of the purchaser's resale certificate. In lieu of maintaining a copy of the certificate, a dealer may document, prior to the time of sale, an authorization number provided telephonically or electronically by the department, or by such other means established by rule of the department. The department shall adopt rules that provide that, for purchasers who purchase on account from a dealer on a continual basis, the dealer may rely on a resale certificate issued pursuant to s. 212.18(3)(c), valid at the time of receipt from the purchaser, without seeking annual verification of the resale certificate.* A dealer may, through the informal protest provided for in s. 213.21 and the rules of the Department of Revenue, provide the department with evidence of the exempt status of a sale. The Department of Revenue shall adopt rules which provide that valid ~~resale certificates and~~ consumer certificates of exemption executed by those ~~dealers or~~ exempt entities which were registered with the department at the time of sale, *resale certificates provided by purchasers who were active dealers at the time of sale, and verification by the department of a purchaser's active dealer status at the time of sale in lieu of a resale certificate* shall be accepted by the department when submitted during the protest period but may not be accepted in any proceeding under chapter 120 or any circuit court action instituted under chapter 72.

Section 19. Effective January 1, 2000, subsection (3) of section 212.18, Florida Statutes, 1998 Supplement, is amended to read:

212.18 Administration of law; registration of dealers; rules.—

(3)(a) Every person desiring to engage in or conduct business in this state as a dealer, as defined in this chapter, or to lease, rent, or let or grant licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, or tourist or trailer camps that are subject to tax under s. 212.03, or to lease, rent, or let or grant licenses in real property, as defined in this chapter, and every person who sells or receives anything of value by way of admissions, must file with the department an application for a certificate of registration for each place of business, showing the names of the persons who have interests in such business and their residences, the address of the business, and such other data as the department may reasonably require. However, owners and operators of vending machines or newspaper rack machines are required to obtain only one certificate of registration for each county in which such machines are located. The department, by rule, may authorize a dealer that uses independent sellers to sell its merchandise to remit tax on the retail sales price charged to the ultimate consumer in lieu of having the independent seller register as a dealer and remit the tax. The department may appoint the county tax collector as the department's agent to accept applications for registrations. The application must be made to the department before the person, firm, copartnership, or corporation may engage in such business, and it must be accompanied by a registration fee of $5. However, a registration fee is not required to accompany an application to engage in or conduct business to make mail order sales.

(b) The department, upon receipt of such application, will grant to the applicant a separate certificate of registration for each place of business, which certificate may be canceled by the department or its designated assistants for any failure by the certificateholder to comply with any of the provisions of this chapter. The certificate is not assignable and is valid only for the person, firm, copartnership, or corporation to which issued. The certificate must be placed in a conspicuous place in the business or businesses for which it is issued and must be displayed at all times. Except as provided in this *subsection* ~~paragraph~~, no person shall engage in business as a dealer or in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, nor shall any person sell or receive anything of value by way of admissions, without first having obtained such a certificate or after such certificate has been canceled; no person shall receive any license from any authority within the state to engage in any such business without first having obtained such a certificate or after such certificate has been canceled. The engaging in the business of selling or leasing tangible personal property or services or as a dealer, as defined in this chapter, or the engaging in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, or tourist or trailer camps that are taxable under this chapter, or real property, or the engaging in the business of selling or receiving anything of value by way of admissions, without such certificate first being obtained or after such certificate has been canceled by the department, is prohibited. The failure or refusal of any person, firm, copartnership, or corporation to so qualify when required hereunder is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, or subject to injunctive proceedings as provided by law. Such failure or refusal also subjects the offender to a $100 initial registration fee in lieu of the $5 registration fee authorized in ~~this~~ paragraph *(a)*. However, the department may waive the increase in the registration fee if it is determined by the department that the failure to register was due to reasonable cause and not to willful negligence, willful neglect, or fraud.

(c) In addition to the certificate of registration, the department shall provide to each newly registered dealer an initial resale certificate that will be valid for the remainder of the period of issuance. The department shall provide each active dealer with an annual resale certificate. For purposes of this section, "active dealer" means a person who is currently registered with the department and who is required to file at least once during each applicable reporting period.

(d)~~(b)~~ The department may revoke any dealer's certificate of registration when the dealer fails to comply with this chapter. Prior to revocation of a dealer's certificate of registration, the department must schedule an informal conference at which the dealer may present evidence regarding the department's intended revocation or enter into a compliance agreement with the department. The department must notify the dealer of its intended action and the time, place, and date of the scheduled informal conference by written notification sent by United States mail to the dealer's last known address of record furnished by the dealer on a form prescribed by the department. The dealer is required to attend the informal conference and present evidence refuting the department's intended revocation or enter into a compliance agreement with the department which resolves the dealer's failure to comply with this chapter. The department shall issue an administrative complaint under s. 120.60 if the dealer fails to attend the department's informal conference, fails to enter into a compliance agreement with the department resolving the dealer's noncompliance with this chapter, or fails to comply with the executed compliance agreement.

(e)~~(c)~~ As used in this paragraph, the term "exhibitor" means a person who enters into an agreement authorizing the display of tangible personal property or services at a convention or a trade show. The following provisions apply to the registration of exhibitors as dealers under this chapter:

1. An exhibitor whose agreement prohibits the sale of tangible personal property or services subject to the tax imposed in this chapter is not required to register as a dealer.

2. An exhibitor whose agreement provides for the sale at wholesale only of tangible personal property or services subject to the tax imposed in this chapter must obtain a resale certificate from the purchasing dealer but is not required to register as a dealer.

3. An exhibitor whose agreement authorizes the retail sale of tangible personal property or services subject to the tax imposed in this chapter must register as a dealer and collect the tax imposed under this chapter on such sales.

4. Any exhibitor who makes a mail order sale pursuant to s. 212.0596 must register as a dealer.

Any person who conducts a convention or a trade show must make their exhibitor's agreements available to the department for inspection and copying.

Section 20. Effective January 1, 2000, subsection (10) of section 213.053, Florida Statutes, 1998 Supplement, is amended to read:

213.053 Confidentiality and information sharing.—

(10) Notwithstanding any other provision of this section, with respect to a request for verification of a certificate of registration issued pursuant to s. 212.18 to a specified dealer or taxpayer or with respect to a request by a law enforcement officer for verification of a certificate of registration issued pursuant to s. 538.09 to a specified secondhand dealer or pursuant to s. 538.25 to a specified secondary metals recycler, the department may disclose whether the specified person holds a valid certificate or whether a specified certificate number is valid *or whether a specified certificate number has been canceled or is inactive or invalid* and the name of the holder of such certificate. This subsection shall not be construed to create a duty to request verification of any certificate of registration.

Section 21. *Effective January 1, 2000, the Department of Revenue shall establish a toll-free number for verification of valid registration numbers and resale certificates. The system must be sufficient to guarantee a low busy rate and must respond to keypad inquiries, and data must be updated daily.*

Section 22. *Effective January 1, 2000, the Department of Revenue shall establish a system for receiving information from dealers regarding certificate numbers of those seeking to make purchases for resale. The department must provide such dealers with verification of those numbers which are canceled or invalid. This information must be provided by the department free of charge.*

Section 23. *Effective July 1, 1999, the Department of Revenue shall expand its dealer education program regarding the proper use of resale certificates. The expansion shall include, but not be limited to, revision of the registration application for clarity, development of industry-specific brochures, development of a media campaign to heighten awareness of resale fraud and its consequences, outreach to business and professional organizations, and creation of seminars and continuing education programs for taxpayers and licensed professionals.*

Section 24. *(1) The sums of $211,065 to be used for salaries, benefits, and expenses and $23,455 to be used for operating capital outlay are appropriated from the General Revenue Fund to the Department of Revenue, and 1.5 FTEs are authorized, to implement the provisions of this act regarding resale certificates under chapter 212, Florida Statutes.*

(2) This section shall take effect July 1, 1999.

Section 25. (1) Paragraph (ii) of subsection (7) and subsection (10) of section 212.08, Florida Statutes, 1998 Supplement, are amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—

(ii) Certain electricity or steam uses.—

1. *Subject to the provisions of subparagraph 4.,* charges for electricity or steam used to operate machinery and equipment at a fixed location in this state when such machinery and equipment is used to manufacture, process, compound, produce, or prepare for shipment items of tangible personal property for sale, or to operate pollution control equipment, recycling equipment, maintenance equipment, or monitoring or control equipment used in such operations are exempt to the extent provided in this paragraph. *If* ~~In order to qualify for this exemption,~~ 75 percent or more of the electricity *or steam* used at the fixed location *is* ~~must be~~ used to operate qualifying machinery or equipment, *100 percent of the charges for electricity or steam used at the fixed location are exempt.* If less than 75 percent but 50 percent or more of the electricity *or steam* ~~is~~ used at *the* ~~a~~ fixed location *is used* to operate qualifying machinery or equipment, ~~then it is presumed that~~ 50 percent of the *charges for electricity or steam used at the fixed location are exempt* ~~charge for electricity is for nonexempt purposes~~. *If less than 50 percent of the electricity or steam used at the fixed location is used to operate qualifying machinery or equipment, none of the charges for electricity or steam used at the fixed location are exempt.*

2. This exemption applies only to industries classified under SIC Industry Major Group Numbers 10, 12, 13, 14, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, and 39. As used in this paragraph, "SIC" means those classifications contained in the Standard Industrial Classification Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President.

3. Possession by a seller of a written certification by the purchaser, certifying the purchaser's entitlement to an exemption permitted by this subsection, relieves the seller from the responsibility of collecting the tax on the nontaxable amounts, and the department shall look solely to the purchaser for recovery of such tax if it determines that the purchaser was not entitled to the exemption.

4. Such exemption shall be applied as follows:

a. Beginning July 1, 1996, 20 percent of the charges for such electricity shall be exempt.

b. Beginning July 1, 1997, 40 percent of the charges for such electricity shall be exempt.

c. Beginning July 1, 1998, 60 percent of the charges for such electricity or steam shall be exempt.

d. Beginning July 1, 1999, 80 percent of the charges for such electricity or steam shall be exempt.

e. Beginning July 1, 2000, 100 percent of the charges for such electricity or steam shall be exempt.

5. Notwithstanding any other provision in this paragraph to the contrary, in order to receive the exemption provided in this paragraph a taxpayer must first register with the WAGES Program Business Registry established by the local WAGES coalition for the area in which the taxpayer is located. Such registration establishes a commitment on the part of the taxpayer to hire WAGES program participants to the maximum extent possible consistent with the nature of their business.

6.a. In order to determine whether the exemption provided in this paragraph from the tax on charges for electricity or steam has an effect on retaining or attracting companies to this state, the Office of Program Policy Analysis and Governmental Accountability shall periodically monitor and report on the industries receiving the exemption.

b. The first report shall be submitted no later than January 1, 1997, and must be conducted in such a manner as to specifically determine the number of companies within each SIC Industry Major Group receiving the exemption as of September 1, 1996, and the number of individuals employed by companies within each SIC Industry Major Group receiving the exemption as of September 1, 1996.

c. The second report shall be submitted no later than January 1, 2001, and must be comprehensive in scope, but, at a minimum, must be conducted in such a manner as to specifically determine the number of companies within each SIC Industry Major Group receiving the exemption as of September 1, 2000, the number of individuals employed by companies within each SIC Industry Major Group receiving the exemption as of September 1, 2000, whether the change, if any, in such number of companies or employees is attributable to the exemption provided in this paragraph, whether it would be sound public policy to continue or discontinue the exemption, and the consequences of doing so.

d. Both reports shall be submitted to the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader.

Exemptions provided to any entity by this subsection shall not inure to any transaction otherwise taxable under this chapter when payment is made by a representative or employee of such entity by any means, including, but not limited to, cash, check, or credit card even when that representative or employee is subsequently reimbursed by such entity.

(10) PARTIAL EXEMPTION; MOTOR VEHICLE SOLD TO RESIDENT OF ANOTHER STATE.—The tax collected on the sale of a new or used motor vehicle in this state to a resident of another state shall be an amount equal to the sales tax which would be imposed on such sale under the laws of the state of which the purchaser is a resident, except that such tax shall not exceed the tax that would otherwise be imposed under this chapter. At the time of the sale, the purchaser shall execute a notarized statement of his or her intent to license the vehicle in the state of which the purchaser is a resident within *45* ~~10~~ days of the sale and of the fact of the payment to the State of Florida of a sales tax in an amount equivalent to the sales tax of his or her state of residence and shall submit the statement to the appropriate sales tax collection agency in his or her state of residence. *Nothing in this subsection shall be construed to require the removal of the vehicle from this state following the filing of an intent to license the vehicle in the purchaser's home state if the purchaser licenses the vehicle in his or her home state within 45 days after the date of sale.*

(2) *It is the intent of the Legislature that the amendments to s. 212.08(7)(ii), Florida Statutes, 1998 Supplement, by this section are remedial in nature and merely clarify existing law.*

Section 26. Subsection (8) is added to section 213.27, Florida Statutes, to read:

213.27 Contracts with debt collection agencies *and certain vendors.*—

(8)(a) The executive director of the department may enter into contracts with private vendors to develop and implement systems to enhance tax collections where compensation to the vendors is funded through increased tax collections. The amount of compensation paid to a vendor shall be based on a percentage of increased tax collections attributable to the system after all administrative and judicial appeals are exhausted, and the total amount of compensation paid to a vendor shall not exceed the maximum amount stated in the contract.

(b) A person acting on behalf of the department under a contract authorized by this subsection does not exercise any of the powers of the department, except that the person is an agent of the department for the purposes of developing and implementing a system to enhance tax collection.

(c) Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the private vendors. The vendors shall be bound by the same requirements of confidentiality as the department. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 27. Subsection (1) of section 213.67, Florida Statutes, 1998 Supplement, is amended to read:

213.67 Garnishment.—

(1) If a person is delinquent in the payment of any taxes, penalties, and interest owed to the department, the executive director or his or her designee may give notice of the amount of such delinquency by registered mail to all persons having in their possession or under their control any credits or personal property, exclusive of wages, belonging to the delinquent taxpayer, or owing any debts to such delinquent taxpayer at the time of receipt by them of such notice. Thereafter, any person who has been notified may not transfer or make any other disposition of such credits, other personal property, or debts until the executive director or his or her designee consents to a transfer or disposition or until 60 days after the receipt of such notice, *except that the credits, other personal property, or debts which exceed the delinquent amount stipulated in the notice shall not be subject to the provisions of this section, wherever held, in any case in which the taxpayer does not have a prior history of tax delinquencies.* If during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld hereunder, he or she is liable to the state for any indebtedness owed to the department by the person with respect to whose obligation the notice was given to the extent of the value of the property or the amount of the debts thus transferred or paid if, solely by reason of such transfer or disposition, the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given. If the delinquent taxpayer contests the intended levy in circuit court or under chapter 120, the notice under this section remains effective until that final resolution of the contest. Any financial institution receiving such notice will maintain a right of setoff for any transaction involving a debit card occurring on or before the date of receipt of such notice.

Section 28. (1) Paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, 1998 Supplement, are amended, and paragraph (hh) is added to subsection (1) of said section, to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, *1999* ~~1998~~, except as provided in subsection (3).

(hh) "Citrus processing company" means a corporation which, during the 60-month period ending on December 31, 1997, had derived more than 50 percent of its total gross receipts from the processing of citrus products and the manufacture of juices.

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code shall have the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, *1999* ~~1998~~. However, if subsection (3) is implemented, the meaning of any term shall be taken at the time the term is applied under this code.

(2) This section shall take effect upon this act becoming a law, and the amendments to s. 220.03(1)(n) and (2)(c), Florida Statutes, 1998 Supplement, shall operate retroactively to January 1, 1999.

Section 29. Effective January 1, 2000, paragraph (b) of subsection (1) of section 220.151, Florida Statutes, is amended, and, effective upon this act becoming a law, subsection (3) is added to said section, to read:

220.151 Apportionment; methods for special industries.—

(1)

(b) If the principal source of premiums written by an insurance company consists of premiums for reinsurance accepted by it, the tax base of such company shall be apportioned to this state by multiplying such base by a fraction the numerator of which is the sum of:

1. Direct premiums written for insurance upon properties and risks in this state, plus

2. Premiums written for reinsurance, accepted in respect to properties and risks in this state,

and the denominator of which is the sum of direct premiums written for insurance upon properties and risks everywhere plus premiums written for reinsurance accepted in respect to properties and risks everywhere. For purposes of this paragraph, premiums written for reinsurance accepted in respect to properties and risks in this state, whether or not otherwise determinable, *shall* ~~may, at the election of the company, either~~ be determined on the basis of the proportion which premiums written for reinsurance accepted from companies resident in or having a regional home office in the state bears to premiums written for reinsurance accepted from all sources ~~or, alternatively, on the basis of the proportion which the sum of the direct premiums written for insurance upon properties and risks in this state by each ceding company from which reinsurance is accepted bears to the sum of the total direct premiums written by each such ceding company for the taxable year~~.

(3) For any taxable year beginning on or after January 1, 1999, a citrus processing company may, if required to apportion its taxable net income pursuant to the three-factor apportionment method set forth in s. 220.15(1), elect to have such apportionment determined for that taxable year solely by use of the sales factor, as set forth in s. 220.15(5). The election shall be made by the filing of a return for the taxable year utilizing this method.

Section 30. Section 220.21, Florida Statutes, is amended to read:

220.21 Returns and records; regulations.—

(1) Every taxpayer liable for the tax imposed by this code shall keep such records, render such statements, make such returns and notices, and comply with such rules and regulations, as the department may from time to time prescribe. The director may require any taxpayer or class of taxpayers, by notice or by regulation, to make such returns and notices, render such statements, and keep such records as the director deems necessary to determine whether such taxpayer or taxpayers are liable for tax under this code.

(2) A taxpayer may choose to file a return required by this code in a form initiated through a telephonic or electronic data interchange using an advanced encrypted transmission by means of the Internet or other suitable transmission. The department shall prescribe by rule the format and instructions necessary for such filing to ensure a full collection of taxes due. The acceptable method of transfer, the method, form, and content of the electronic data interchange, and the means, if any, by which the taxpayer will be provided with an acknowledgment shall be prescribed by the department.

Section 31. Subsection (3) of section 220.221, Florida Statutes, is amended to read:

220.221 Returns; signing and verification.—

(3) Each return or notice required to be filed under this code shall be verified by a ~~written~~ declaration that it is made under the penalties of perjury, and if prepared by someone other than the taxpayer the return shall also contain a declaration by the preparer that it was prepared on the basis of all information of which the preparer had knowledge.

Section 32. Paragraphs (a) and (b) of subsection (2) of section 220.222, Florida Statutes, 1998 Supplement, are amended to read:

220.222 Returns; time and place for filing.—

(2)(a) When a taxpayer has been granted an extension or extensions of time within which to file its federal income tax return for any taxable year, and if the requirements of s. 220.32 are met, the filing of a ~~written~~ request for such extension or extensions with the department shall automatically extend the due date of the return required under this code until 15 days after the expiration of the federal extension or until the expiration of 6 months from the original due date, whichever first occurs.

(b) The department may grant an extension or extensions of time for the filing of any return required under this code upon receiving a prior ~~written~~ request therefor if good cause for an extension is shown. However, the aggregate extensions of time under paragraphs (a) and (b) shall not exceed 6 months. No extension granted under this paragraph shall be valid unless the taxpayer complies with the requirements of s. 220.32.

Section 33. Subsection (7) is added to section 193.052, Florida Statutes, to read:

193.052 Preparation and serving of returns.—

(7) A property appraiser may accept a tangible personal property tax return in a form initiated through an electronic data interchange. The department shall prescribe by rule the format and instructions necessary for such filing to ensure that all property is properly listed. The acceptable method of transfer, the method, form, and content of the electronic data interchange, the method by which the taxpayer will be provided with an acknowledgment, and the duties of the property appraiser with respect to such filing shall be prescribed by the department. The department's rules shall provide: a uniform format for all counties; that the format shall resemble form DR-405 as closely as possible; and that adequate safeguards for verification of taxpayers' identities are established to avoid filing by unauthorized persons.

Section 34. Subsection (16) of section 199.052, Florida Statutes, 1998 Supplement, is amended to read:

199.052 Annual tax returns; payment of annual tax.—

(16)*(a) Except as provided in paragraph (b),* all banks and financial organizations filing annual intangible tax returns for their customers shall file return information for taxes due January 1, 1999, and thereafter using machine-sensible media. The information required by this subsection must be reported by banks or financial organizations on machine-sensible media, using specifications and instructions of the department. A bank or financial organization that demonstrates to the satisfaction of the department that a hardship exists is not required to file intangible tax returns for its customers using machine-sensible media. The department shall adopt rules necessary to administer this *paragraph* ~~subsection~~.

(b) A taxpayer may choose to file an annual intangible personal property tax return in a form initiated through an electronic data interchange using an advanced encrypted transmission by means of the Internet or other suitable transmission. The department shall prescribe by rule the format and instructions necessary for such filing to ensure a full collection of taxes due. The acceptable method of transfer, the method, form, and content of the electronic data interchange, and the means, if any, by which the taxpayer will be provided with an acknowledgment shall be prescribed by the department.

Section 35. Section 443.163, Florida Statutes, is created to read:

443.163 Electronic reporting.—An employer may choose to file any report required by this chapter in a form initiated through an electronic data interchange using an advanced encrypted transmission by means of the Internet or other suitable transmission. The division shall prescribe by rule the format and instructions necessary for such filing to ensure a full collection of contributions due. The acceptable method of transfer, the method, form, and content of the electronic data interchange, and the means, if any, by which the employer will be provided with an acknowledgment, shall be prescribed by the division.

Section 36. *(1) Whenever the governing body of a municipality that has created a downtown development district pursuant to chapter 65-1090, Laws of Florida, determines that it is necessary to alter, amend, or expand the boundaries of the established district by the inclusion of additional territory or the exclusion of lands from the limits of the established district, in order to revitalize and preserve property values or to prevent deterioration in the original district or its surrounding areas, it shall, by resolution, declare its intention to do so.*

(2) In the resolution of intent, the governing body shall set a date for a public hearing on adoption of an ordinance altering, amending, or expanding the district and describing the new proposed district. Upon the adoption of the resolution, the governing body shall cause a notice of the public hearing to be published in a newspaper of general circulation published in the municipality, which notice shall be published one time not less than 30 nor more than 60 days prior to the date of the hearing. The notice shall set forth the date, time, and place of the hearing and shall describe the new proposed boundaries of the district. Any citizen, taxpayer, or property owner shall have the right to be heard in opposition to the proposed amendment or expansion of the district. After the public hearing, if the governing body intends to proceed with the amendment or expansion of the district, it shall, in the manner authorized by law, adopt an ordinance defining the new district. The governing body shall not incorporate land into the district not included in the description contained in the resolution and the notice of public hearing, but it may eliminate any lands from that description when it adopts the ordinance containing the final determination of the boundaries.

Section 37. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.*

Section 38. Except as otherwise provided herein, this act shall take effect upon becoming a law.

And the title is amended as follows: remove from the title of the bill: the entire title and insert in lieu thereof: A bill to be entitled An act relating to tax administration; creating s. 166.235, F.S.; providing procedures

and requirements for purchasers to obtain a refund of or credit for municipal public service tax collected in error; providing duties of sellers and of municipalities; specifying that these procedures must be exhausted before an action may be brought; providing defenses and time limitations with respect to such actions; providing application and effect on pending litigation; amending s. 196.1975, F.S.; deleting provisions relating to conditions under which certain corporations qualify as a nonprofit home for the aged for ad valorem tax exemption purposes; specifying nonprofit homes for the aged to which such revision does not apply; repealing s. 198.12, F.S., which requires a personal representative to give preliminary notice of a decedent's death to the Department of Revenue; amending s. 198.13, F.S.; transferring to said section provisions relating to issuance of a certificate by the department that no estate taxes are owed, and providing that said provisions apply when an estate has filed a return; amending s. 198.23, F.S., to conform; amending s. 198.26, F.S.; removing limitations on those estates with respect to which the personal representative may not be discharged until all estate taxes have been paid; specifying that the court may consider the personal representative's affidavit that the estate is not taxable; amending s. 198.32, F.S.; providing that the personal representative of an estate that is not subject to estate tax and not required to file a return may execute an affidavit to that effect; amending s. 198.33, F.S.; conforming provisions relating to when an estate is deemed discharged of liability for estate taxes; amending s. 198.39, F.S.; providing a penalty for making a false statement in any affidavit under ch. 198, F.S.; amending s. 199.106, F.S.; revising the applicability of provisions which allow a credit against the annual intangible personal property tax for a like tax imposed by another state, a territory of the United States, or the District of Columbia; creating s. 201.165, F.S.; providing such a credit for a like tax paid in such jurisdictions against any excise tax on documents; providing for rules; providing for retroactive application; amending s. 212.02, F.S.; revising provisions relating to the conditions under which the tax on sales, use, and other transactions does not apply to the sale of materials used in repairing a motor vehicle, airplane, or boat; amending s. 212.04, F.S.; specifying applicability to sellers of admissions of the same penalties applicable to dealers in tangible personal property for failure to file returns, pay taxes, or maintain or produce records under ch. 212, F.S.; amending ss. 212.12 and 212.13, F.S.; revising penalties for failure to file returns and for false or fraudulent returns under ch. 212, F.S.; providing penalties for subsequent offenses involving destruction of records with an intent to evade payment of tax; amending s. 212.11, F.S.; correcting a reference; creating s. 213.757, F.S.; providing penalties for willful failure to remit tax payments, and for intentional destruction of records to deprive the state of tax revenues, by a taxpayer's agent; amending s. 212.07, F.S.; providing requirements with respect to sales for resale and documentation thereof; amending s. 212.18, F.S.; providing for issuance of initial and annual resale certificates to active sales tax dealers; amending s. 213.053, F.S.; authorizing the Department of Revenue to disclose certain information regarding registration certificate numbers; directing the department to establish a toll-free number for verification of registration numbers and resale certificates, to establish a system to receive information from dealers regarding certificate numbers of purchasers for resale, and to expand its dealer education program regarding resale certificates; providing appropriations and authorizing positions; amending s. 212.08, F.S.; revising provisions relating to the sales tax exemption for charges for electricity or steam used to operate machinery and equipment under specified conditions; specifying application of a condition relating to percentage of use; providing intent; revising provisions which specify application of tax to the sale of a motor vehicle in this state to a resident of another state; revising the time period within which the purchaser must license the vehicle in his or her home state and providing construction regarding removal of the vehicle from this state; amending s. 213.27, F.S.; authorizing the executive director of the department to contract with vendors to develop and implement systems to enhance tax collections where compensation to the vendor is funded through increased tax collections; providing restrictions; providing for application of confidentiality requirements and providing a penalty; amending s. 213.67, F.S.; specifying the amount of credits, other personal property, or debts of a delinquent taxpayer held by another person which are subject to garnishment when the taxpayer has no prior tax delinquencies; amending s. 220.03, F.S.; updating references to the Internal Revenue Code for corporate income tax purposes; defining "citrus processing company"; amending s. 220.151, F.S.; revising the method for apportioning to this state for corporate income tax the tax base of an insurance company whose principal source of premiums is from reinsurance policies; allowing certain citrus processing companies to elect to determine the apportionment of their adjusted federal income to this state solely by use of the sales factor; amending ss. 220.21, 220.221, and 220.222, F.S.; authorizing filing of corporate income tax returns in a form initiated through a telephonic or electronic data interchange; providing duties of the department; amending ss. 193.052 and 199.052, F.S.; authorizing filing of tangible personal property and intangible personal property returns in a form initiated through electronic data interchange; providing duties of the department; creating s. 443.163, F.S.; authorizing filing of required reports relating to unemployment compensation by employers in such form; providing duties of the Division of Unemployment Compensation; providing procedures for the alteration, amendment, or expansion of the boundaries of certain downtown development districts; providing for notice and public hearing; providing for severability; providing effective dates.

On motion by Senator Horne, the Senate concurred in the House amendment.

CS for CS for SB 888 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB 890, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 890—A bill to be entitled An act relating to rural hospital capital improvement; creating s. 395.6061, F.S.; providing a mechanism for the disbursement of funds to rural hospitals; providing application requirements; prescribing uses of the fund; providing duties of the Department of Health; providing rulemaking authority for the establishment of criteria for the disbursement of grant funds; amending s. 395.602, F.S.; redefining the term "rural hospital"; amending s. 409.9116, F.S.; providing for the date of applicability; providing an effective date.

House Amendment 1 (175749)(with title amendment)—On page 4, lines 13-29, remove from the bill: all of said lines

And the title is amended as follows:

On page 1, lines 11-13, remove from the title of the bill: all of said lines and insert in lieu thereof: redefining the term "rural hospital"; providing an effective date.

On motion by Senator Mitchell, the Senate concurred in the House amendment.

CS for CS for SB 890 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—40

Madam President	Carlton	Dawson-White	Grant
Bronson	Casas	Diaz-Balart	Gutman
Brown-Waite	Childers	Dyer	Hargrett
Burt	Clary	Forman	Holzendorf
Campbell	Cowin	Geller	Horne

Jones	Latvala	Mitchell	Sebesta
King	Laurent	Myers	Silver
Kirkpatrick	Lee	Rossin	Sullivan
Klein	McKay	Saunders	Thomas
Kurth	Meek	Scott	Webster

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1734, with amendment(s), by the required constitutional three-fifths vote of the membership and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1734—A bill to be entitled An act relating to trust funds; creating s. 292.085, F.S.; creating the Department of Veterans' Affairs Tobacco Settlement Trust Fund; providing for sources of moneys and purposes; providing for reversion of funds to the Department of Banking and Finance Tobacco Settlement Clearing Trust Fund; providing for future review and termination or re-creation of the trust fund; providing an effective date.

House Amendment 1 (055445)—On page 1, lines 24-26 remove from the bill: *Funds shall be used as appropriated for any of the purposes that are permitted or required by the tobacco settlement.*

On motion by Senator Casas, the Senate concurred in the House amendment.

CS for SB 1734 passed as amended by the required constitutional three-fifths vote of the membership, and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

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
Dawson-White	Jones	Mitchell	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1848, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1848—A bill to be entitled An act relating to educational facilities; amending s. 235.056, F.S.; requiring certain plans to be prepared by an appropriate design professional; amending s. 235.0155, F.S.; revising the fee for prototype plans usage; amending s. 235.15, F.S.; requiring validation of certain surveys; amending s. 235.175, F.S.; deleting formula for School Infrastructure Thrift awards and effort index grants; amending s. 235.186, F.S.; allocating certain funds for effort index grants; revising the eligibility criteria and allocation formula for effort index grants; amending s. 235.2155, F.S.; revising School Infrastructure Thrift awards and related uses; amending s. 235.216, F.S. authorizing enhanced School Infrastructure Thrift Awards; specifying eligibility criteria; amending ss. 235.217, 235.218, F.S.; conforming provisions; deleting obsolete provisions; amending s. 235.211, F.S.; revising plan review requirements; amending s. 235.212, F.S.; specifying areas exempt from operable glazing; amending s. 235.31, F.S.; revising review authority of contracts; amending s. 235.061, F.S.; providing for the adoption of standards for relocatable classrooms; amending s. 404.056, F.S.; revising requirements related to radon testing; amending s. 46 of ch. 97-384, Laws of Florida, relating to appropriations for School Infrastructure Thrift Program awards and effort index grants; specifying the amount authorized for effort index grants; amending s. 235.26, F.S.; requiring district school boards to comply with certain standards for construction materials and systems based on life-cycle costs; providing an exception; requiring a public hearing; repealing s. 235.4355, F.S., relating to SMART Schools Small County Assistance Program for Fiscal Year 1998-1999; providing an effective date.

House Amendment 1 (183087)—On page 15, line 25, of the bill, after "facilities" insert: *during the 1996-1997, 1997-1998, 1998-1999, and 1999-2000 school years*

House Amendment 2 (900097)—On page 8, line 28, remove from the bill: *(2)* and insert in lieu thereof: *(3)*

(Renumber subsequent subsections.)

House Amendment 3 (102181)—On page 9, line 17, remove from the bill: *(2)* and insert in lieu thereof: *(3)*

On page 9, line 31, remove from the bill: *(2)* and insert in lieu thereof: *(3)*

House Amendment 4 (711689)—On page 20, line 23, remove from the bill: *2003* and insert in lieu thereof: *2000*

On motion by Senator Clary, the Senate concurred in the House amendments.

CS for SB 1848 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

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
Dawson-White	Jones	Mitchell	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1954, with amendment(s), by the required constitutional three-fifths vote of the membership and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1954—A bill to be entitled An act relating to trust funds; creating s. 20.425, F.S.; creating the Agency for Health Care Administration Tobacco Settlement Trust Fund; providing for sources of moneys and purposes; providing for reversion of funds to the Banking and Finance Tobacco Settlement Clearing Trust Fund; providing for future review and termination or re-creation of the trust fund; providing an effective date.

House Amendment 1 (164489)—On page 1, lines 24-26 remove from the bill: *Funds shall be used as appropriated for any of the purposes that are permitted or required by the tobacco settlement.*

On motion by Senator Casas, the Senate concurred in the House amendment.

CS for SB 1954 passed as amended by the required constitutional three-fifths vote of the membership, and was ordered engrossed and

then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

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
Dawson-White	Jones	Mitchell	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1960, with amendment(s), by the required constitutional three-fifths vote of the membership and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1960—A bill to be entitled An act relating to trust funds; amending s. 20.435, F.S.; repealing s. 569.20, F.S.; renaming the current Tobacco Settlement Trust Fund as the Department of Health Tobacco Settlement Trust Fund; providing for sources of moneys and purposes; providing for reversion of funds to the Department of Banking and Finance Tobacco Settlement Clearing Trust Fund for Children and Elders; providing an effective date.

House Amendment 1 (063765)—On page 5, lines 9-11 remove from the bill: *Funds shall be used as appropriated for any of the purposes that are permitted or required by the tobacco settlement.*

On motion by Senator Casas, the Senate concurred in the House amendment.

CS for SB 1960 passed as amended by the required constitutional three-fifths vote of the membership, and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

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
Dawson-White	Jones	Mitchell	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1962, with amendment(s), by the required constitutional three-fifths vote of the membership and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1962—A bill to be entitled An act relating to trust funds; creating s. 17.41, F.S.; creating the Department of Banking and Finance Tobacco Settlement Clearing Trust Fund; providing for sources of moneys; providing for exemption from various service charges; providing purposes; providing for investment of such moneys; providing for disbursement of funds to the tobacco settlement trust funds of the various agencies; proclaiming that the trust fund is exempt from constitutional termination; providing an effective date.

House Amendment 1 (154593)—On page 2, lines 1-2 remove from the bill: *Funds shall be used for the purposes that are permitted or required by the settlement.*

On motion by Senator Casas, the Senate concurred in the House amendment.

CS for SB 1962 passed as amended by the required constitutional three-fifths vote of the membership, and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38

Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Saunders
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	
Dawson-White	Jones	Mitchell	

Nays—None

Vote after roll call:

Yea—Rossin

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1964, with amendment(s), by the required constitutional three-fifths vote of the membership and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1964—A bill to be entitled An act relating to trust funds; creating s. 569.205, F.S.; creating the Department of Business and Professional Regulation Tobacco Settlement Trust Fund; providing for sources of moneys and purposes; providing for reversion of funds to the Department of Banking and Finance Tobacco Settlement Clearing Trust Fund; providing for future review and termination or re-creation of the trust fund; providing an effective date.

House Amendment 1 (440135)—On page 1, lines 25-27 remove from the bill: *Funds shall be used as appropriated for any of the purposes that are permitted or required by the tobacco settlement.*

On motion by Senator Casas, the Senate concurred in the House amendment.

CS for SB 1964 passed as amended by the required constitutional three-fifths vote of the membership, and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1966, with amendment(s), by the required constitutional three-fifths vote of the membership and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1966—A bill to be entitled An act relating to trust funds; creating s. 20.195, F.S.; creating the Department of Children and Family Services Tobacco Settlement Trust Fund; providing for sources of moneys and purposes; providing for reversion of funds to the Department of Banking and Finance Tobacco Settlement Clearing Trust Fund; providing for future review and termination or re-creation of the trust fund; providing an effective date.

House Amendment 1 (155915)—On page 1, lines 24-26 remove from the bill: *Funds shall be used as appropriated for any of the purposes that are permitted or required by the tobacco settlement.*

On motion by Senator Casas, the Senate concurred in the House amendment.

CS for SB 1966 passed as amended by the required constitutional three-fifths vote of the membership, and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

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
Dawson-White	Jones	Mitchell	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1968, with amendment(s), by the required constitutional three-fifths vote of the membership and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1968—A bill to be entitled An act relating to trust funds; creating s. 430.42, F.S.; creating the Department of Elderly Affairs Tobacco Settlement Trust Fund; providing for sources of moneys and purposes; providing for reversion of funds to the Department of Banking and Finance Tobacco Settlement Clearing Trust Fund; providing for future review and termination or re-creation of the trust fund; providing an effective date.

House Amendment 1 (830343)—On page 1, lines 24-26 remove from the bill: *Funds shall be used as appropriated for any of the purposes that are permitted or required by the tobacco settlement.*

On motion by Senator Casas, the Senate concurred in the House amendment.

CS for SB 1968 passed as amended by the required constitutional three-fifths vote of the membership, and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 2038, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 2038—A bill to be entitled An act relating to red tide research and mitigation; establishing a Harmful-Algal-Bloom Task Force; providing for task force membership and duties; providing legislative intent; providing program goals; providing an appropriation; providing an effective date.

House Amendment 1 (954955)—On page 3, lines 11 thru 14, remove from the bill: all said lines and insert in lieu thereof:

Section 3. *Notwithstanding the provisions of section 376.11, Florida Statutes, there is hereby appropriated from the Coastal Protection Trust Fund to the Florida Marine Research Institute for fiscal year 1999-2000 an additional sum of $3 million to carry out the purposes of this act.*

On motion by Senator Carlton, the Senate concurred in the House amendment.

CS for SB 2038 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

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
Dawson-White	Jones	Mitchell	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 2622, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 2622—A bill to be entitled An act relating to Monroe County; creating the City of Marathon; providing legislative intent; providing municipal boundaries and municipal powers; providing a council-manager form of government; providing for election of a city council; providing for membership, qualifications, terms, powers, and duties of its members, including the mayor; providing for a vice mayor; providing for payment of expenses; providing general powers and duties; providing circumstances resulting in vacancy in office; providing grounds for forfeiture and suspension; providing for filling of vacancies; providing for meetings; providing for keeping of records; providing for adoption, distribution, and recording of technical codes; providing a limitation upon employment of council members; providing that certain interference with city employees shall constitute malfeasance in office; providing penalties; establishing the fiscal year; providing for adoption of annual

budget and appropriation; providing for appropriations amendments; providing limitations; providing for appointment of charter officers, including a city manager and city attorney; providing for removal, compensation, and filling of vacancies; providing qualifications, powers, and duties; providing for nonpartisan elections and for matters relative thereto; providing for recall; providing for initiatives and referenda; providing the city a transition schedule and procedures for first election; providing for first-year expenses; providing for adoption of transitional ordinances, resolutions, comprehensive plan, and local development regulations; providing for accelerated entitlement to state shared revenues; providing for gas tax revenue; providing for transition agreement between Monroe County and the City of Marathon; providing land descriptions of the city; providing for future amendments of the charter; providing for standards of conduct in office; providing for the City of Marathon to receive infrastructure surtax revenues; providing for severability; providing for a referendum approval; providing effective dates.

House Amendment 1 (293459)—On page 23, line 15, after "REGULATIONS" insert: *AND SOLID WASTE COLLECTION PLAN*

House Amendment 2 (312983)(with title amendment)—On page 24, between lines 15 & 16, insert:

(d) In accordance with section 403.706(1), Florida Statutes, the Board of County Commissioners shall have the responsibility to transport municipal solid waste to a solid waste disposal facility of the county or operate a solid waste facility. The municipality must, through September 30, 2002, deliver the solid waste collected within the municipality to either a county solid waste transfer station or a county solid waste disposal facility, as determined by the board. For the remainder of the term of the county's solid waste haulout contract, the board and the municipality shall negotiate for the delivery of the solid waste collected within the municipality by interlocal agreement. The parties shall negotiate in good faith and with primary consideration given to the minimum waste generation guarantees set forth in the county's solid waste haulout contract. However, in no event may the board charge the municipality a tipping fee in excess of the tipping fee established annually and charged to other municipalities and persons delivering solid waste to the county transfer stations or county solid waste disposal facility.

And the title is amended as follows:

On page 2, line 9, after the semicolon, insert: providing for a solid waste collection plan;

House Amendment 3 (051615)—On page 25, line 4, and page 26, line 11, remove from the bill: *"April"* and insert in lieu thereof: *July*

On motion by Senator Jones, the Senate concurred in the House amendments.

CS for SB 2622 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 2626, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 2626—A bill to be entitled An act relating to Lee County; creating the City of Bonita Springs; providing for municipal boundaries and municipal powers; providing for a city-manager form of government; providing for annexation and establishing a 5-year moratorium prior to the annexation of an area into the corporate limits of the City of Bonita Springs; providing for the general powers and duties to be exercised by the city; providing for nonpartisan elections of the city council, their terms and term limits; creating council districts; providing for membership, qualifications, powers, and duties of the city council including the mayor; providing for compensation and expenses of city council members; providing circumstances resulting in vacancy in the office of city council; providing grounds for forfeiture and suspension, and for filling of vacancies in the city council; providing for meetings and keeping of records; providing for referendum election; providing for campaign spending limits; providing for appointment of officers including city manager and city attorney; providing for powers and duties of city manager; providing for code of technical regulation; providing for adoption of ordinances and resolutions to include emergency ordinances; providing for first year expenses; providing for adoption of annual budget and appropriations; providing for capital programs; providing for a debt limit on the amount of outstanding long-term liabilities; providing for referendum petitions and for recall; providing for code of ethics; providing for amendments to the city charter; providing for participation in state shared revenue and local option gas taxes; providing for initial election of city council and early assumption of duties; providing for a transitional period and for county ordinances and services during the transitional period; providing effective dates; providing for an annual financial audit; providing for severability; providing for a referendum; providing an effective date.

House Amendment 1 (902399)—On page 3, line 10 and page 40, line 14, remove from the bill: *"2000"* and insert in lieu thereof: *1999*

House Amendment 2 (545205)—On page 42, line 21, remove from the bill: *"2001-2002."* and insert in lieu thereof: *2002-2003.*

On motion by Senator Saunders, the Senate concurred in the House amendments.

CS for SB 2626 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

Madam President	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

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 2640, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 2640—A bill to be entitled An act relating to Monroe County; creating the Village of Key Largo; providing legislative findings and intent; providing municipal boundaries and municipal powers; providing a council-manager form of government; providing for election of a village council; providing for membership, qualifications, terms, powers, and duties of its members, including the mayor; providing for a vice mayor; providing for compensation and expenses; providing general powers and duties; providing circumstances resulting in vacancy in office; providing grounds for forfeiture and suspension; providing for filling of vacancies; providing for meetings; providing for keeping of records; providing for adoption, distribution, and recording of technical codes;

providing a limitation upon employment of council members; providing that certain interference with village employees shall constitute malfeasance in office; establishing the fiscal year; providing for adoption of annual budget and appropriation; providing amendments for supplemental, reduction, and transfer of appropriations; providing limitations; providing for appointment of charter officers, including a village manager and village attorney; providing for removal, compensation, and filling of vacancies; providing qualifications, powers, and duties; providing for nonpartisan elections and for matters relative thereto; providing for recall; providing for initiatives and referenda; providing the village a transitional schedule and procedures for first election; providing for first-year expenses; providing for adoption of transitional ordinances, resolutions, comprehensive plan, and local development regulations; providing for accelerated entitlement to state-shared revenues; providing for gas tax revenue; providing for a transition agreement between Monroe County and the Village of Key Largo; providing land descriptions of the village; providing for future amendments of the charter; providing for standards of conduct in office; providing for the Village of Key Largo to receive infrastructure surtax revenues; providing for severability; providing for a referendum; providing effective dates.

House Amendment 1 (421391)—On page 3, lines 19-30, remove from the bill: all of said lines and insert in lieu thereof:

The center line of Loquat Drive will be the northern boundary of the proposed Village of Key Largo, Loquat Drive starting at the eastern shoreline, and running westward to the Lake Surprise shoreline, just east of highway U.S. 1, from there the eastern boundary will follow the shoreline, which more or less parallels highway U.S. 1, to the Miami-Dade-Monroe County line. The Miami-Dade-Monroe County line at this point is referred to as Manatee Creek. The Manatee Creek Miami-Dade-Monroe County line will be the northern boundary of the proposed Village Of Key Largo, at approximately mile marker 112.5 U.S. 1. From there the westerly boundary will follow the shoreline on the southwest side U.S. 1 southward. These boundaries will include the properties on either side of the Jewfish Bridge. It will also include those properties at mile marker 112.5, U.S. 1. It will include all properties on Morris Avenue and Hazel Street located in the Cross Key area at mile marker 112.5 U.S. 1. Mainland Monroe County is not in the village boundaries.

House Amendment 2 (041773)(with title amendment)—On page 33, between lines 13 & 14, of the bill insert:

Section 11.06 Solid waste.—In accordance with section 403.706(1), Florida Statutes, the board of county commissioners shall have the responsibility to transport municipal solid waste to a solid waste disposal facility of the county or to operate a solid waste facility. The municipality must, through September 30, 2002, deliver the solid waste collected within the municipality to either a county solid waste transfer station or a county solid waste disposal facility, as determined by the board. For the remainder of the term of the county's solid waste haulout contract, the board and the municipality shall negotiate for the delivery of the solid waste collected within the municipality by interlocal agreement. The parties shall negotiate in good faith and with primary consideration given to the minimum waste generation guarantees set forth in the county's solid waste haulout contract. However, in no event may the board charge the municipality a tipping fee in excess of the tipping fee established annually and charged to other municipalities and persons delivering solid waste to the county transfer stations or county solid waste disposal facility.

And the title is amended as follows:

On page 2, line 9, after the semicolon insert: providing for solid waste disposal;

House Amendment 3 (054007)—On page 34, line 10, remove from the bill: all of said line and insert in lieu thereof: *receive local option gas tax revenues beginning on July 1,*

House Amendment 4 (982129)—On page 34, line 14, remove from the bill: all of said line and insert in lieu thereof: *infrastructure surtax revenues beginning on July 1, 2000.*

On motion by Senator Jones, the Senate concurred in the House amendments.

CS for SB 2640 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—40

Madam President	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

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed SB 2708, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 2708—A bill to be entitled An act relating to Devil's Garden Water Control District, created under the provisions of chapter 298, Florida Statutes; deleting lands from the boundaries of the district located in Hendry County; providing for the equal assessment of benefits for all lands in the district; providing an effective date.

House Amendment 1 (100951)—On page 1, lines 16 and 17, remove from the bill: all of said lines

House Amendment 2 (303013)—On page 4, lines 29 and 30, remove from the bill: all of said lines

House Amendment 3 (811037)—On page 9, line 22, remove from the bill: all of said lines

House Amendment 4 (613497)—On page 12, line 19, remove from the bill: "tracts" and insert in lieu thereof: *parcels*

On motion by Senator Geller, the Senate concurred in the House amendments.

SB 2708 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

Madam President	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	

Nays—None

THE PRESIDENT PRESIDING

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has returned as requested CS for SB 204.

John B. Phelps, Clerk

CS for SB 204—A bill to be entitled An act relating to the unlawful possession or use of a firearm by a minor; amending s. 790.22, F.S.; providing that a minor who violates s. 790.22(3), F.S., must be detained in a secure detention facility; providing that a minor who commits an

offense that involves the use or possession of a firearm may not receive credit for time served; providing requirements for the community service that a court orders a minor to perform as a sanction for committing an offense that involves the use or possession of a firearm; amending ss. 943.051, 985.212, F.S., relating to fingerprinting of a minor; revising provisions to conform to changes made by the act; providing that a minor who violates s. 790.115, F.S., must be fingerprinted; amending s. 790.115, F.S.; providing that weapons and firearms may not be possessed or discharged at a school-sponsored event or on school property; providing that the state attorney has discretion in prosecuting a minor as an adult for a violation of s. 790.115(2), F.S.; requiring that schools notify students in writing that unlawfully possessing a weapon or a firearm is a violation of state law; providing an effective date.

RECONSIDERATION OF BILL

On motion by Senator Silver, the Senate reconsidered the vote by which **CS for SB 204** passed April 26.

An amendment was considered and adopted by two-thirds vote to conform **CS for SB 204** to **HB 349**.

Pending further consideration of **CS for SB 204** as amended, on motion by Senator Silver, by two-thirds vote **HB 349** was withdrawn from the Committees on Criminal Justice and Fiscal Policy.

On motion by Senator Silver by two-thirds vote—

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.

—a companion measure, was substituted for **CS for SB 204** as amended and read the second time by title.

Senator Silver moved the following amendment:

Amendment 1 (621484)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 790.22, Florida Statutes, 1998 Supplement, is amended to read:

790.22 Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.—

(1) The use for any purpose whatsoever of BB guns, air or gas-operated guns, or electric weapons or devices, by any minor under the age of 16 years is prohibited unless such use is under the supervision and in the presence of an adult who is acting with the consent of the minor's parent.

(2) Any adult responsible for the welfare of any child under the age of 16 years who knowingly permits such child to use or have in his or her possession any BB gun, air or gas-operated gun, electric weapon or device, or firearm in violation of the provisions of subsection (1) of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A minor under 18 years of age may not possess a firearm, other than an unloaded firearm at his or her home, unless:

(a) The minor is engaged in a lawful hunting activity and is:

1. At least 16 years of age; or

2. Under 16 years of age and supervised by an adult.

(b) The minor is engaged in a lawful marksmanship competition or practice or other lawful recreational shooting activity and is:

1. At least 16 years of age; or

2. Under 16 years of age and supervised by an adult who is acting with the consent of the minor's parent or guardian.

(c) The firearm is unloaded and is being transported by the minor directly to or from an event authorized in paragraph (a) or paragraph (b).

(4)(a) Any parent or guardian of a minor, or other adult responsible for the welfare of a minor, who knowingly and willfully permits the minor to possess a firearm in violation of subsection (3) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any natural parent or adoptive parent, whether custodial or non-custodial, or any legal guardian or legal custodian of a minor, if that minor possesses a firearm in violation of subsection (3) may, if the court finds it appropriate, be required to participate in classes on parenting education which are approved by the Department of Juvenile Justice, upon the first conviction of the minor. Upon any subsequent conviction of the minor, the court may, if the court finds it appropriate, require the parent to attend further parent education classes or render community service hours together with the child.

(c) No later than July 1, 1994, the district juvenile justice boards or county juvenile justice councils or the Department of Juvenile Justice shall establish appropriate community service programs to be available to the alternative sanctions coordinators of the circuit courts in implementing this subsection. The boards or councils or department shall propose the implementation of a community service program in each circuit, and may submit a circuit plan, to be implemented upon approval of the circuit alternative sanctions coordinator.

(d) For the purposes of this section, community service may be provided on public property as well as on private property with the expressed permission of the property owner. Any community service provided on private property is limited to such things as removal of graffiti and restoration of vandalized property.

(5)(a) A minor who violates subsection (3) commits a misdemeanor of the first degree*; for a first offense, may serve a period of detention of up to 3 days in a secure detention facility;* ~~,~~ and, in addition to any other penalty provided by law, shall be required to perform 100 hours of community service*;* ~~,~~ and:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of up to 1 year.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible.

(b) For a second or subsequent offense, ~~the~~ *a* minor *who violates subsection (3) commits a felony of the third degree and shall serve a*

period of detention of up to 15 days in a secure detention facility and shall be required to perform not less than 100 nor more than 250 hours of community service, and:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 2 years.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of up to 2 years.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.

For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

(6) Any firearm that is possessed or used by a minor in violation of this section shall be promptly seized by a law enforcement officer and disposed of in accordance with s. 790.08(1)-(6).

(7) The provisions of this section are supplemental to all other provisions of law relating to the possession, use, or exhibition of a firearm.

(8) Notwithstanding s. 985.213 or s. 985.215(1), if a minor under 18 years of age is charged with an offense that involves the use or possession of a firearm, as defined in s. 790.001, *including* ~~other than~~ a violation of subsection (3), or is charged for any offense during the commission of which the minor possessed a firearm, the minor shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention in accordance with the applicable time periods specified in s. 985.215(5), if the court finds that the minor meets the criteria specified in s. 985.215(2), or if the court finds by clear and convincing evidence that the minor is a clear and present danger to himself or herself or the community. The Department of Juvenile Justice shall prepare a form for all minors charged under this subsection that states the period of detention and the relevant demographic information, including, but not limited to, the sex, age, and race of the minor; whether or not the minor was represented by private counsel or a public defender; the current offense; and the minor's complete prior record, including any pending cases. The form shall be provided to the judge to be considered when determining whether the minor should be continued in secure detention under this subsection. An order placing a minor in secure detention because the minor is a clear and present danger to himself or herself or the community must be in writing, must specify the need for detention and the benefits derived by the minor or the community by placing the minor in secure detention, and must include a copy of the form provided by the department. The Department of Juvenile Justice must send the form, including a copy of any order, without client-identifying information, to the Office of Economic and Demographic Research.

(9) Notwithstanding s. 985.214, if the minor is found to have committed an offense that involves the use or possession of a firearm, as defined in s. 790.001, other than a violation of subsection (3), or an offense during the commission of which the minor possessed a firearm, and the minor is not committed to a residential commitment program of the Department of Juvenile Justice, in addition to any other punishment provided by law, the court shall order:

(a) For a first offense, that the minor *shall* serve a *minimum* ~~mandatory~~ period of detention of *15* ~~5~~ days in a secure detention facility*;* and

1. Perform 100 hours of community service*; and may*~~.~~

2. Be placed on community control or in a nonresidential commitment program.

(b) For a second or subsequent offense, that the minor *shall* serve a mandatory period of detention of *at least 21* ~~10~~ days in a secure detention facility*;* and

1. Perform not less than 100 nor more than 250 hours of community service*; and may*~~.~~

2. Be placed on community control or in a nonresidential commitment program.

The minor shall *not* receive credit for time served before adjudication. *For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.*

(10) If a minor is found to have committed an offense under subsection (9), the court shall impose the following penalties in addition to any penalty imposed under paragraph (9)(a) or paragraph (9)(b):

(a) For a first offense:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 1 year.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible.

(b) For a second or subsequent offense:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 2 years.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 2 years.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.

Section 2. Section 943.051, Florida Statutes, is amended to read:

943.051 Criminal justice information; collection and storage; fingerprinting.—

(3)

(b) A minor who is charged with or found to have committed the following *offenses* ~~misdemeanors~~ shall be fingerprinted and the fingerprints shall be submitted to the department:

1. Assault, as defined in s. 784.011.

2. Battery, as defined in s. 784.03.

3. Carrying a concealed weapon, as defined in s. 790.01(1).

4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).

5. Negligent treatment of children, as defined in s. 827.05.

6. Assault or battery on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a) and (b).

7. Open carrying of a weapon, as defined in s. 790.053.

8. Exposure of sexual organs, as defined in s. 800.03.

9. Unlawful possession of a firearm, as defined in s. 790.22(5).

10. Petit theft, as defined in s. 812.014(3).

11. Cruelty to animals, as defined in s. 828.12(1).

12. Arson, as defined in s. 806.031(1).

13. Unlawful possession or discharge or a weapon or firearm at a school-sponsored event or on school property as defined in s. 790.115.

Section 3. Paragraph (b) of subsection (1) of Section 985.212, Florida Statutes, is amended to read:

985.212 Fingerprinting and photographing.—

(1)

(b) A child who is charged with or found to have committed one of the following *offenses* ~~misdemeanors~~ shall be fingerprinted and the fingerprints shall be submitted to the Department of Law Enforcement as provided in s. 943.051(3)(b):

1. Assault, as defined in s. 784.011.

2. Battery, as defined in s. 784.03.

3. Carrying a concealed weapon, as defined in s. 790.01(1).

4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).

5. Negligent treatment of children, as defined in former s. 827.05.

6. Assault on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a).

7. Open carrying of a weapon, as defined in s. 790.053.

8. Exposure of sexual organs, as defined in s. 800.03.

9. Unlawful possession of a firearm, as defined in s. 790.22(5).

10. Petit theft, as defined in s. 812.014.

11. Cruelty to animals, as defined in s. 828.12(1).

12. Arson, resulting in bodily harm to a firefighter, as defined in s. 806.031(1).

13. Unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property as defined in s. 790.115.

A law enforcement agency may fingerprint and photograph a child taken into custody upon probable cause that such child has committed any other violation of law, as the agency deems appropriate. Such fingerprint records and photographs shall be retained by the law enforcement agency in a separate file, and these records and all copies thereof must be marked "Juvenile Confidential." These records shall not be available for public disclosure and inspection under s. 119.07(1) except as provided in ss. 943.053 and 985.04(5), but shall be available to other law enforcement agencies, criminal justice agencies, state attorneys, the courts, the child, the parents or legal custodians of the child, their attorneys, and any other person authorized by the court to have access to such records. These records may, in the discretion of the court, be open to inspection by anyone upon a showing of cause. The fingerprint and photograph records shall be produced in the court whenever directed by the court. Any photograph taken pursuant to this section may be shown by a law enforcement officer to any victim or witness of a crime for the purpose of identifying the person who committed such crime.

Section 4. Section 790.115, Florida Statutes, is amended to read:

790.115 Possessing or discharging weapons or firearms *at a school-sponsored event or* on school property prohibited; penalties; exceptions.—

(1) A person who exhibits any sword, sword cane, firearm, electric weapon or device, destructive device, or other weapon, including a razor blade, box cutter, or knife, except as authorized in support of school-sanctioned activities, in the presence of one or more persons in a rude, careless, angry, or threatening manner and not in lawful self-defense, *at a school-sponsored event or* on the grounds or facilities of any school, school bus, or school bus stop, or within 1,000 feet of the real property that comprises a public or private elementary school, middle school, or secondary school, during school hours or during the time of a sanctioned school activity, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This subsection does not apply to the exhibition of a firearm or weapon on private real property within 1,000 feet of a school by the owner of such property or by a person whose presence on such property has been authorized, licensed, or invited by the owner.

(2)(a) A person shall not possess any firearm, electric weapon or device, destructive device, or other weapon, including a razor blade, box cutter, or knife, except as authorized in support of school-sanctioned activities, *at a school-sponsored event or* on the property of any school, school bus, or school bus stop; however, a person may carry a firearm:

1. In a case to a firearms program, class or function which has been approved in advance by the principal or chief administrative officer of the school as a program or class to which firearms could be carried;

2. In a case to a vocational school having a firearms training range; or

3. In a vehicle pursuant to s. 790.25(5); except that school districts may adopt written and published policies that waive the exception in this subparagraph for purposes of student and campus parking privileges.

For the purposes of this section, "school" means any preschool, elementary school, middle school, junior high school, secondary school, vocational school, or postsecondary school, whether public or nonpublic.

(b) A person who willfully and knowingly possesses any electric weapon or device, destructive device, or other weapon, including a razor blade, box cutter, or knife, except as authorized in support of school-sanctioned activities, in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c)1. A person who willfully and knowingly possesses any firearm in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A person who stores or leaves a loaded firearm within the reach or easy access of a minor who obtains the firearm and commits a violation of subparagraph 1. commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; except that this does not apply if the firearm was stored or left in a securely locked box or container or in a location which a reasonable person would have believed to be secure, or was securely locked with a firearm-mounted push-button combination lock or a trigger lock; if the minor obtains the firearm as a result of an unlawful entry by any person; or to members of the Armed Forces, National Guard, or State Militia, or to police or other law enforcement officers, with respect to firearm possession by a minor which occurs during or incidental to the performance of their official duties.

(d) A person who discharges any weapon or firearm while in violation of paragraph (a), unless discharged for lawful defense of himself or herself or another or for a lawful purpose, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) The penalties of this subsection shall not apply to persons licensed under s. 790.06. Persons licensed under s. 790.06 shall be punished as provided in s. 790.06(12), except that a licenseholder who unlawfully discharges a weapon or firearm on school property as prohibited by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does not apply to any law enforcement officer as defined in s. 943.10(1), (2), (3), (4), (6), (7), (8), (9), or (14).

(4) Notwithstanding s. 985.213, s. 985.214, or s. 985.215(1), any minor under 18 years of age who is charged under this section with possessing or discharging a firearm on school property shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a probable cause hearing within 24 hours after being taken into custody. At the hearing, the court may order that the

minor continue to be held in secure detention for a period of 21 days, during which time the minor shall receive medical, psychiatric, psychological, or substance abuse examinations pursuant to s. 985.224 and a written report shall be completed.

Section 5. Paragraph (b) of subsection (1) and subsection (2) of section 985.215, Florida Statutes, 1998 Supplement, are amended to read:

985.215 Detention.—

(1) The juvenile probation officer shall receive custody of a child who has been taken into custody from the law enforcement agency and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be necessary to determine whether detention care is required.

(b) The juvenile probation officer shall base the decision whether or not to place the child into secure detention care, home detention care, or nonsecure detention care on an assessment of risk in accordance with the risk assessment instrument and procedures developed by the Department of Juvenile Justice under s. 985.213. *However, a child charged with possessing or discharging a firearm on school property in violation of s. 790.115 shall be placed in secure detention care.*

Under no circumstances shall the juvenile probation officer or the state attorney or law enforcement officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults, without an order of the court.

(2) Subject to the provisions of subsection (1), a child taken into custody and placed into nonsecure or home detention care or detained in secure detention care prior to a detention hearing may continue to be detained by the court if:

(a) The child is alleged to be an escapee or an absconder from a commitment program, a community control program, furlough, or aftercare supervision, or is alleged to have escaped while being lawfully transported to or from such program or supervision.

(b) The child is wanted in another jurisdiction for an offense which, if committed by an adult, would be a felony.

(c) The child is charged with a delinquent act or violation of law and requests in writing through legal counsel to be detained for protection from an imminent physical threat to his or her personal safety.

(d) The child is charged with committing an offense of domestic violence as defined in s. 741.28(1) and is detained as provided in s. 985.213(2)(b)3.

(e) The child is charged with possession or discharging a firearm on school property in violation of 790.115.

(f)~~(e)~~ The child is charged with a capital felony, a life felony, a felony of the first degree, a felony of the second degree that does not involve a violation of chapter 893, or a felony of the third degree that is also a crime of violence, including any such offense involving the use or possession of a firearm.

(g)~~(f)~~ The child is charged with any second degree or third degree felony involving a violation of chapter 893 or any third degree felony that is not also a crime of violence, and the child:

1. Has a record of failure to appear at court hearings after being properly notified in accordance with the Rules of Juvenile Procedure;

2. Has a record of law violations prior to court hearings;

3. Has already been detained or has been released and is awaiting final disposition of the case;

4. Has a record of violent conduct resulting in physical injury to others; or

5. Is found to have been in possession of a firearm.

(h)~~(g)~~ The child is alleged to have violated the conditions of the child's community control or aftercare supervision. However, a child detained under this paragraph may be held only in a consequence unit as provided in s. 985.231(1)(a)1.c. If a consequence unit is not available, the child shall be placed on home detention with electronic monitoring.

A child who meets any of these criteria and who is ordered to be detained pursuant to this subsection shall be given a hearing within 24 hours after being taken into custody. The purpose of the detention hearing is to determine the existence of probable cause that the child has committed the delinquent act or violation of law with which he or she is charged and the need for continued detention. Unless a child is detained under paragraph (d) *or paragraph (e)*, the court shall utilize the results of the risk assessment performed by the juvenile probation officer and, based on the criteria in this subsection, shall determine the need for continued detention. A child placed into secure, nonsecure, or home detention care may continue to be so detained by the court pursuant to this subsection. If the court orders a placement more restrictive than indicated by the results of the risk assessment instrument, the court shall state, in writing, clear and convincing reasons for such placement. Except as provided in s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b), paragraph (10)(c), or paragraph (10)(d), when a child is placed into secure or nonsecure detention care, or into a respite home or other placement pursuant to a court order following a hearing, the court order must include specific instructions that direct the release of the child from such placement no later than 5 p.m. on the last day of the detention period specified in paragraph (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1., whichever is applicable, unless the requirements of such applicable provision have been met or an order of continuance has been granted pursuant to paragraph (5)(d).

Section 6. Paragraph (a) of subsection (1) of section 985.227, Florida Statutes, is amended to read:

985.227 Prosecution of juveniles as adults by the direct filing of an information in the criminal division of the circuit court; discretionary criteria; mandatory criteria.—

(1) DISCRETIONARY DIRECT FILE; CRITERIA.—

(a) With respect to any child who was 14 or 15 years of age at the time the alleged offense was committed, the state attorney may file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed and when the offense charged is:

1. Arson;

2. Sexual battery;

3. Robbery;

4. Kidnapping;

5. Aggravated child abuse;

6. Aggravated assault;

7. Aggravated stalking;

8. Murder;

9. Manslaughter;

10. Unlawful throwing, placing, or discharging of a destructive device or bomb;

11. Armed burglary in violation of s. 810.02(2)(b) or specified burglary of a dwelling or structure in violation of s. 810.02(2)(c);

12. Aggravated battery;

13. Lewd or lascivious assault or act in the presence of a child;

14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony; ~~or~~

15. Grand theft in violation of s. 812.014(2)(a)*; or*~~.~~

16. Possessing or discharging any weapon or firearm on school property in violation of s. 790.115.

Section 7. This act shall take effect October 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 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 discharging 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.

Senators Silver, Campbell, Horne, Lee and Dawson-White offered the following substitute amendment which was moved by Senator Silver:

Amendment 2 (095620)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 790.22, Florida Statutes, 1998 Supplement, is amended to read:

790.22 Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.—

(1) The use for any purpose whatsoever of BB guns, air or gas-operated guns, or electric weapons or devices, by any minor under the age of 16 years is prohibited unless such use is under the supervision and in the presence of an adult who is acting with the consent of the minor's parent.

(2) Any adult responsible for the welfare of any child under the age of 16 years who knowingly permits such child to use or have in his or her possession any BB gun, air or gas-operated gun, electric weapon or device, or firearm in violation of the provisions of subsection (1) of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A minor under 18 years of age may not possess a firearm, other than an unloaded firearm at his or her home, unless:

(a) The minor is engaged in a lawful hunting activity and is:

1. At least 16 years of age; or

2. Under 16 years of age and supervised by an adult.

(b) The minor is engaged in a lawful marksmanship competition or practice or other lawful recreational shooting activity and is:

1. At least 16 years of age; or

2. Under 16 years of age and supervised by an adult who is acting with the consent of the minor's parent or guardian.

(c) The firearm is unloaded and is being transported by the minor directly to or from an event authorized in paragraph (a) or paragraph (b).

(4)(a) Any parent or guardian of a minor, or other adult responsible for the welfare of a minor, who knowingly and willfully permits the minor to possess a firearm in violation of subsection (3) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any natural parent or adoptive parent, whether custodial or noncustodial, or any legal guardian or legal custodian of a minor, if that minor possesses a firearm in violation of subsection (3) may, if the court finds it appropriate, be required to participate in classes on parenting education which are approved by the Department of Juvenile Justice, upon the first conviction of the minor. Upon any subsequent conviction of the minor, the court may, if the court finds it appropriate, require the parent to attend further parent education classes or render community service hours together with the child.

(c) No later than July 1, 1994, the district juvenile justice boards or county juvenile justice councils or the Department of Juvenile Justice shall establish appropriate community service programs to be available to the alternative sanctions coordinators of the circuit courts in implementing this subsection. The boards or councils or department shall propose the implementation of a community service program in each circuit, and may submit a circuit plan, to be implemented upon approval of the circuit alternative sanctions coordinator.

(d) For the purposes of this section, community service may be provided on public property as well as on private property with the expressed permission of the property owner. Any community service provided on private property is limited to such things as removal of graffiti and restoration of vandalized property.

(5)(a) A minor who violates subsection (3) commits a misdemeanor of the first degree*; for a first offense, may serve a period of detention of up to 3 days in a secure detention facility;* ~~,~~ and, in addition to any other penalty provided by law, shall be required to perform 100 hours of community service~~,~~; and:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of up to 1 year.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible.

(b) For a second or subsequent offense, ~~the~~ *a* minor *who violates subsection (3) commits a felony of the third degree and shall serve a period of detention of up to 15 days in a secure detention facility and* shall be required to perform not less than 100 nor more than 250 hours of community service, and:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 2 years.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of up to 2 years.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.

For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

(6) Any firearm that is possessed or used by a minor in violation of this section shall be promptly seized by a law enforcement officer and disposed of in accordance with s. 790.08(1)-(6).

(7) The provisions of this section are supplemental to all other provisions of law relating to the possession, use, or exhibition of a firearm.

(8) Notwithstanding s. 985.213 or s. 985.215(1), if a minor under 18 years of age is charged with an offense that involves the use or possession of a firearm, as defined in s. 790.001, *including* ~~other than~~ a violation of subsection (3), or is charged for any offense during the commission of which the minor possessed a firearm, the minor shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention in accordance with the applicable time periods specified in s. 985.215(5), if the court finds that the minor meets the criteria specified in s. 985.215(2), or if the court finds by clear and convincing evidence that the minor is a clear and present danger to himself or herself or the community. The Department of Juvenile Justice shall prepare a form for all minors charged under this subsection that states the period of detention and the relevant demographic information, including, but not limited to, the sex, age, and race of the minor; whether or not the minor was represented by private counsel or a public defender; the current offense; and the minor's complete prior record, including any pending cases. The form shall be provided to the judge to be considered when determining whether the minor should be continued in secure detention under this subsection. An order placing a minor in secure detention because the minor is a clear and present danger to himself or herself or the community must be in writing, must specify the need for detention and the benefits derived by the minor or the community by placing the minor in secure detention, and must include a copy of the form provided by the department. The Department of Juvenile Justice must send the form, including a copy of any order, without client-identifying information, to the Office of Economic and Demographic Research.

(9) Notwithstanding s. 985.214, if the minor is found to have committed an offense that involves the use or possession of a firearm, as defined in s. 790.001, other than a violation of subsection (3), or an offense during the commission of which the minor possessed a firearm, and the minor is not committed to a residential commitment program of the Department of Juvenile Justice, in addition to any other punishment provided by law, the court shall order:

(a) For a first offense, that the minor *shall* serve a *minimum* ~~mandatory~~ period of detention of *15* ~~5~~ days in a secure detention facility*;* and

1. Perform 100 hours of community service*; and may*~~.~~

2. Be placed on community control or in a nonresidential commitment program.

(b) For a second or subsequent offense, that the minor *shall* serve a mandatory period of detention of *at least 21* ~~10~~ days in a secure detention facility*;* and

1. Perform not less than 100 nor more than 250 hours of community service*; and may*~~.~~

2. Be placed on community control or in a nonresidential commitment program.

The minor shall *not* receive credit for time served before adjudication. *For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.*

(10) If a minor is found to have committed an offense under subsection (9), the court shall impose the following penalties in addition to any penalty imposed under paragraph (9)(a) or paragraph (9)(b):

(a) For a first offense:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 1 year.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible.

(b) For a second or subsequent offense:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 2 years.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 2 years.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.

Section 2. Paragraph (b) of subsection (3) of section 943.051, Florida Statutes, is amended to read:

943.051 Criminal justice information; collection and storage; fingerprinting.—

(3)

(b) A minor who is charged with or found to have committed the following *offenses* ~~misdemeanors~~ shall be fingerprinted and the fingerprints shall be submitted to the department:

1. Assault, as defined in s. 784.011.

2. Battery, as defined in s. 784.03.

3. Carrying a concealed weapon, as defined in s. 790.01(1).

4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).

5. Negligent treatment of children, as defined in s. 827.05.

6. Assault or battery on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a) and (b).

7. Open carrying of a weapon, as defined in s. 790.053.

8. Exposure of sexual organs, as defined in s. 800.03.

9. Unlawful possession of a firearm, as defined in s. 790.22(5).

10. Petit theft, as defined in s. 812.014(3).

11. Cruelty to animals, as defined in s. 828.12(1).

12. Arson, as defined in s. 806.031(1).

13. Unlawful possession or discharge or a weapon or firearm at a school-sponsored event or on school property as defined in s. 790.115.

Section 3. Section 790.115, Florida Statutes, is amended to read:

790.115 Possessing or discharging weapons or firearms *at a school-sponsored event or* on school property prohibited; penalties; exceptions.—

(1) A person who exhibits any sword, sword cane, firearm, electric weapon or device, destructive device, or other weapon, including a razor blade, box cutter, or knife, except as authorized in support of school-sanctioned activities, in the presence of one or more persons in a rude, careless, angry, or threatening manner and not in lawful self-defense, *at a school-sponsored event or* on the grounds or facilities of any school, school bus, or school bus stop, or within 1,000 feet of the real property that comprises a public or private elementary school, middle school, or secondary school, during school hours or during the time of a sanctioned school activity, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This subsection does not

apply to the exhibition of a firearm or weapon on private real property within 1,000 feet of a school by the owner of such property or by a person whose presence on such property has been authorized, licensed, or invited by the owner.

(2)(a) A person shall not possess any firearm, electric weapon or device, destructive device, or other weapon, including a razor blade, box cutter, or knife, except as authorized in support of school-sanctioned activities, *at a school-sponsored event or* on the property of any school, school bus, or school bus stop; however, a person may carry a firearm:

1. In a case to a firearms program, class or function which has been approved in advance by the principal or chief administrative officer of the school as a program or class to which firearms could be carried;

2. In a case to a vocational school having a firearms training range; or

3. In a vehicle pursuant to s. 790.25(5); except that school districts may adopt written and published policies that waive the exception in this subparagraph for purposes of student and campus parking privileges.

For the purposes of this section, "school" means any preschool, elementary school, middle school, junior high school, secondary school, vocational school, or postsecondary school, whether public or nonpublic.

(b) A person who willfully and knowingly possesses any electric weapon or device, destructive device, or other weapon, including a razor blade, box cutter, or knife, except as authorized in support of school-sanctioned activities, in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c)1. A person who willfully and knowingly possesses any firearm in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A person who stores or leaves a loaded firearm within the reach or easy access of a minor who obtains the firearm and commits a violation of subparagraph 1. commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; except that this does not apply if the firearm was stored or left in a securely locked box or container or in a location which a reasonable person would have believed to be secure, or was securely locked with a firearm-mounted push-button combination lock or a trigger lock; if the minor obtains the firearm as a result of an unlawful entry by any person; or to members of the Armed Forces, National Guard, or State Militia, or to police or other law enforcement officers, with respect to firearm possession by a minor which occurs during or incidental to the performance of their official duties.

(d) A person who discharges any weapon or firearm while in violation of paragraph (a), unless discharged for lawful defense of himself or herself or another or for a lawful purpose, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) The penalties of this subsection shall not apply to persons licensed under s. 790.06. Persons licensed under s. 790.06 shall be punished as provided in s. 790.06(12), except that a licenseholder who unlawfully discharges a weapon or firearm on school property as prohibited by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does not apply to any law enforcement officer as defined in s. 943.10(1), (2), (3), (4), (6), (7), (8), (9), or (14).

(4) Notwithstanding s. 985.213, s. 985.214, or s. 985.215(1), any minor under 18 years of age who is charged under this section with possessing or discharging a firearm on school property shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a probable cause hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention for a period of 21 days, during which time the minor shall receive medical, psychiatric, psychological, or substance abuse examinations pursuant to s. 985.224 and a written report shall be completed.

Section 4. Paragraph (b) of subsection (1) and subsection (2) of section 985.215, Florida Statutes, 1998 Supplement, are amended to read:

985.215 Detention.—

(1) The juvenile probation officer shall receive custody of a child who has been taken into custody from the law enforcement agency and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be necessary to determine whether detention care is required.

(b) The juvenile probation officer shall base the decision whether or not to place the child into secure detention care, home detention care, or nonsecure detention care on an assessment of risk in accordance with the risk assessment instrument and procedures developed by the Department of Juvenile Justice under s. 985.213. *However, a child charged with possessing or discharging a firearm on school property in violation of s. 790.115 shall be placed in secure detention care.*

Under no circumstances shall the juvenile probation officer or the state attorney or law enforcement officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults, without an order of the court.

(2) Subject to the provisions of subsection (1), a child taken into custody and placed into nonsecure or home detention care or detained in secure detention care prior to a detention hearing may continue to be detained by the court if:

(a) The child is alleged to be an escapee or an absconder from a commitment program, a community control program, furlough, or aftercare supervision, or is alleged to have escaped while being lawfully transported to or from such program or supervision.

(b) The child is wanted in another jurisdiction for an offense which, if committed by an adult, would be a felony.

(c) The child is charged with a delinquent act or violation of law and requests in writing through legal counsel to be detained for protection from an imminent physical threat to his or her personal safety.

(d) The child is charged with committing an offense of domestic violence as defined in s. 741.28(1) and is detained as provided in s. 985.213(2)(b)3.

(e) The child is charged with possession or discharging a firearm on school property in violation of 790.115.

(f)~~(e)~~ The child is charged with a capital felony, a life felony, a felony of the first degree, a felony of the second degree that does not involve a violation of chapter 893, or a felony of the third degree that is also a crime of violence, including any such offense involving the use or possession of a firearm.

(g)~~(f)~~ The child is charged with any second degree or third degree felony involving a violation of chapter 893 or any third degree felony that is not also a crime of violence, and the child:

1. Has a record of failure to appear at court hearings after being properly notified in accordance with the Rules of Juvenile Procedure;

2. Has a record of law violations prior to court hearings;

3. Has already been detained or has been released and is awaiting final disposition of the case;

4. Has a record of violent conduct resulting in physical injury to others; or

5. Is found to have been in possession of a firearm.

(h)~~(g)~~ The child is alleged to have violated the conditions of the child's community control or aftercare supervision. However, a child detained under this paragraph may be held only in a consequence unit as provided in s. 985.231(1)(a)1.c. If a consequence unit is not available, the child shall be placed on home detention with electronic monitoring.

A child who meets any of these criteria and who is ordered to be detained pursuant to this subsection shall be given a hearing within 24 hours after being taken into custody. The purpose of the detention hearing is to determine the existence of probable cause that the child has committed the delinquent act or violation of law with which he or she is charged and the need for continued detention. Unless a child is detained under

paragraph (d) *or paragraph (e)*, the court shall utilize the results of the risk assessment performed by the juvenile probation officer and, based on the criteria in this subsection, shall determine the need for continued detention. A child placed into secure, nonsecure, or home detention care may continue to be so detained by the court pursuant to this subsection. If the court orders a placement more restrictive than indicated by the results of the risk assessment instrument, the court shall state, in writing, clear and convincing reasons for such placement. Except as provided in s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b), paragraph (10)(c), or paragraph (10)(d), when a child is placed into secure or nonsecure detention care, or into a respite home or other placement pursuant to a court order following a hearing, the court order must include specific instructions that direct the release of the child from such placement no later than 5 p.m. on the last day of the detention period specified in paragraph (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1., whichever is applicable, unless the requirements of such applicable provision have been met or an order of continuance has been granted pursuant to paragraph (5)(d).

Section 5. Section 435.04, Florida Statutes, 1998 Supplement, is amended to read:

435.04 Level 2 screening standards.—

(1) All employees in positions designated by law as positions of trust or responsibility shall be required to undergo security background investigations as a condition of employment and continued employment. For the purposes of this subsection, security background investigations shall include, but not be limited to, employment history checks, fingerprinting for all purposes and checks in this subsection, statewide criminal and juvenile records checks through the Florida Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.

(2) The security background investigations under this section must ensure that no persons subject to the provisions of this section have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(a) Section 415.111, relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.

(b) Section 782.04, relating to murder.

(c) Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.

(d) Section 782.071, relating to vehicular homicide.

(e) Section 782.09, relating to killing of an unborn child by injury to the mother.

(f) Section 784.011, relating to assault, if the victim of the offense was a minor.

(g) Section 784.021, relating to aggravated assault.

(h) Section 784.03, relating to battery, if the victim of the offense was a minor.

(i) Section 784.045, relating to aggravated battery.

(j) Section 784.075, relating to battery on a detention or commitment facility staff.

(k)~~(j)~~ Section 787.01, relating to kidnapping.

(l)~~(k)~~ Section 787.02, relating to false imprisonment.

(m) Section 787.04(2), relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.

(n) Section 787.04(3), relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.

(o) Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.

(p) Section 790.115(2)(b), relating to possessing an electric weapon or device, destructive device, or other weapon on school property.

(q)~~(l)~~ Section 794.011, relating to sexual battery.

(r)~~(m)~~ Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.

(s)~~(n)~~ Chapter 796, relating to prostitution.

(t)~~(o)~~ Section 798.02, relating to lewd and lascivious behavior.

(u)~~(p)~~ Chapter 800, relating to lewdness and indecent exposure.

(v)~~(q)~~ Section 806.01, relating to arson.

(w)~~(r)~~ Chapter 812, relating to theft, robbery, and related crimes, if the offense is a felony.

(x)~~(s)~~ Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.

(y)~~(t)~~ Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.

(z)~~(u)~~ Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.

(aa)~~(v)~~ Section 825.103, relating to exploitation of an elderly person or disabled adult, if the offense was a felony.

(bb)~~(w)~~ Section 826.04, relating to incest.

(cc)~~(x)~~ Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

(dd)~~(y)~~ Section 827.04, relating to contributing to the delinquency or dependency of a child.

(ee)~~(z)~~ Section 827.05, relating to negligent treatment of children.

(ff)~~(aa)~~ Section 827.071, relating to sexual performance by a child.

(gg) Section 843.01, relating to resisting arrest with violence.

(hh) Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer means of protection or communication.

(ii) Section 843.12, relating to aiding in an escape.

(jj) Section 843.13, relating to aiding in the escape of juvenile inmates in correctional institutions.

(kk)~~(bb)~~ Chapter 847, relating to obscene literature.

(ll) Section 874.05(1), relating to encouraging or recruiting another to join a criminal gang.

(mm)~~(cc)~~ Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.

(nn) Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.

(oo) Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.

(pp) Section 944.47, relating to introduction of contraband into a correctional facility.

(qq) Section 985.4045, relating to sexual misconduct in juvenile justice programs.

(rr) Section 985.4046, relating to contraband introduced into detention facilities.

(3) Standards must also ensure that the person:

(a) For employees or employers licensed or registered pursuant to chapter 400, does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5), which has been uncontested or upheld under s. 415.103.

(b) Has not committed an act that constitutes domestic violence as defined in s. 741.30.

(4) Under penalty of perjury, all employees in such positions of trust or responsibility shall attest to meeting the requirements for qualifying for employment and agreeing to inform the employer immediately if convicted of any of the disqualifying offenses while employed by the employer. Each employer of employees in such positions of trust or responsibilities which is licensed or registered by a state agency shall submit to the licensing agency annually, under penalty of perjury, an affidavit of compliance with the provisions of this section.

Section 6. Subsection (1) of section 943.0515, Florida Statutes, 1998 Supplement, is amended to read:

943.0515 Retention of criminal history records of minors.—

(1)(a) The Criminal Justice Information Program shall retain the criminal history record of a minor who is classified as a serious or habitual juvenile offender *or committed to a juvenile correctional facility or juvenile prison* under chapter 985 for 5 years after the date the offender reaches 21 years of age, at which time the record shall be expunged unless it meets the criteria of paragraph (2)(a) or paragraph (2)(b).

(b) If the minor is not classified as a serious or habitual juvenile offender *or committed to a juvenile correctional facility or juvenile prison* under chapter 985, the program shall retain the minor's criminal history record for 5 years after the date the minor reaches 19 years of age, at which time the record shall be expunged unless it meets the criteria of paragraph (2)(a) or paragraph (2)(b).

Section 7. Paragraph (r) is added to subsection (1) of section 960.001, Florida Statutes, 1998 Supplement, to read:

960.001 Guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems.—

(1) The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Department of Juvenile Justice, the Parole Commission, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and s. 16(b), Art. I of the State Constitution and are designed to implement the provisions of s. 16(b), Art. I of the State Constitution and to achieve the following objectives:

(r) Implementing crime prevention in order to protect the safety of persons and property, as prescribed in the State Comprehensive Plan.—By preventing crimes that create victims or further harm former victims, crime-prevention efforts are an essential part of providing effective service for victims and witnesses. Therefore, the agencies identified in this subsection may participate in and expend funds for crime prevention, public awareness, public participation, and educational activities directly relating to, and in furtherance of, existing public safety statutes. Furthermore, funds may not be expended for the purpose of influencing public opinion on public policy issues that have not been resolved by the Legislature or the electorate.

Section 8. Subsection (16) of section 984.03, Florida Statutes, 1998 Supplement, is amended to read:

984.03 Definitions.—When used in this chapter, the term:

(16) "Delinquency program" means any intake, community control ~~and furlough~~, or similar program; regional detention center or facility; or community-based program, whether owned and operated by or contracted by the Department of Juvenile Justice, or institution owned and operated by or contracted by the Department of Juvenile Justice, which provides intake, supervision, or custody and care of children who are alleged to be or who have been found to be delinquent pursuant to chapter 985.

Section 9. Paragraph (a) of present subsection (15) and paragraphs (a) and (e) of present subsection (46) of section 985.03, Florida Statutes, 1998 Supplement, are amended, and present subsections (4) through (59) are redesignated as subsections (5) through (60), respectively, and a new subsection (4) is added to that section, to read:

985.03 Definitions.—When used in this chapter, the term:

(4) "Aftercare" means the care, treatment, help, and supervision provided to a juvenile released from a residential commitment program which is intended to promote rehabilitation and prevent recidivism. The purpose of aftercare is to protect the public, reduce recidivism, increase responsible productive behavior, and provide for a successful transition of the youth from the department to the family. Aftercare includes, but is not limited to, minimum-risk nonresidential programs, reentry services, and postcommitment community control.

(16)~~(15)~~(a) "Delinquency program" means any intake, community control ~~and furlough~~, or similar program; regional detention center or facility; or community-based program, whether owned and operated by or contracted by the Department of Juvenile Justice, or institution owned and operated by or contracted by the Department of Juvenile Justice, which provides intake, supervision, or custody and care of children who are alleged to be or who have been found to be delinquent pursuant to part II.

(47)~~(46)~~ "Restrictiveness level" means the level of custody provided by programs that service the custody and care needs of committed children. There shall be five restrictiveness levels:

(a) Minimum-risk nonresidential.—Youth assessed and classified for placement in programs at this restrictiveness level represent a minimum risk to themselves and public safety and do not require placement and services in residential settings. Programs or program models in this restrictiveness level include: community counselor supervision programs, special intensive group programs, nonresidential marine programs, nonresidential training and rehabilitation centers, and other local community nonresidential programs, *including any nonresidential program or supervision program that is used for aftercare placement.*

(e) *Juvenile correctional facilities or juvenile prison* ~~Maximum-risk residential.~~—Youth assessed and classified for this level of placement require close supervision in a maximum security residential setting that provides 24-hour-per-day secure custody, care, and supervision. Placement in a program in this level is prompted by a demonstrated need to protect the public. Programs or program models in this level are maximum-secure-custody, long-term residential commitment facilities that are intended to provide a moderate overlay of educational, vocational, and behavioral-modification services and other maximum-security program models authorized by the Legislature and established by rule. Section 985.3141 applies to children placed in programs in this restrictiveness level.

Section 10. Paragraph (b) of subsection (4) of section 39.0132, Florida Statutes, 1998 Supplement, is amended to read:

39.0132 Oaths, records, and confidential information.—

(4)

(b) The department shall disclose to the school superintendent the presence of any child in the care and custody or under the jurisdiction or supervision of the department who has a known history of *criminal* sexual behavior with other juveniles; is an alleged juvenile sex offender, as defined in *s. 39.01* ~~s. 415.50165~~; or has pled guilty or nolo contendere to, or has been found to have committed, a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133, regardless of adjudication. Any employee of a district school board who knowingly and willfully discloses such information to an unauthorized person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 11. Paragraph (b) of subsection (3) of section 985.04, Florida Statutes, 1998 Supplement, is amended to read:

985.04 Oaths; records; confidential information.—

(3)

(b) The department shall disclose to the school superintendent the presence of any child in the care and custody or under the jurisdiction or supervision of the department who has a known history of *criminal* sexual behavior with other juveniles; is an alleged juvenile sex offender, as defined in *s. 39.01* ~~s. 415.50165~~; or has pled guilty or nolo contendere to, or has been found to have committed, a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133, regardless of adjudication. Any employee of a district school board who knowingly and willfully discloses such information to an unauthorized person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 12. Paragraph (d) of subsection (1) of section 985.207, Florida Statutes, 1998 Supplement, is amended to read:

985.207 Taking a child into custody.—

(1) A child may be taken into custody under the following circumstances:

(d) By a law enforcement officer who has probable cause to believe that the child is in violation of the conditions of the child's community control, *home detention* ~~furlough~~, or aftercare supervision *or has absconded from commitment*.

Nothing in this subsection shall be construed to allow the detention of a child who does not meet the detention criteria in s. 985.215.

Section 13. Section 985.208, Florida Statutes, 1998 Supplement, is amended to read:

985.208 Detention of ~~furloughed child or~~ escapee on authority of the department.—

(1) If an authorized agent of the department has reasonable grounds to believe that any delinquent child committed to the department has escaped from a facility of the department or from being lawfully transported thereto or therefrom, the agent may take the child into active custody and may deliver the child to the facility or, if it is closer, to a detention center for return to the facility. However, a child may not be held in detention longer than 24 hours, excluding Saturdays, Sundays, and legal holidays, unless a special order so directing is made by the judge after a detention hearing resulting in a finding that detention is required based on the criteria in s. 985.215(2). The order shall state the reasons for such finding. The reasons shall be reviewable by appeal or in habeas corpus proceedings in the district court of appeal.

(2) Any sheriff or other law enforcement officer, upon the request of the secretary of the department or duly authorized agent, shall take a child who has escaped or absconded from a department facility for committed delinquent children, or from being lawfully transported thereto or therefrom, into custody and deliver the child to the appropriate juvenile probation officer of the department.

Section 14. Paragraph (b) of subsection (1) of section 985.212, Florida Statutes, is amended to read:

985.212 Fingerprinting and photographing.—

(1)

(b) A child who is charged with or found to have committed one of the following *offenses* ~~misdemeanors~~ shall be fingerprinted and the fingerprints shall be submitted to the Department of Law Enforcement as provided in s. 943.051(3)(b):

1. Assault, as defined in s. 784.011.

2. Battery, as defined in s. 784.03.

3. Carrying a concealed weapon, as defined in s. 790.01(1).

4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).

5. Negligent treatment of children, as defined in former s. 827.05.

6. Assault on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a).

7. Open carrying of a weapon, as defined in s. 790.053.

8. Exposure of sexual organs, as defined in s. 800.03.

9. Unlawful possession of a firearm, as defined in s. 790.22(5).

10. Petit theft, as defined in s. 812.014.

11. Cruelty to animals, as defined in s. 828.12(1).

12. Arson, resulting in bodily harm to a firefighter, as defined in s. 806.031(1).

13. Unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property as defined in s. 790.115.

A law enforcement agency may fingerprint and photograph a child taken into custody upon probable cause that such child has committed any other violation of law, as the agency deems appropriate. Such fingerprint records and photographs shall be retained by the law enforcement agency in a separate file, and these records and all copies thereof must be marked "Juvenile Confidential." These records *are* ~~shall~~ not ~~be~~ available for public disclosure and inspection under s. 119.07(1) except as provided in ss. 943.053 and 985.04(5), but shall be available to other law enforcement agencies, criminal justice agencies, state attorneys, the courts, the child, the parents or legal custodians of the child, their attorneys, and any other person authorized by the court to have access to such records. *In addition, such records may be submitted to the Department of Law Enforcement for inclusion in the state criminal history records and used by criminal justice agencies for criminal justice purposes.* These records may, in the discretion of the court, be open to inspection by anyone upon a showing of cause. The fingerprint and photograph records shall be produced in the court whenever directed by the court. Any photograph taken pursuant to this section may be shown by a law enforcement officer to any victim or witness of a crime for the purpose of identifying the person who committed such crime.

Section 15. Paragraphs (a) and (c) of subsection (1) and subsection (2) of section 985.231, Florida Statutes, 1998 Supplement, are amended to read:

985.231 Powers of disposition in delinquency cases.—

(1)

(a) The court that has jurisdiction of an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing:

1. Place the child in a community control program or *a postcommitment community control* ~~an aftercare~~ program under the supervision of an authorized agent of the Department of Juvenile Justice or of any other person or agency specifically authorized and appointed by the court, whether in the child's own home, in the home of a relative of the child, or in some other suitable place under such reasonable conditions as the court may direct. A community control program for an adjudicated delinquent child must include a penalty component such as restitution in money or in kind, community service, a curfew, revocation or suspension of the driver's license of the child, or other nonresidential punishment appropriate to the offense and must also include a rehabilitative program component such as a requirement of participation in substance abuse treatment or in school or other educational program. Upon the recommendation of the department at the time of disposition, or subsequent to disposition pursuant to the filing of a petition alleging a violation of the child's conditions of community control or aftercare supervision, the court may order the child to submit to random testing for the purpose of detecting and monitoring the use of alcohol or controlled substances.

a. A restrictiveness level classification scale for levels of supervision shall be provided by the department, taking into account the child's needs and risks relative to community control supervision requirements to reasonably ensure the public safety. Community control programs for children shall be supervised by the department or by any other person or agency specifically authorized by the court. These programs must include, but are not limited to, structured or restricted activities as

described in this subparagraph, and shall be designed to encourage the child toward acceptable and functional social behavior. If supervision or a program of community service is ordered by the court, the duration of such supervision or program must be consistent with any treatment and rehabilitation needs identified for the child and may not exceed the term for which sentence could be imposed if the child were committed for the offense, except that the duration of such supervision or program for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months. When restitution is ordered by the court, the amount of restitution may not exceed an amount the child and the parent or guardian could reasonably be expected to pay or make. A child who participates in any work program under this part is considered an employee of the state for purposes of liability, unless otherwise provided by law.

b. The court may conduct judicial review hearings for a child placed on community control for the purpose of fostering accountability to the judge and compliance with other requirements, such as restitution and community service. The court may allow early termination of community control for a child who has substantially complied with the terms and conditions of community control.

c. If the conditions of the community control program or the *postcommitment community control* ~~aftercare~~ program are violated, the *department* ~~agent supervising the program as it relates to the child involved,~~ or the state attorney~~,~~ may bring the child before the court on a petition alleging a violation of the program. Any child who violates the conditions of community control or *postcommitment community control* ~~aftercare~~ must be brought before the court if sanctions are sought. A child taken into custody under s. 985.207 for violating the conditions of community control or *postcommitment community control* ~~aftercare~~ shall be held in a consequence unit if such a unit is available. The child shall be afforded a hearing within 24 hours after being taken into custody to determine the existence of probable cause that the child violated the conditions of community control or *postcommitment community control* ~~aftercare~~. A consequence unit is a secure facility specifically designated by the department for children who are taken into custody under s. 985.207 for violating community control or *postcommitment community control* ~~aftercare~~, or who have been found by the court to have violated the conditions of community control or *postcommitment community control* ~~aftercare~~. If the violation involves a new charge of delinquency, the child may be detained under s. 985.215 in a facility other than a consequence unit. If the child is not eligible for detention for the new charge of delinquency, the child may be held in the consequence unit pending a hearing and is subject to the time limitations specified in s. 985.215. If the child denies violating the conditions of community control or *postcommitment community control* ~~aftercare~~, the court shall appoint counsel to represent the child at the child's request. Upon the child's admission, or if the court finds after a hearing that the child has violated the conditions of community control or *postcommitment community control* ~~aftercare~~, the court shall enter an order revoking, modifying, or continuing community control or *postcommitment community control* ~~aftercare~~. In each such case, the court shall enter a new disposition order and, in addition to the sanctions set forth in this paragraph, may impose any sanction the court could have imposed at the original disposition hearing. If the child is found to have violated the conditions of community control or *postcommitment community control* ~~aftercare~~, the court may:

(I) Place the child in a consequence unit in that judicial circuit, if available, for up to 5 days for a first violation, and up to 15 days for a second or subsequent violation.

(II) Place the child on home detention with electronic monitoring. However, this sanction may be used only if a residential consequence unit is not available.

(III) Modify or continue the child's community control program or *postcommitment community control* ~~aftercare~~ program.

(IV) Revoke community control or *postcommitment community control* ~~aftercare~~ and commit the child to the department.

d. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of any order placing a child in a community control program must be until the child's 19th birthday unless he or she is released by the court, on the motion of an interested party or on its own motion.

2. Commit the child to a licensed child-caring agency willing to receive the child, but the court may not commit the child to a jail or to a facility used primarily as a detention center or facility or shelter.

3. Commit the child to the Department of Juvenile Justice at a restrictiveness level defined in *s. 985.03* ~~s. 985.03(45)~~. Such commitment must be for the purpose of exercising active control over the child, including, but not limited to, custody, care, training, urine monitoring, and treatment of the child and *release* ~~furlough~~ of the child into the community *in a postcommitment nonresidential aftercare program. If the child is not successful in the aftercare program, the department may use the transfer procedure under s. 985.404.* Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of the commitment must be until the child is discharged by the department or until he or she reaches the age of 21.

4. Revoke or suspend the driver's license of the child.

5. Require the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to render community service in a public service program.

6. As part of the community control program to be implemented by the Department of Juvenile Justice, or, in the case of a committed child, as part of the community-based sanctions ordered by the court at the disposition hearing or before the child's release from commitment, order the child to make restitution in money, through a promissory note cosigned by the child's parent or guardian, or in kind for any damage or loss caused by the child's offense in a reasonable amount or manner to be determined by the court. The clerk of the circuit court shall be the receiving and dispensing agent. In such case, the court shall order the child or the child's parent or guardian to pay to the office of the clerk of the circuit court an amount not to exceed the actual cost incurred by the clerk as a result of receiving and dispensing restitution payments. The clerk shall notify the court if restitution is not made, and the court shall take any further action that is necessary against the child or the child's parent or guardian. A finding by the court, after a hearing, that the parent or guardian has made diligent and good faith efforts to prevent the child from engaging in delinquent acts absolves the parent or guardian of liability for restitution under this subparagraph.

7. Order the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to participate in a community work project, either as an alternative to monetary restitution or as part of the rehabilitative or community control program.

8. Commit the child to the Department of Juvenile Justice for placement in a program or facility for serious or habitual juvenile offenders in accordance with s. 985.31. Any commitment of a child to a program or facility for serious or habitual juvenile offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. The court may retain jurisdiction over such child until the child reaches the age of 21, specifically for the purpose of the child completing the program.

9. In addition to the sanctions imposed on the child, order the parent or guardian of the child to perform community service if the court finds that the parent or guardian did not make a diligent and good faith effort to prevent the child from engaging in delinquent acts. The court may also order the parent or guardian to make restitution in money or in kind for any damage or loss caused by the child's offense. The court shall determine a reasonable amount or manner of restitution, and payment shall be made to the clerk of the circuit court as provided in subparagraph 6.

10. Subject to specific appropriation, commit the juvenile sexual offender to the Department of Juvenile Justice for placement in a program or facility for juvenile sexual offenders in accordance with s. 985.308. Any commitment of a juvenile sexual offender to a program or facility for juvenile sexual offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. The court may retain jurisdiction over a juvenile sexual offender until the juvenile sexual offender reaches the age of 21, specifically for the purpose of completing the program.

(c) Any order made pursuant to paragraph (a) *shall be in writing as prepared by the clerk of court and* may thereafter be modified or set aside by the court.

(2) Following a delinquency adjudicatory hearing pursuant to s. 985.228 and a delinquency disposition hearing pursuant to s. 985.23 which results in a commitment determination, the court shall, on its own or upon request by the state or the department, determine whether the protection of the public requires that the child be placed in a program for serious or habitual juvenile offenders and whether the particular needs of the child would be best served by a program for serious or habitual juvenile offenders as provided in s. 985.31. The determination shall be made pursuant to ss. *985.03(49)* ~~985.03(47)~~ and 985.23(3).

Section 16. Subsections (14) and (15) of section 985.308, Florida Statutes, 1998 Supplement, are amended to read:

985.308 Juvenile sexual offender commitment programs; sexual abuse intervention networks.—

(14) Subject to specific appropriation, availability of funds, or receipt of appropriate grant funds, the Office of the Attorney General, the Department of Children and Family Services, the Department of Juvenile Justice, or local juvenile justice councils shall award grants to sexual abuse intervention networks that apply for such grants. The grants may be used for training, treatment, aftercare, evaluation, public awareness, and other specified community needs that are identified by the network. A grant shall be awarded based on the applicant's level of local funding, level of collaboration, number of juvenile sexual offenders to be served, number of victims to be served, and level of unmet needs. ~~The Department of Legal Affairs' Office of the Attorney General, in collaboration with the Department of Juvenile Justice and the Department of Children and Family Services, shall establish by rule minimum standards for each respective department for residential and day treatment juvenile sexual offender programs funded under this subsection.~~

~~(15) The Department of Legal Affairs may adopt rules necessary to award grants under this section.~~

Section 17. Section 985.316, Florida Statutes, is amended to read:

985.316 ~~Furlough and intensive~~ Aftercare.—

(1) The Legislature finds that:

(a) Aftercare is the care, treatment, help, and supervision provided juveniles released from residential commitment programs to promote rehabilitation and prevent recidivism.

(b) Aftercare services can contribute significantly to a successful transition of a juvenile from a residential commitment to the juvenile's home, school, and community. Therefore, the best efforts should be made to provide for a successful transition.

(c) The purpose of aftercare is to protect safety; reduce recidivism; increase responsible productive behaviors; and provide for a successful transition of care and custody of the youth from the state to the family.

(d) Accordingly, aftercare should be included in the continuum of care.

(2) It is the intent of the Legislature that:

(a) Commitment programs include rehabilitative efforts on preparing committed juveniles for a successful release to the community.

(b) Aftercare transition planning begins as early in the commitment process as possible.

(c) Each juvenile committed to a residential commitment program be assessed to determine the need for aftercare services upon release from the commitment program.

(3) For juveniles referred or committed to the department, the function of the department may include, but shall not be limited to, assessing each committed juvenile to determine the need for aftercare services upon release from a commitment program, supervising the juvenile when released into the community from a residential commitment facility of the department, providing such counseling and other services as may be necessary for the families and assisting their preparations for the return of the child. Subject to specific appropriation, the department shall provide for outpatient sexual offender counseling for any juvenile sexual offender released from a commitment program as a component of aftercare.

(4) After a youth is released from a residential commitment program, aftercare services may be delivered through either minimum-risk nonresidential commitment restrictiveness programs or postcommitment community control. A juvenile under minimum-risk nonresidential commitment placement will continue to be on commitment status and subject to the transfer provision under s. 985.404. A juvenile on post-commitment community control will be subject to the provisions under s. 985.231(1)(a).

~~(1) With regard to children referred or committed to the department, the function of the department may include, but shall not be limited to, supervising the child when furloughed into the community from a facility of the department, including providing such counseling and other services as may be necessary for the families and assisting their preparations for the return of the child.~~

~~(2) Whenever a delinquent child is committed to a residential program operated by a private vendor under contract, the department may negotiate with such vendor to provide intensive aftercare for the child in the home community following successful completion of the residential program. Intensive aftercare shall involve regular contact between the child and the staff of the vendor with whom the child has developed a relationship during the course of the commitment program. Contingent upon specific appropriation, a contract for intensive aftercare provided by the residential commitment program vendor shall provide for caseloads of 10 or fewer children, intensive aftercare for 1 year, and a transfer of the ongoing case management and reentry responsibilities from the department to the vendor at the time the vendor admits the child into the commitment program. The department shall annually seek the necessary resources to provide intensive aftercare.~~

~~(3) Subject to specific appropriation, the department shall provide or contract for outpatient sexual offender counseling for any juvenile sexual offender furloughed from a commitment program, as a component of aftercare services.~~

~~(4) Upon a recommendation that a child committed to the department have his or her furlough revoked, the department shall, within 30 days after the date the recommendation is made, hold an administrative hearing pursuant to chapter 120.~~

~~(5) It is the legislative intent that, to prevent recidivism of juvenile offenders, reentry and aftercare services be provided statewide to each juvenile who returns to his or her community from a residential commitment program. Accordingly, the Legislature further intends that reentry and aftercare services be included in the continuum of care.~~

Section 18. Subsections (4) and (10) of section 985.404, Florida Statutes, 1998 Supplement, are amended, and subsection (13) is added to that section, to read:

985.404 Administering the juvenile justice continuum.—

(4) The department may transfer a child, when necessary to appropriately administer the child's commitment, from one facility or program to another facility or program operated, contracted, subcontracted, or designated by the department, *including a postcommitment minimum-risk nonresidential aftercare program*. The department shall notify the court that committed the child to the department, in writing, of its transfer of the child from a commitment facility or program to another facility or program of a higher or lower restrictiveness level. The court that committed the child may agree to the transfer or may set a hearing to review the transfer. If the court does not respond within 10 days after receipt of the notice, the transfer of the child shall be deemed granted.

(10) The department shall annually collect and report cost data for every program operated or contracted by the department. The cost data shall conform to a format approved by the department and the Legislature. Uniform cost data shall be reported and collected for state-operated and contracted programs so that comparisons can be made among programs. The department shall ensure that there is accurate cost accounting for state-operated services including market-equivalent rent and other shared cost. The cost of the educational program provided to a residential facility shall be reported and included in the cost of a program. The department shall submit an annual cost report to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, the appropriate substantive and appropriations committees of each house of the Legislature, and the Governor, no later than December 1 of each year. Cost-benefit

analysis for educational programs will be developed and implemented in collaboration with and cooperation by the Department of Education, local providers, and local school districts. Cost data for the report shall include data collected by the Department of Education for the purposes of preparing the annual report required by s. 230.23161*(21)*~~(17)~~.

(13) The department shall implement procedures to ensure that educational support activities are provided throughout the juvenile justice continuum. Such activities may include, but are not limited to, mentoring, tutoring, group discussions, homework assistance, library support, designated reading times, independent living, personal finance, and other appropriate educational activities.

Section 19. Subsection (3) of section 985.406, Florida Statutes, 1998 Supplement, is amended to read:

985.406 Juvenile justice training academies established; Juvenile Justice Standards and Training Commission created; Juvenile Justice Training Trust Fund created.—

(3) JUVENILE JUSTICE TRAINING PROGRAM.—The commission shall establish a *certifiable* program for juvenile justice training pursuant to ~~the provisions of~~ this section, and all Department of Juvenile Justice program staff and providers who deliver direct care services pursuant to contract with the department shall be required to participate in and successfully complete the commission-approved program of training pertinent to their areas of responsibility. Judges, state attorneys, and public defenders, law enforcement officers, and school district personnel may participate in such training program. For the juvenile justice program staff, the commission shall, based on a job-task analysis:

(a) Design, implement, maintain, evaluate, and revise a basic training program, including a *competency-based* ~~curriculum-based~~ examination, for the purpose of providing minimum employment training qualifications for all juvenile justice personnel. *All program staff of the Department of Juvenile Justice and providers who deliver direct-care services who are hired after October 1, 1999, must meet the following minimum requirements:*

1. Be at least 19 years of age.

2. Be a high school graduate or its equivalent as determined by the commission.

3. Not have been convicted of any felony or a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the Armed Forces of the United States. Any person who, after September 30, 1999, pleads guilty or nolo contendere to or is found guilty of any felony or a misdemeanor involving perjury or false statement is not eligible for employment, notwithstanding suspension of sentence or withholding of adjudication. Notwithstanding this subparagraph, any person who pleads nolo contendere to a misdemeanor involving a false statement before October 1, 1999, and who has had such record of that plea sealed or expunged is not ineligible for employment for that reason.

4. Abide by all the provisions of s. 985.01(2) regarding fingerprinting and background investigations and other screening requirements for personnel.

5. Execute and submit to the department an affidavit-of-application form, adopted by the department, attesting to his or her compliance with subparagraphs 1. through 4. The affidavit must be executed under oath and constitutes an official statement under s. 837.06. The affidavit must include conspicuous language that the intentional false execution of the affidavit constitutes a misdemeanor of the second degree. The employing agency shall retain the affidavit.

(b) Design, implement, maintain, evaluate, and revise an advanced training program, including a *competency-based* ~~curriculum-based~~ examination for each training course, which is intended to enhance knowledge, skills, and abilities related to job performance.

(c) Design, implement, maintain, evaluate, and revise a career development training program, including a *competency-based* ~~curriculum-based~~ examination for each training course. Career development courses are intended to prepare personnel for promotion.

(d) The commission is encouraged to design, implement, maintain, evaluate, and revise juvenile justice training courses, or to enter into contracts for such training courses, that are intended to provide for the safety and well-being of both citizens and juvenile offenders.

Section 20. Section 985.4145, Florida Statutes, is created to read:

985.4145 Direct-support organization; definition; use of property; board of directors; audit.—

(1) DEFINITION.—As used in this section, the term "direct-support organization" means an organization whose sole purpose is to support the juvenile justice system and which is:

(a) A corporation not-for-profit incorporated under chapter 617 and which is approved by the Department of State;

(b) Organized and operated to conduct programs and activities; to raise funds; to request and receive grants, gifts, and bequests of moneys; to acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and to make expenditures to or for the direct or indirect benefit of the Department of Juvenile Justice or the juvenile justice system operated by a county commission or a district board;

(c) Determined by the Department of Juvenile Justice to be consistent with the goals of the juvenile justice system, in the best interest of the state, and in accordance with the adopted goals and mission of the Department of Juvenile Justice.

Expenditures of the organization shall be expressly used to prevent and ameliorate juvenile delinquency. The expenditures of the direct-support organization may not be used for the purpose of lobbying as defined in s. 11.045.

(2) CONTRACT.—The direct-support organization shall operate under written contract with the department. The contract must provide for:

(a) Approval of the articles of incorporation and bylaws of the direct-support organization by the department.

(b) Submission of an annual budget for the approval of the department.

(c) Certification by the department that the direct-support organization is complying with the terms of the contract and in a manner consistent with the goals and purposes of the department and in the best interest of the state. Such certification must be made annually and reported in the official minutes of a meeting of the direct-support organization.

(d) The reversion of moneys and property held in trust by the direct-support organization for the benefit of the juvenile justice system to the state if the department ceases to exist or to the department if the direct-support organization is no longer approved to operate for the department, a county commission, or a district board or if the direct-support organization ceases to exist;

(e) The fiscal year of the direct-support organization, which must begin July 1 of each year and end June 30 of the following year;

(f) The disclosure of material provisions of the contract, and the distinction between the department and the direct-support organization, to donors of gifts, contributions, or bequests, including such disclosure on all promotional and fundraising publications.

(3) BOARD OF DIRECTORS.—The Secretary of Juvenile Justice shall appoint a board of directors of the direct-support organization. Members of the organization must include representatives from businesses, representatives from each of the juvenile justice service districts, and one representative appointed at-large.

(4) USE OF PROPERTY.—The department may permit, without charge, appropriate use of fixed property and facilities of the juvenile justice system by the direct-support organization, subject to the provisions of this section.

(a) The department may prescribe any condition with which the direct-support organization must comply in order to use fixed property or facilities of the juvenile justice system.

(b) The department may not permit the use of any fixed property or facilities of the juvenile justice system by the direct-support organization

if it does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

(c) The department shall adopt rules prescribing the procedures by which the direct-support organization is governed and any conditions with which a direct-support organization must comply to use property or facilities of the department.

(5) Any moneys may be held in a separate depository account in the name of the direct-support organization and subject to the provisions of the contract with the department.

(6) The direct-support organization shall provide for an annual financial and compliance postaudit of its financial accounts and records by an independent certified public accountant in accordance with rules of the Auditor General. The annual audit report must include a management letter and must be submitted to the Auditor General and the department for review. The department and the Auditor General may require and receive from the direct-support organization, or from its independent auditor, any detail or supplemental data relative to the operation of the organization.

Section 21. Paragraph (b) of subsection (1) and paragraphs (a) and (b) of subsection (2) of section 985.415, Florida Statutes, 1998 Supplement, are amended to read:

985.415 Community Juvenile Justice Partnership Grants.—

(1) GRANTS; CRITERIA.—

(b) *In awarding these grants,* the department shall ~~only~~ consider applications *that* ~~which~~ at a minimum provide for the following:

1. The participation of the agencies and programs needed to implement the project or program for which the applicant is applying; ~~and~~

2. The reduction of truancy and in-school and out-of-school suspensions and expulsions, ~~and~~ the enhancement of school safety, *and other delinquency early-intervention and diversion services;*~~.~~

3. The number of youths from 10 through 17 years of age within the geographic area to be served by the program, giving those geographic areas having the highest number of youths from 10 to 17 years of age priority for selection;

4. The extent to which the program targets high-juvenile-crime neighborhoods and those public schools serving juveniles from high-crime neighborhoods;

5. The validity and cost-effectiveness of the program; and

6. The degree to which the program is located in and managed by local leaders of the target neighborhoods and public schools serving the target neighborhoods.

(2) GRANT APPLICATION PROCEDURES.—

(a) Each entity wishing to apply for an annual community juvenile justice partnership grant, which may be renewed for a maximum of 2 additional years for the same provision of services, shall submit a grant proposal for funding or continued funding to the department ~~by March 1 of each year~~. The department shall establish the grant application procedures. In order to be considered for funding, the grant proposal shall include the following assurances and information:

1. A letter from the chair of the county juvenile justice council confirming that the grant application has been reviewed and found to support one or more purposes or goals of the juvenile justice plan as developed by the council.

2. A rationale and description of the program and the services to be provided, including goals and objectives.

3. A method for identification of the juveniles *most likely to be involved* ~~at risk of involvement~~ in the juvenile justice system who will be the focus of the program.

4. Provisions for the participation of parents and guardians in the program.

5. Coordination with other community-based and social service prevention efforts, including, but not limited to, drug and alcohol abuse prevention and dropout prevention programs, that serve the target population or neighborhood.

6. An evaluation component to measure the effectiveness of the program in accordance with the provisions of s. 985.412.

7. A program budget, including the amount and sources of local cash and in-kind resources committed to the budget. The proposal must establish to the satisfaction of the department that the entity will make a cash or in-kind contribution to the program of a value that is at least equal to 20 percent of the amount of the grant.

8. The necessary program staff.

(b) The department shall consider the following in awarding such grants:

~~1. The number of youths from 10 through 17 years of age within the geographical area to be served by the program. Those geographical areas with the highest number of youths from 10 through 17 years of age shall have priority for selection.~~

~~2. The extent to which the program targets high juvenile crime neighborhoods and those public schools serving juveniles from high crime neighborhoods.~~

~~3. The validity and cost-effectiveness of the program.~~

~~4. The degree to which the program is located in and managed by local leaders of the target neighborhoods and public schools serving the target neighborhoods.~~

1.~~5.~~ The recommendations of the juvenile justice council as to the priority that should be given to proposals submitted by entities within a county.

2.~~6.~~ The recommendations of the juvenile justice board as to the priority that should be given to proposals submitted by entities within a district.

Section 22. Subsection (5) of section 985.417, Florida Statutes, is amended to read:

985.417 Transfer of children from the Department of Corrections to the Department of Juvenile Justice.—

(5) Any child who has been convicted of a capital felony while under the age of 18 years may not be *released* ~~furloughed~~ on community control without the consent of the Governor and three members of the Cabinet.

Section 23. Paragraph (d) of subsection (1) of section 419.001, Florida Statutes, 1998 Supplement, is amended to read:

419.001 Site selection of community residential homes.—

(1) For the purposes of this section, the following definitions shall apply:

(d) "Resident" means any of the following: a frail elder as defined in s. 400.618; a physically disabled or handicapped person as defined in s. 760.22(7)(a); a developmentally disabled person as defined in s. 393.063(11); a nondangerous mentally ill person as defined in s. 394.455(18); or a child as defined in s. 39.01(11), s. 984.03(9) or (12), or *s. 985.03(9)* ~~s. 985.03(8)~~.

Section 24. Section 784.075, Florida Statutes, 1998 Supplement, is amended to read:

784.075 Battery on detention or commitment facility staff.—A person who commits a battery on *a juvenile probation officer* ~~an intake counselor or case manager~~, as defined in *s. 984.03* ~~s. 984.03(31)~~ or *s. 985.03* ~~s. 985.03(30)~~, on other staff of a detention center or facility as defined in *s. 984.03* ~~s. 984.03(19)~~ or *s. 985.03* ~~s. 985.03(19)~~, or on a staff member of a commitment facility as defined in *s. 985.03(47)* ~~s. 985.03(45)~~, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this section, a staff member of the facilities listed includes persons employed by the Department of Juvenile Justice, persons employed at facilities licensed

by the Department of Juvenile Justice, and persons employed at facilities operated under a contract with the Department of Juvenile Justice.

Section 25. Section 984.05, Florida Statutes, 1998 Supplement, is amended to read:

984.05 Rules relating to habitual truants; adoption by Department of Education and Department of Juvenile Justice.—The Department of Juvenile Justice and the Department of Education shall work together on the development of, and shall adopt, rules as necessary for the implementation of ss. 232.19, 984.03(29), and *985.03(28)* ~~985.03(27)~~.

Section 26. Subsections (1), (2), (3), and (4) of section 985.227, Florida Statutes, are amended, and subsection (5) is added to that section, to read:

985.227 Prosecution of juveniles as adults by the direct filing of an information in the criminal division of the circuit court; discretionary criteria; mandatory criteria.—

(1) DISCRETIONARY DIRECT FILE; CRITERIA.—

(a) With respect to any child who was 14 or 15 years of age at the time the alleged offense was committed, the state attorney may file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed and when the offense charged is *for the commission of, attempt to commit, or conspiracy to commit*:

1. Arson;

2. Sexual battery;

3. Robbery;

4. Kidnapping;

5. Aggravated child abuse;

6. Aggravated assault;

7. Aggravated stalking;

8. Murder;

9. Manslaughter;

10. Unlawful throwing, placing, or discharging of a destructive device or bomb;

11. Armed burglary in violation of s. 810.02(2)(b) or specified burglary of a dwelling or structure in violation of s. 810.02(2)(c), *or burglary with an assault or battery in violation of s. 810.02(2)(a)*;

12. Aggravated battery;

13. Lewd or lascivious assault or act in the presence of a child;

14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony; or

15. Grand theft in violation of s. 812.014(2)(a);~~.~~

16. Possessing or discharging any weapon or firearm on school property in violation of s. 790.115;

17. Home invasion robbery; or

18. Carjacking.

(b) With respect to any child who was 16 or 17 years of age at the time the alleged offense was committed, the state attorney may file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed. However, the state attorney may not file an information on a child charged with a misdemeanor, unless the child has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which involved an offense classified as a felony under state law.

(2) MANDATORY DIRECT FILE.—

(a) With respect to any child who was 16 or 17 years of age at the time the alleged offense was committed, the state attorney shall file an information if the child has been previously adjudicated delinquent for *an act classified as a felony, which adjudication was for the commission of, attempt to commit, or conspiracy to commit* murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, or aggravated assault, and *the child* is currently charged with a second or subsequent violent crime against a person.

(b) Notwithstanding subsection (1), regardless of the child's age at the time the alleged offense was committed, the state attorney must file an information with respect to any child who previously has been adjudicated for offenses which, if committed by an adult, would be felonies and such adjudications occurred at three or more separate delinquency adjudicatory hearings, and three of which resulted in residential commitments as defined in *s. 985.03(47)* ~~s. 985.03(45)~~.

(c) The state attorney must file an information if a child, regardless of the child's age at the time the alleged offense was committed, is alleged to have committed an act that would be a violation of law if the child were an adult, that involves stealing a motor vehicle, including, but not limited to, a violation of s. 812.133, relating to carjacking, or s. 812.014(2)(c)6., relating to grand theft of a motor vehicle, and while the child was in possession of the stolen motor vehicle the child caused serious bodily injury to or the death of a person who was not involved in the underlying offense. For purposes of this section, the driver and all willing passengers in the stolen motor vehicle at the time such serious bodily injury or death is inflicted shall also be subject to mandatory transfer to adult court. "Stolen motor vehicle," for the purposes of this section, means a motor vehicle that has been the subject of any criminal wrongful taking. For purposes of this section, "willing passengers" means all willing passengers who have participated in the underlying offense.

(3) EFFECT OF DIRECT FILE.—

(a) Once a child has been transferred for criminal prosecution pursuant to *an* information and has been found to have committed the presenting offense or a lesser included offense, the child shall be handled thereafter in every respect as if an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.233.

(b) When a child is transferred for criminal prosecution as an adult, the court shall immediately transfer and certify to the *adult circuit* ~~appropriate~~ court all *felony* ~~preadjudicatory~~ cases *pertaining to the child, for prosecution of the child as an adult, which have not yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not been made. If a child is acquitted of all charged offenses or lesser included offenses contained in the original case transferred to adult court, all felony cases that were transferred to adult court as a result of this paragraph shall be subject to the same penalties to which such cases would have been subject before being transferred to adult court* ~~that pertain to that child which are pending in juvenile court, including, but not limited to, all cases involving offenses that occur or are referred between the date of transfer and sentencing in adult court and all outstanding juvenile disposition orders. The juvenile court shall make every effort to dispose of all predispositional cases and transfer those cases to the adult court prior to adult sentencing. It is the intent of the Legislature to require all cases occurring prior to the sentencing hearing in adult court to be handled by the adult court for final resolution with the original transfer case~~.

(c) When a child has been transferred for criminal prosecution as an adult and has been found to have committed a violation of state law, the disposition of the case may be made under s. 985.233 and may include the enforcement of any restitution ordered in any juvenile proceeding.

(4) DIRECT-FILE POLICIES AND GUIDELINES.—Each state attorney shall develop ~~and annually update~~ written policies and guidelines to govern determinations for filing an information on a juvenile, to be submitted to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Juvenile Justice Advisory Board not later than January 1 of each year.

(5) An information filed pursuant to this section may include all charges that are based on the same act, criminal episode, or transaction as the primary offenses.

Section 27. Paragraph (e) of subsection (3) and paragraph (a) of subsection (4) of section 985.31, Florida Statutes, 1998 Supplement, are amended to read:

985.31 Serious or habitual juvenile offender.—

(3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.—

(e) After a child has been adjudicated delinquent pursuant to s. 985.228, the court shall determine whether the child meets the criteria for a serious or habitual juvenile offender pursuant to *s. 985.03(49)* ~~s. 985.03(47)~~. If the court determines that the child does not meet such criteria, the provisions of s. 985.231(1) shall apply.

(4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.—

(a) Pursuant to the provisions of this section, the department shall implement the comprehensive assessment instrument for the treatment needs of serious or habitual juvenile offenders and for the assessment, which assessment shall include the criteria under *s. 985.03(49)* ~~s. 985.03(47)~~ and shall also include, but not be limited to, evaluation of the child's:

1. Amenability to treatment.

2. Proclivity toward violence.

3. Tendency toward gang involvement.

4. Substance abuse or addiction and the level thereof.

5. History of being a victim of child abuse or sexual abuse, or indication of sexual behavior dysfunction.

6. Number and type of previous adjudications, findings of guilt, and convictions.

7. Potential for rehabilitation.

Section 28. Paragraph (e) of subsection (3) and paragraph (a) of subsection (4) of section 985.311, Florida Statutes, 1998 Supplement, are amended to read:

985.311 Intensive residential treatment program for offenders less than 13 years of age.—

(3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.—

(e) After a child has been adjudicated delinquent pursuant to s. 985.228(5), the court shall determine whether the child is eligible for an intensive residential treatment program for offenders less than 13 years of age pursuant to *s. 985.03(8)* ~~s. 985.03(7)~~. If the court determines that the child does not meet the criteria, the provisions of s. 985.231(1) shall apply.

(4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.—

(a) Pursuant to the provisions of this section, the department shall implement the comprehensive assessment instrument for the treatment needs of children who are eligible for an intensive residential treatment program for offenders less than 13 years of age and for the assessment, which assessment shall include the criteria under *s. 985.03(8)* ~~s. 985.03(7)~~ and shall also include, but not be limited to, evaluation of the child's:

1. Amenability to treatment.

2. Proclivity toward violence.

3. Tendency toward gang involvement.

4. Substance abuse or addiction and the level thereof.

5. History of being a victim of child abuse or sexual abuse, or indication of sexual behavior dysfunction.

6. Number and type of previous adjudications, findings of guilt, and convictions.

7. Potential for rehabilitation.

Section 29. Section 985.312, Florida Statutes, is amended to read:

985.312 Intensive residential treatment programs for offenders less than 13 years of age; prerequisite for commitment.—No child who is eligible for commitment to an intensive residential treatment program for offenders less than 13 years of age as established in *s. 985.03(8)* ~~s. 985.03(7)~~, may be committed to any intensive residential treatment program for offenders less than 13 years of age as established in s. 985.311, unless such program has been established by the department through existing resources or specific appropriation, for such program.

Section 30. Section 985.3141, Florida Statutes, is amended to read:

985.3141 Escapes from secure detention or residential commitment facility.—An escape from:

(1) Any secure detention facility maintained for the temporary detention of children, pending adjudication, disposition, or placement;

(2) Any residential commitment facility described in *s. 985.03(47)* ~~s. 985.03(45)~~, maintained for the custody, treatment, punishment, or rehabilitation of children found to have committed delinquent acts or violations of law; or

(3) Lawful transportation to or from any such secure detention facility or residential commitment facility,

constitutes escape within the intent and meaning of s. 944.40 and is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 31. Subsection (1) of section 985.234, Florida Statutes, is amended to read:

985.234 Appeal.—

(1) An appeal from an order of the court affecting a party to a case involving a child pursuant to this part may be taken to the appropriate district court of appeal within the time and in the manner prescribed by *s. 924.051 and* the Florida Rules of Appellate Procedure by:

(a) Any child, and any parent or legal guardian or custodian of any child.

(b) The state, which may appeal from:

1. An order dismissing a petition or any section thereof;

2. An order granting a new adjudicatory hearing;

3. An order arresting judgment;

4. A ruling on a question of law when the child is adjudicated delinquent and appeals from the judgment;

5. The disposition, on the ground that it is illegal;

6. A judgment discharging a child on habeas corpus;

7. An order adjudicating a child insane under the Florida Rules of Juvenile Procedure; and

8. All other preadjudicatory hearings, except that the state may not take more than one appeal under this subsection in any case.

In the case of an appeal by the state, the notice of appeal shall be filed by the appropriate state attorney or his or her authorized assistant pursuant to the provisions of s. 27.18. Such an appeal shall embody all assignments of error in each preadjudicatory hearing order that the state seeks to have reviewed. The state shall pay all costs of the appeal except for the child's attorney's fee.

Section 32. Section 985.315, Florida Statutes, 1998 Supplement, is amended to read:

985.315 *Educational/technical and* vocational *work-related* ~~work training~~ programs.—

(1)(a) It is the finding of the Legislature that *the educational/technical and* vocational *work-related* ~~work~~ programs of the Department of Juvenile Justice are uniquely different from other programs operated or conducted by other departments in that it is essential to the state that *these* ~~the work~~ programs provide juveniles with useful *information and* activities that can lead to meaningful employment after release in order to assist in reducing the return of juveniles to the system.

(b) It is further the finding of the Legislature that the mission of a juvenile *educational/technical and* vocational *work-related* ~~work~~ program is, in order of priority:

1. To provide a joint effort between the department, the juvenile work programs, and *educational/technical and* ~~other~~ vocational training programs to reinforce relevant education, training, and postrelease job placement, and help reduce recommitment.

2. To serve the security goals of the state through the reduction of idleness of juveniles and the provision of an incentive for good behavior in residential commitment facilities.

3. To teach youth in juvenile justice programs relevant job skills and the fundamentals of a trade in order to prepare them for placement in the workforce.

(c) It is further the finding of the Legislature that a program which duplicates as closely as possible free-work production and service operations in order to aid juveniles in adjustment after release and to prepare juveniles for gainful employment is in the best interest of the state, juveniles, and the general public.

(2)(a) The department *is strongly encouraged to* ~~may~~ require juveniles placed in a high-risk residential, maximum-risk residential, or a serious/habitual offender program to participate in *an educational/technical or* ~~a~~ vocational *work-related* ~~work~~ program *5 hours per day, 5 days per week*. All policies developed by the department relating to this requirement must be consistent with applicable federal, state, and local labor laws and standards, including all laws relating to child labor.

(b) Nothing in this subsection is intended to restore, in whole or in part, the civil rights of any juvenile. No juvenile compensated under this subsection shall be considered as an employee of the state or the department, nor shall such juvenile come within any other provision of the Workers' Compensation Law.

(3) In adopting or modifying master plans for juvenile work programs *and educational/technical and vocational training programs*, and in the administration of the Department of Juvenile Justice, it shall be the objective of the department to develop:

(a) Attitudes favorable to work, the work situation, and a law-abiding life in each juvenile employed in the juvenile work program.

(b) *Education and* training opportunities that are reasonably broad, but which develop specific work skills.

(c) Programs that motivate juveniles to use their abilities. ~~Juveniles who do not adjust to these programs shall be reassigned.~~

(d) *Education and* training programs that will be of mutual benefit to all governmental jurisdictions of the state by reducing the costs of government to the taxpayers and which integrate all instructional programs into a unified curriculum suitable for all juveniles, but taking account of the different abilities of each juvenile.

(e) A logical sequence of *educational/technical or* vocational training, employment by the juvenile ~~vocational~~ work programs, and postrelease job placement for juveniles participating in juvenile work programs.

(4)(a) The Department of Juvenile Justice shall establish guidelines for the operation of juvenile *educational/technical and* vocational *work-related* ~~work~~ programs, which shall include the following procedures:

1. Participation in the educational/technical and vocational work-related programs shall be on a 5-day-per-week, 5-hour-per-day basis.

2.~~1.~~ The education, *training,* work experience, emotional and mental abilities, and physical capabilities of the juvenile and the duration of the term of placement imposed on the juvenile are to be analyzed before assignment of the *juvenile* ~~inmate~~ into the various processes best suited for *educational/technical or vocational* training.

3.~~2.~~ When feasible, the department shall attempt to obtain *education or* training credit for a juvenile seeking apprenticeship status or a high school diploma or its equivalent.

4.~~3.~~ The juvenile may begin in a general *education and* work skills program and progress to a specific work skills training program, depending upon the ability, desire, and *education and* work record of the juvenile.

5.~~4.~~ Modernization and upgrading of equipment and facilities should include greater automation and improved production techniques to expose juveniles to the latest technological procedures to facilitate their adjustment to real work situations.

(b) Evaluations of juvenile *educational/technical and vocational work-related* ~~work~~ programs shall be conducted according to the following guidelines:

1. Systematic evaluations and quality assurance monitoring shall be implemented, in accordance with ss. 985.401(4) and 985.412(1), to determine whether the ~~juvenile vocational work~~ programs are related to successful postrelease adjustments.

2. Operations and policies of *the* ~~work~~ programs shall be reevaluated to determine if they are consistent with their primary objectives.

(c) The department shall seek the advice of private labor and management to:

1. Assist its work programs in the development of statewide policies aimed at innovation and organizational change.

2. Obtain technical and practical assistance, information, and guidance.

3. Encourage the cooperation and involvement of the private sector.

4. Assist in the placement of youth into meaningful jobs upon release from the residential program.

(d) The department and providers are strongly encouraged to work in partnership with local businesses and trade groups in the development and operation of educational/technical and vocational programs.

(5)(a) The Department of Juvenile Justice may adopt and put into effect an agricultural and industrial production and marketing program to provide training facilities for persons placed in serious/habitual offender, high-risk residential, and maximum-risk residential programs and facilities under the control and supervision of the department. The emphasis of this program shall be to provide juveniles with useful work experience and appropriate job skills that will facilitate their reentry into society and provide an economic benefit to the public and the department through effective utilization of juveniles.

(b) The department is authorized to contract with the private sector for substantial involvement in a juvenile industry program which includes the operation of a direct private sector business within a juvenile facility and the hiring of juvenile workers. The purposes and objectives of this program shall be to:

1. Increase benefits to the general public by reimbursement to the state for a portion of the costs of juvenile residential care.

2. Provide purposeful work for juveniles as a means of reducing tensions caused by confinement.

3. Increase job skills.

4. Provide additional opportunities for rehabilitation of juveniles who are otherwise ineligible to work outside the facilities, such as maximum security juveniles.

5. Develop and establish new models for juvenile facility-based businesses which create jobs approximating conditions of private sector employment.

6. Draw upon the economic base of operations for disposition to the Crimes Compensation Trust Fund.

7. Substantially involve the private sector with its capital, management skills, and expertise in the design, development, and operation of businesses.

(c) Notwithstanding any other law to the contrary, including s. 440.15(9), private sector employers shall provide juveniles participating in juvenile work programs under paragraph (b) with workers' compensation coverage, and juveniles shall be entitled to the benefits of such coverage. Nothing in this subsection shall be construed to allow juveniles to participate in unemployment compensation benefits.

(6) The Juvenile Justice Accountability Board shall conduct a study regarding the types of effective juvenile vocational and work programs in operation across the country, relevant research on what makes programs effective, the key ingredients of effective juvenile vocational and work programs, and the status of such programs in juvenile facilities across the state. The board shall report its findings and make recommendations on how to expand and improve these programs no later than January 31, 2000, to the President of the Senate, the Speaker of the House of Representatives, and the Secretary of Juvenile Justice.

(7) The department, working with providers, shall inventory juvenile vocational and work training programs in use in commitment programs across the state. The inventory shall list the commitment program, the type of vocational or work program offered, the relevant job skills provided, and which programs work with the trades industry to place youth in jobs upon release.

Section 33. Paragraph (c) of subsection (4) of section 985.201, Florida Statutes, is amended to read:

985.201 Jurisdiction.—

(4)

(c) The court may retain jurisdiction over a child and the child's parent or legal guardian whom the court has ordered to pay restitution until the restitution order is satisfied or until the court orders otherwise. If the court retains such jurisdiction after the date upon which the court's jurisdiction would cease under this section, it shall do so solely for the purpose of enforcing the restitution order. The terms of the restitution order are subject to the provisions of *s. 775.089(5)* ~~s. 775.089(6)~~.

Section 34. Subsection (4) of section 985.21, Florida Statutes, 1998 Supplement, is amended to read:

985.21 Intake and case management.—

(4) The juvenile probation officer shall make a preliminary determination as to whether the report, affidavit, or complaint is complete, consulting with the state attorney as may be necessary. In any case where the juvenile probation officer or the state attorney finds that the report, affidavit, or complaint is insufficient by the standards for a probable cause affidavit, the juvenile probation officer or state attorney shall return the report, affidavit, or complaint, without delay, to the person or agency originating the report, affidavit, or complaint or having knowledge of the facts or to the appropriate law enforcement agency having investigative jurisdiction of the offense, and shall request, and the person or agency shall promptly furnish, additional information in order to comply with the standards for a probable cause affidavit.

~~(a) The juvenile probation officer, upon determining that the report, affidavit, or complaint is complete, may, in the case of a child who is alleged to have committed a delinquent act or violation of law, recommend that the state attorney file a petition of delinquency or an information or seek an indictment by the grand jury. However, such a recommendation is not a prerequisite for any action taken by the state attorney.~~

(a)~~(b)~~ The juvenile probation officer, upon determining that the report, affidavit, or complaint is complete, pursuant to uniform procedures established by the department, shall:

1. When indicated by the preliminary screening, provide for a comprehensive assessment of the child and family for substance abuse problems, using community-based licensed programs with clinical expertise and experience in the assessment of substance abuse problems.

2. When indicated by the preliminary screening, provide for a comprehensive assessment of the child and family for mental health problems, using community-based psychologists, psychiatrists, or other licensed mental health professionals with clinical expertise and experience in the assessment of mental health problems.

When indicated by the comprehensive assessment, the department is authorized to contract within appropriated funds for services with a local nonprofit community mental health or substance abuse agency licensed or authorized under chapter 394, or chapter 397, or other authorized nonprofit social service agency providing related services. The determination of mental health or substance abuse services shall be conducted in coordination with existing programs providing mental health or substance abuse services in conjunction with the intake office. Client information resulting from the screening and evaluation shall be documented pursuant to rules established by the department and shall serve to assist the juvenile probation officer in providing the most appropriate services and recommendations in the least intrusive manner. Such client information shall be used in the multidisciplinary assessment and classification of the child, but such information, and any information obtained directly or indirectly through the assessment process, is inadmissible in court prior to the disposition hearing, unless the child's written consent is obtained. At the disposition hearing, documented client information shall serve to assist the court in making the most appropriate custody, adjudicatory, and dispositional decision. If the screening and assessment indicate that the interest of the child and the public will be best served thereby, the juvenile probation officer, with the approval of the state attorney, may refer the child for care, diagnostic and evaluation services, substance abuse treatment services, mental health services, retardation services, a diversionary or arbitration or mediation program, community service work, or other programs or treatment services voluntarily accepted by the child and the child's parents or legal guardians. The victim, if any, and the law enforcement agency which investigated the offense shall be notified immediately by the state attorney of the action taken under this paragraph. Whenever a child volunteers to participate in any work program under this chapter or volunteers to work in a specified state, county, municipal, or community service organization supervised work program or to work for the victim, the child shall be considered an employee of the state for the purposes of liability. In determining the child's average weekly wage, unless otherwise determined by a specific funding program, all remuneration received from the employer is considered a gratuity, and the child is not entitled to any benefits otherwise payable under s. 440.15, regardless of whether the child may be receiving wages and remuneration from other employment with another employer and regardless of the child's future wage-earning capacity.

(b)~~(c)~~ The juvenile probation officer, upon determining that the report, affidavit, or complaint complies with the standards of a probable cause affidavit and that the interest of the child and the public will be best served, may recommend that a delinquency petition not be filed. If such a recommendation is made, the juvenile probation officer shall advise in writing the person or agency making the report, affidavit, or complaint, the victim, if any, and the law enforcement agency having investigative jurisdiction of the offense of the recommendation and the reasons therefor; and that the person or agency may submit, within 10 days after the receipt of such notice, the report, affidavit, or complaint to the state attorney for special review. The state attorney, upon receiving a request for special review, shall consider the facts presented by the report, affidavit, or complaint, and by the juvenile probation officer who made the recommendation that no petition be filed, before making a final decision as to whether a petition or information should or should not be filed.

(c)~~(d)~~ *Subject to the interagency agreement authorized under this paragraph, the juvenile probation officer for each case in which a child is alleged to have committed a violation of law or delinquent act and is not detained* ~~In all cases in which the child is alleged to have committed a violation of law or delinquent act and is not detained, the juvenile probation officer~~ shall submit a written report to the state attorney, including the original report, complaint, or affidavit, or a copy thereof, including a copy of the child's prior juvenile record, within 20 days after the date the child is taken into custody. In cases in which the child is in detention, the intake office report must be submitted within 24 hours after the child is placed into detention. The intake office report *may*

include a recommendation ~~must recommend either~~ that a petition or information be filed or that no petition or information be filed, and *may* ~~must~~ set forth reasons for the recommendation. *The State Attorney and the Department of Juvenile Justice may, on a district-by-district basis, enter into interagency agreements denoting the cases that will require a recommendation and those for which a recommendation is unnecessary.*

(d)~~(c)~~ The state attorney may in all cases take action independent of the action or lack of action of the juvenile probation officer, and shall determine the action which is in the best interest of the public and the child. If the child meets the criteria requiring prosecution as an adult pursuant to s. 985.226, the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such request. In all other cases, the state attorney may:

1. File a petition for dependency;

2. File a petition pursuant to chapter 984;

3. File a petition for delinquency;

4. File a petition for delinquency with a motion to transfer and certify the child for prosecution as an adult;

5. File an information pursuant to s. 985.227;

6. Refer the case to a grand jury;

7. Refer the child to a diversionary, pretrial intervention, arbitration, or mediation program, or to some other treatment or care program if such program commitment is voluntarily accepted by the child or the child's parents or legal guardians; or

8. Decline to file.

(e)~~(f)~~ In cases in which a delinquency report, affidavit, or complaint is filed by a law enforcement agency and the state attorney determines not to file a petition, the state attorney shall advise the clerk of the circuit court in writing that no petition will be filed thereon.

Section 35. Subsection (4) of section 985.225, Florida Statutes, is amended to read:

985.225 Indictment of a juvenile.—

(4)*(a)* Once a child has been indicted pursuant to this subsection and has been found to have committed any offense for which he or she was indicted as a part of the criminal episode, the child shall be handled thereafter in every respect as if an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.233.

(b) When a child has been indicted pursuant to this subsection the court shall immediately transfer and certify to the adult circuit court all felony cases pertaining to the child, for prosecution of the child as an adult, which have not yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not been made. If the child is acquitted of all charged offenses or lesser included offenses contained in the indictment case, all felony cases that were transferred to adult court pursuant to this paragraph shall be subject to the same penalties such cases were subject to before being transferred to adult court.

Section 36. *Subsection (6) of section 985.218, Florida Statutes, 1998 Supplement, is repealed.*

Section 37. Subsections (2) and (4) of section 985.226, Florida Statutes, 1998 Supplement, are amended to read:

985.226 Criteria for waiver of juvenile court jurisdiction; hearing on motion to transfer for prosecution as an adult.—

(2) INVOLUNTARY WAIVER.—

(a) Discretionary ~~involuntary~~ waiver.—*Except as provided in paragraph (b),* the state attorney may file a motion requesting the court to transfer the child for criminal prosecution if the child was 14 years of age or older at the time the alleged delinquent act or violation of law was committed.

(b) Mandatory waiver.—

1. If the child was 14 years of age or older, and if the child has been previously adjudicated delinquent for *an act classified as a felony, which adjudication was for the commission of, attempt to commit, or conspiracy to commit* murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, ~~or~~ aggravated assault, *or burglary with an assault or battery,* and *the child* is currently charged with a second or subsequent violent crime against a person*; or*~~,~~ ~~the state attorney shall file a motion requesting the court to transfer and certify the juvenile for prosecution as an adult, or proceed pursuant to s. 985.227(1).~~

2.~~(b) Mandatory involuntary waiver.—~~If the child was 14 years of age or older at the time of commission of a fourth or subsequent alleged felony offense and the child was previously adjudicated delinquent or had adjudication withheld for or was found to have committed, or to have attempted or conspired to commit, three offenses that are felony offenses if committed by an adult, and one or more of such felony offenses involved the use or possession of a firearm or violence against a person*;*~~,~~ the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such request, or proceed pursuant to s. 985.227(1). Upon the state attorney's request, the court shall either enter an order transferring the case and certifying the case for trial as if the child were an adult or provide written reasons for not issuing such an order.

(4) EFFECT OF ORDER WAIVING JURISDICTION.—

(a) ~~If the court finds, after a waiver hearing under subsection (3), that a juvenile who was 14 years of age or older at the time the alleged violation of state law was committed should be charged and tried as an adult, the court shall enter an order transferring the case and certifying the case for trial as if the child were an adult. The child shall thereafter be subject to prosecution, trial, and sentencing as if the child were an adult but subject to the provisions of s. 985.233.~~ Once a child has been transferred for criminal prosecution pursuant to an involuntary waiver hearing and has been found to have committed the presenting offense or a lesser included offense, the child shall thereafter be handled in every respect as an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.233.

(b) When a child is transferred for criminal prosecution as an adult, the court shall immediately transfer and certify to the adult circuit court all felony cases pertaining to the child, for prosecution of the child as an adult, which have not yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not been made. If the child is acquitted of all charged offenses or lesser included offenses contained in the original case transferred to adult court, all felony cases that were transferred to adult court pursuant to this paragraph shall be subject to the same penalties such cases were subject to before being transferred to adult court.

Section 38. Subsection (7) is added to section 985.228, Florida Statutes, to read:

985.228 Adjudicatory hearings; withheld adjudications; orders of adjudication.—

(7) Notwithstanding any other provision of law, an adjudication of delinquency for an offense classified as a felony shall disqualify a person from lawfully possessing a firearm until such person reaches 24 years of age.

Section 39. Subsections (1) and (2) of section 790.23, Florida Statutes, 1998 Supplement, are amended to read:

790.23 Felons and delinquents; possession of firearms or electric weapons or devices unlawful.—

(1) It is unlawful for any person to own or to have in his or her care, custody, possession, or control any firearm or electric weapon or device, or to carry a concealed weapon, including a tear gas gun or chemical weapon or device, if that person has been:

(a) Convicted of a felony ~~or found to have committed a delinquent act that would be a felony if committed by an adult~~ in the courts of this state;

(b) Found, in the courts of this state, to have committed a delinquent act that would be a felony if committed by an adult and such person is under 24 years of age.

(c)~~(b)~~ Convicted of or found to have committed a crime against the United States which is designated as a felony;

(d)~~(c)~~ Found to have committed a delinquent act in another state, territory, or country that would be a felony if committed by an adult and which was punishable by imprisonment for a term exceeding 1 year *and such person is under 24 years of age*; or

(e)~~(d)~~ Found guilty of an offense that is a felony in another state, territory, or country and which was punishable by imprisonment for a term exceeding 1 year.

(2) This section shall not apply to a person convicted of a felony whose civil rights and firearm authority have been restored~~, or to a person found to have committed a delinquent act that would be a felony if committed by an adult with respect to which the jurisdiction of the court pursuant to chapter 985 has expired~~.

Section 40. Section 985.313, Florida Statutes, is amended to read:

985.313 *Juvenile correctional facilities or juvenile prison* ~~Maximum-risk residential program~~.—A *juvenile correctional facility or juvenile prison* ~~maximum-risk residential program~~ is a physically secure residential commitment program with a designated length of stay from 18 months to 36 months, primarily serving children 13 years of age to 19 years of age, or until the jurisdiction of the court expires. The court may retain jurisdiction over the child until the child reaches the age of 21, specifically for the purpose of the child completing the program. Each child committed to this level must meet one of the following criteria:

(1) The youth is at least 13 years of age at the time of the disposition for the current offense and has been adjudicated on the current offense for:

(a) Arson;

(b) Sexual battery;

(c) Robbery;

(d) Kidnapping;

(e) Aggravated child abuse;

(f) Aggravated assault;

(g) Aggravated stalking;

(h) Murder;

(i) Manslaughter;

(j) Unlawful throwing, placing, or discharging of a destructive device or bomb;

(k) Armed burglary;

(l) Aggravated battery;

(m) Carjacking;

(n) Home-invasion robbery;

(o) Burglary with an assault or battery;

(p)~~(m)~~ Lewd or lascivious assault or act in the presence of a child; or

(q)~~(n)~~ Carrying, displaying, using, threatening to use, or attempting to use a weapon or firearm during the commission of a felony.

(2) The youth is at least 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed three or more times to a delinquency commitment program.

(3) The youth is at least 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement.

(4) The youth is at least 13 years of age at the time of the disposition for the current offense, the youth is eligible for prosecution as an adult for the current offense, and the current offense is ranked at level 7 or higher on the Criminal Punishment Code offense severity ranking chart pursuant to s. 921.0022.

Section 41. Subsections (43) and (44) are added to section 228.041, Florida Statutes, 1998 Supplement, to read:

228.041 Definitions.—Specific definitions shall be as follows, and wherever such defined words or terms are used in the Florida School Code, they shall be used as follows:

(43) SCHOOL YEAR FOR JUVENILE JUSTICE PROGRAMS.—For schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, the school year shall be comprised of 250 days of instruction distributed over 12 months. A district school board may decrease the minimum number of days of instruction by up to 10 days for teacher planning.

(44) JUVENILE JUSTICE PROVIDER.—"Juvenile justice provider" means the Department of Juvenile Justice or a private, public, or other governmental organization under contract with the Department of Juvenile Justice which provides treatment, care and custody, or educational programs for youth in juvenile justice intervention, detention, or commitment programs.

Section 42. Section 228.051, Florida Statutes, is amended to read:

228.051 Organization and funding of required public schools.—The public schools of the state shall provide 13 consecutive years of instruction, beginning with kindergarten, and shall also provide such instruction for exceptional children *and youth in Department of Juvenile Justice programs* as may be required by law. The funds for support and maintenance of such schools shall be derived from state, district, federal, or other lawful sources or combinations of sources and shall include any tuition fees charged nonresidents as provided by law. Public schools, institutions, and agencies providing this instruction shall constitute the uniform system of free public schools prescribed by Art. IX of the State Constitution.

Section 43. Section 228.081, Florida Statutes, is amended to read:

228.081 Other public educational services.—

(1) The general control of other public educational services shall be vested in the state board except as provided herein. The state board shall, at the request of the Department of Children and Family Services and the Department of Juvenile Justice, advise as to standards and requirements relating to education to be met in all state schools or institutions under their control which provide educational programs. The Department of Education shall provide supervisory services for the educational programs of all such schools or institutions. The direct control of any of these services provided as part of the district program of education shall rest with the school board. These services shall be supported out of state, district, federal, or other lawful funds, depending on the requirements of the services being supported.

(2) The Department of Education shall recommend and by August 1, 1999, the state board shall adopt an administrative rule articulating expectations for high-quality, effective education programs for youth in Department of Juvenile Justice programs, including, but not limited to, education programs in juvenile justice commitment and detention facilities. The rule shall articulate policies and standards for education programs for youth in Department of Juvenile Justice programs and shall include the following:

(a) The interagency collaborative process needed to ensure effective programs with measurable results.

(b) The responsibilities of the Department of Education, the Department of Juvenile Justice, school districts, and providers of education services to youth in Department of Juvenile Justice programs.

(c) Academic expectations.

(d) Service delivery options available to school districts, including direct service and contracting.

(e) Assessment procedures, which:

1. Include appropriate academic and vocational assessments administered at program entry and exit which are selected by the Department of Education in partnership with representatives from the Department of Juvenile Justice, school districts, and providers.

2. Require school districts to be responsible for ensuring the completion of the assessment process.

3. Require assessments for students in detention who will move on to commitment facilities, to be designed to create the foundation for developing the student's education program in the assigned commitment facility.

4. Require assessments of students sent directly to commitment facilities to be completed within the first week of the student's commitment.

The results of these assessments, together with a portfolio depicting the student's academic and vocational accomplishments, shall be included in the discharge package assembled for each youth.

(f) Recommended instructional programs including, but not limited to, vocational training and job preparation.

(g) Funding requirements, which shall include the requirement that at least 80 percent of the FEFP funds generated by students in Department of Juvenile Justice Programs be spent on instructional costs for those students. One hundred percent of the formula-based categorial funds generated by students in Department of Juvenile Justice Programs must be spent on appropriate categoricals such as instructional materials and public school technology for those students.

(h) Qualifications of instructional staff, procedures for the selection of instructional staff, and procedures to ensure consistent instruction and qualified staff year round.

(i) Transition services, including the roles and responsibilities of appropriate personnel in school districts, provider organizations, and the Department of Juvenile Justice.

(j) Procedures and timeframe for transfer of education records when a youth enters and leaves a facility.

(k) The requirement that each school district maintain an academic transcript for each student enrolled in a juvenile justice facility which delineates each course completed by the student as provided by the State Course Code Directory.

(l) The requirement that each school district make available and transmit a copy of a student's transcript in the discharge packet when the student exits a facility.

(m) Contract requirements.

(n) Performance expectations for providers and school districts, including the provision of academic improvement plan as required in s. 232.245.

(o) The role and responsibility of the school district in securing workforce development funds.

(p) A series of graduated sanctions for school districts whose educational programs in Department of Juvenile Justice facilities are considered to be unsatisfactory and for instances in which school districts fail to meet standards prescribed by law, rule, or State Board of Education policy. These sanctions shall include the option of requiring a school district to contract with a provider or another school district if the educational program at the Department of Juvenile Justice facility has failed a quality assurance review and after 6 months, is still performing below minimum standards.

(q) Other aspects of program operations.

(3) By January 1, 2000, the Department of Education in partnership with the Department of Juvenile Justice, school districts, and providers shall:

(a) Develop model contracts for the delivery of appropriate education services to youth in Department of Juvenile Justice programs to be used for the development of future contracts. The model contracts shall reflect the policy and standards included in subsection (2). The Department of Education shall ensure that appropriate school district personnel are trained and held accountable for the management and monitoring of contracts for education programs for youth in juvenile justice residential and nonresidential facilities.

(b) Develop model procedures for transitioning youth into and out of Department of Juvenile Justice programs. These procedures shall reflect the policy and standards adopted pursuant to subsection (2).

(c) Develop standardized required content of education records to be included as part of a youth's commitment record. These requirements shall reflect the policy and standards adopted pursuant to subsection (2) and shall include, but not be limited to, the following:

1. A copy of the student's individualized education plan;

2. Assessment data, including grade level proficiency in reading, writing, and mathematics, and performance on tests taken according to s. 229.57;

3. A copy of the student's permanent cumulative record; and

4. A copy of the student's academic transcript.

5. A portfolio reflecting the youth's academic accomplishments while in the Department of Juvenile Justice program.

(d) Develop model procedures for securing the education record and the roles and responsibilities of the juvenile probation officer and others involved in the withdrawal of the student from school and assignment to a commitment or detention facility. Effective for the 2000-2001 school year and thereafter, school districts shall be required to respond to requests for student education records received from another school district or a juvenile justice facility within 5 working days of receiving the request.

(4) The Department of Education shall ensure that school districts notify students in juvenile justice residential or nonresidential facilities who attain the age of 16 years of the provisions of s. 232.01(1)(c) regarding compulsory school attendance and make available the option of enrolling in a program to attain a general education development diploma prior to release from the facility. School districts or community colleges, or both, shall waive GED testing fees for youth in Department of Juvenile Justice residential programs and shall, upon request, designate schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs as GED testing centers, subject to GED testing center requirements.

(5) The Department of Education shall establish and operate, either directly or indirectly through a contract, a mechanism to provide quality assurance reviews of all juvenile justice education programs and shall provide technical assistance and related research to school districts and providers on how to establish, develop, and operate educational programs that exceed the minimum quality assurance standards.

Section 44. Subsection (3) of section 229.57, Florida Statutes, 1998 Supplement, is amended to read.

229.57 Student assessment program.—

(3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner is directed to design and implement a statewide program of educational assessment that provides information for the improvement of the operation and management of the public schools *including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs*. The program must be designed, as far as possible, so as not to conflict with ongoing district assessment programs and so as to use information obtained from district programs. Pursuant to the statewide assessment program, the commissioner shall:

(a) Submit to the state board a list that specifies student skills and competencies to which the goals for education specified in the state plan apply, including, but not limited to, reading, writing, and mathematics. The skills and competencies must include problem-solving and higher-order skills as appropriate. The commissioner shall select such skills and competencies after receiving recommendations from educators, citizens, and members of the business community. The commissioner shall submit to the state board revisions to the list of student skills and competen-

cies in order to maintain continuous progress toward improvements in student proficiency.

(b) Develop and implement a uniform system of indicators to describe the performance of public school students and the characteristics of the public school districts and the public schools. These indicators must include, without limitation, information gathered by the comprehensive management information system created pursuant to s. 229.555 and student achievement information obtained pursuant to this section.

(c) Develop and implement a student achievement testing program as part of the statewide assessment program, to be administered at designated times at the elementary, middle, and high school levels to measure reading, writing, and mathematics. The testing program must be designed so that:

1. The tests measure student skills and competencies adopted by the state board as specified in paragraph (a). The tests must measure and report student proficiency levels in reading, writing, and mathematics. Other content areas may be included as directed by the commissioner. The commissioner shall provide for the tests to be developed or obtained, as appropriate, through contracts and project agreements with private vendors, public vendors, public agencies, postsecondary institutions, or school districts. The commissioner shall obtain input with respect to the design and implementation of the testing program from state educators and the public.

2. The tests are criterion-referenced and include, to the extent determined by the commissioner, items that require the student to produce information or perform tasks in such a way that the skills and competencies he or she uses can be measured.

3. Each testing program, whether at the elementary, middle, or high school level, includes a test of writing in which students are required to produce writings which are then scored by appropriate methods.

4. A score is designated for each subject area tested, below which score a student's performance is deemed inadequate. The school districts shall provide appropriate remedial instruction to students who score below these levels.

5. All 11th grade students take a high school competency test developed by the state board to test minimum student performance skills and competencies in reading, writing, and mathematics. The test must be based on the skills and competencies adopted by the state board pursuant to paragraph (a). Upon recommendation of the commissioner, the state board shall designate a passing score for each part of the high school competency test. In establishing passing scores, the state board shall consider any possible negative impact of the test on minority students. The commissioner may establish criteria whereby a student who successfully demonstrates proficiency in either reading or mathematics or both may be exempted from taking the corresponding section of the high school competency test or the college placement test. A student must earn a passing score or have been exempted from each part of the high school competency test in order to qualify for a regular high school diploma. The school districts shall provide appropriate remedial instruction to students who do not pass part of the competency test.

6. Participation in the testing program is mandatory for all students, *including students served in Department of Juvenile Justice programs,* except as otherwise prescribed by the commissioner. The commissioner shall recommend rules to the state board for the provision of test adaptations and modifications of procedures as necessary for students in exceptional education programs and for students who have limited English proficiency.

7. A student seeking an adult high school diploma must meet the same testing requirements that a regular high school student must meet.

8. By January 1, 2000, the Department of Education must develop, or select, and implement a common battery of assessment tools which will be used in all juvenile justice programs in the state. These tools must accurately reflect criteria established in the Florida Sunshine State Standards.

The commissioner may design and implement student testing programs for any grade level and subject area, based on procedures designated by the commissioner to monitor educational achievement in the state.

(d) Obtain or develop a career planning assessment to be administered to students, at their option, in grades 7 and 10 to assist them in preparing for further education or entering the workforce. The statewide student assessment program must include career planning assessment.

(e) Conduct ongoing research to develop improved methods of assessing student performance, including, without limitation, the use of technology to administer tests, the use of electronic transfer of data, the development of work-product assessments, and the development of process assessments.

(f) Conduct ongoing research and analysis of student achievement data, including, without limitation, monitoring trends in student achievement, identifying school programs that are successful, and analyzing correlates of school achievement.

(g) Provide technical assistance to school districts in the implementation of state and district testing programs and the use of the data produced pursuant to such programs.

Section 45. Paragraph (c) is added to subsection (1) of section 229.58, Florida Statutes, 1998 Supplement, to read:

229.58 District and school advisory councils.—

(1) ESTABLISHMENT.—

(c) For those schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, school boards may establish a district advisory council with appropriate representatives for the purpose of developing and monitoring a district school improvement plan which encompasses all such schools in the district, pursuant to s. 230.23(16)(a).

Section 46. Subsections (1), (3), and (4) of section 229.592, Florida Statutes, 1998 Supplement, are amended to read:

229.592 Implementation of state system of school improvement and education accountability.—

(1) DEVELOPMENT.—It is the intent of the Legislature that every public school in the state, *including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs,* shall have a school improvement plan, as required by s. 230.23(16)~~, fully implemented and operational by the beginning of the 1993-1994 school year~~. Vocational standards considered pursuant to s. 239.229 shall be incorporated into the school improvement plan for each area technical center operated by a school board by the 1994-1995 school year, and area technical centers shall prepare school report cards incorporating such standards, pursuant to s. 230.23(16), for the 1995-1996 school year. In order to accomplish this, the Florida Commission on Education Reform and Accountability and the school districts and schools shall carry out the duties assigned to them by ss. 229.594 and 230.23(16), respectively.

(3) COMMISSIONER.—The commissioner shall be responsible for implementing and maintaining a system of intensive school improvement and stringent education accountability.

(a) Based on the recommendations of the Florida Commission on Education Reform and Accountability, the commissioner shall develop and implement the following programs and procedures:

1. A system of data collection and analysis that will improve information about the educational success of individual students and schools, *including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs.* The information and analyses must be capable of identifying educational programs or activities in need of improvement, and reports prepared pursuant to this subparagraph shall be distributed to the appropriate school boards prior to distribution to the general public. This provision shall not preclude access to public records as provided in chapter 119.

2. A program of school improvement that will analyze information to identify schools, *including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs,* educational programs, or educational activities in need of improvement.

3. A method of delivering services to assist school districts and schools to improve, *including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs.*

4. A method of coordinating with the state educational goals and school improvement plans any other state program that creates incentives for school improvement.

(b) The commissioner shall be held responsible for the implementation and maintenance of the system of school improvement and education accountability outlined in this subsection. There shall be an annual determination of whether adequate progress is being made toward implementing and maintaining a system of school improvement and education accountability.

(c) The annual feedback report shall be developed by the commission and the Department of Education.

(d) The commissioner and the commission shall review each school board's feedback report and submit its findings to the State Board of Education. If adequate progress is not being made toward implementing and maintaining a system of school improvement and education accountability, the State Board of Education shall direct the commissioner to prepare and implement a corrective action plan. The commissioner and State Board of Education shall monitor the development and implementation of the corrective action plan.

(e) As co-chair of the Florida Commission on Education Reform and Accountability, the commissioner shall appear before the appropriate committees of the Legislature annually in October to report and recommend changes in state policy necessary to foster school improvement and education accountability. The report shall reflect the recommendations of the Florida Commission on Education Reform and Accountability. Included in the report shall be a list of the schools, *including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs,* for which school boards have developed assistance and intervention plans and an analysis of the various strategies used by the school boards. School reports shall be distributed pursuant to this paragraph and s. 230.23(16)(e) according to guidelines adopted by the State Board of Education.

(4) DEPARTMENT.—

(a) The Department of Education shall implement a training program to develop among state and district educators a cadre of facilitators of school improvement. These facilitators shall assist schools and districts to conduct needs assessments and develop and implement school improvement plans to meet state goals.

(b) Upon request, the department shall provide technical assistance and training to any school, *including any school operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs,* school advisory council, district, or school board for conducting needs assessments, developing and implementing school improvement plans, developing and implementing assistance and intervention plans, or implementing other components of school improvement and accountability. Priority for these services shall be given to school districts in rural and sparsely populated areas of the state.

(c) Pursuant to s. 24.121(5)(d), the department shall not release funds from the Educational Enhancement Trust Fund to any district in which a school, *including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs,* does not have an approved school improvement plan, pursuant to s. 230.23(16), after 1 full school year of planning and development, or does not comply with school advisory council membership composition requirements pursuant to s. 229.58(1). The department shall send a technical assistance team to each school without an approved plan to develop such school improvement plan or to each school without appropriate school advisory council membership composition to develop a strategy for corrective action. The department shall release the funds upon approval of the plan or upon establishment of a plan of corrective action. Notice shall be given to the public of the department's intervention and shall identify each school without a plan or without appropriate school advisory council membership composition.

Section 47. Paragraphs (a) and (e) of subsection (16) of section 230.23, Florida Statutes, 1998 Supplement, are amended to read:

230.23 Powers and duties of school board.—The school board, acting as a board, shall exercise all powers and perform all duties listed below:

(16) IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.—Maintain a system of school improvement and education accountability as provided by statute and State Board of Education rule. This system of school improvement and education accountability shall be consistent with, and implemented through, the district's continuing system of planning and budgeting required by this section and ss. 229.555 and 237.041. This system of school improvement and education accountability shall include, but not be limited to, the following:

(a) School improvement plans.—Annually approve and require implementation of a new, amended, or continuation school improvement plan for each school in the district, *except that a school board may establish a district school improvement plan which includes all schools in the district operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs.* Such plan shall be designed to achieve the state education goals and student performance standards pursuant to ss. 229.591(3) and 229.592. Beginning in 1999-2000, each plan shall also address issues relative to budget, training, instructional materials, technology, staffing, student support services, and other matters of resource allocation, as determined by school board policy.

(e) Public disclosure.—Provide information regarding performance of students and educational programs as required pursuant to s. 229.555 and implement a system of school reports as required by statute and State Board of Education rule *which shall include schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, and for those schools, report on the elements specified in s. 230.23161(21).*

Section 48. Section 230.23161, Florida Statutes, 1998 Supplement, is amended to read.

230.23161 Educational services in Department of Juvenile Justice programs.—

(1) The Legislature finds that education is the single most important factor in the rehabilitation of adjudicated delinquent youth in the custody of the Department of Juvenile Justice in detention or commitment facilities. The Department of Education shall serve as the lead agency for juvenile justice education programs to ensure that curriculum, support services, and resources are provided to maximize the public's investment in the custody and care of these youth. To this end, the Department of Education and the Department of Juvenile Justice shall each designate a Coordinator for Juvenile Justice Education Programs to serve as the point of contact for resolving issues not addressed by local district school boards and to ensure each department's participation in the following activities:

(a) Training, collaborating, and coordinating with the Department of Juvenile Justice, local school districts, educational contract providers, and juvenile justice providers, whether state operated or contracted.

(b) Collecting information on the academic performance of students in juvenile justice commitment and detention programs and reporting on the results.

(c) Developing protocols that provide guidance to school districts and providers in all aspects of education programming, including records transfer and transition.

(d) Prescribing the roles of program personnel.

(2)~~(1)~~ The Legislature finds that juvenile assessment centers are an important source of information about youth who are entering the juvenile justice system. Juvenile assessment centers document the condition of youth entering the system, thereby providing baseline data which is essential to evaluate changes in the condition of youth as a result of treatment. The cooperation and involvement of the local school system, including the commitment of appropriate resources for determining the educational status and special learning problems and needs of youth, are essential if the full potential benefits of juvenile assessment centers are to be achieved.

(3)~~(2)~~ Students participating in a detention, commitment, or rehabilitation program pursuant to chapter 985 which is sponsored by a community-based agency or is operated or contracted for by the Department

of Juvenile Justice shall receive educational programs according to rules of the State Board of Education. These students shall be eligible for services afforded to students enrolled in programs pursuant to s. 230.2316 and all corresponding State Board of Education rules.

(4)~~(3)~~ The district school board of the county in which the residential or nonresidential care facility or juvenile assessment facility is located shall provide appropriate educational assessments and an appropriate program of instruction and special education services. The district school board shall make provisions for each student to participate in basic, vocational, and exceptional student programs as appropriate. *Students served in Department of Juvenile Justice programs shall have access to the appropriate courses and instruction to prepare them for the GED test. Students participating in GED preparation programs shall be funded at the basic program cost factor for Department of Juvenile Justice programs in the Florida Education Finance Program.* Each program shall be conducted according to applicable law providing for the operation of public schools and rules of the state board.

(5)~~(4)~~ A school day for any student serviced in a Department of Juvenile Justice program shall be the same as specified in s. 228.041(13). Educational services shall be provided at times of the day most appropriate for the program. School programming in juvenile justice detention, commitment, and rehabilitation programs shall be made available during the regular school year and the summer school by the local school district.

(6)~~(5)~~ The educational program shall consist of appropriate basic academic, vocational, or exceptional curricula and related services which support the treatment goals and reentry and which may lead to completion of the requirements for receipt of a high school diploma or its equivalent. If the duration of a program is less than 40 days, the educational component may be limited to tutorial activities and vocational employability skills.

(7)~~(6)~~ Participation in the program by students of compulsory school attendance age as provided for in s. 232.01 shall be mandatory. All students of noncompulsory school-attendance age who have not received a high school diploma or its equivalent shall participate in the educational program, *unless the student files a formal declaration of his or her intent to terminate school enrollment as described in s. 232.01(1)(c) and is afforded the opportunity to attain a general education development diploma prior to release from a facility.*

(8) An academic improvement plan shall be developed for students who score below the level specified in local school board policy in reading, writing, and mathematics or below the level specified by the Commissioner of Education on statewide assessments as required by s. 232.245. These plans shall address academic, literacy, and life skills and shall include provisions for intensive remedial instruction in the areas of weakness.

(9) Each school district shall maintain an academic record for each student enrolled in a juvenile justice facility as prescribed by s. 228.081. Such record shall delineate each course completed by the student according to procedures in the State Course Code Directory. The school district shall include a copy of a student's academic record in the discharge packet when the student exits the facility.

(10) The Department of Education shall ensure that all school districts make provisions for high school level committed youth to earn credits toward high school graduation while in residential and nonresidential juvenile justice facilities. Provisions must be made for the transfer of credits and partial credits earned.

(11)~~(7)~~ The school district shall recruit and train teachers who are interested, qualified, or experienced in educating students in juvenile justice programs. Students in juvenile justice programs shall be provided a wide range of educational programs and opportunities including textbooks, technology, instructional support, and other resources available to students in public schools. Teachers assigned to educational programs in juvenile justice settings in which the school district operates the educational program shall be selected by the school district in consultation with the director of the juvenile justice facility. Educational programs in juvenile justice facilities shall have access to the substitute teacher pool utilized by the school district.

(12)~~(8)~~ School districts are authorized and strongly encouraged to contract with a private provider for the provision of educational programs to youths placed with the Department of Juvenile Justice and shall generate local, state, and federal funding, including funding through the Florida Education Finance Program for such students. *The school district's planning and budgeting process shall include the needs of Department of Juvenile Justice programs in the district's plan for expenditures for state categorical and federal funds.*

(13)~~(9)~~ The local school district shall fund the education program in a Department of Juvenile Justice facility at the same or higher level of funding for equivalent students in the county school system based on the funds generated by state funding through the Florida Education Finance Program for such students. It is the intent of the Legislature that the school district maximize its available local, state, and federal funding to a juvenile justice program.

(a) Juvenile justice education programs shall be funded in the appropriate FEFP program based on the educational services needed by the student for Department of Juvenile Justice programs in accordance with s. 236.081.

(b) Juvenile justice education programs to receive the appropriate FEFP program funding for Department of Juvenile Justice programs shall include those operated through a contract with the Department of Juvenile Justice and which are under purview of the Department of Juvenile Justice quality assurance standards for education.

(c) Consistent with the rules of the State Board of Education, local school districts are authorized and required to request an alternative FTE survey for Department of Juvenile Justice programs experiencing fluctuations in student enrollment.

(d) FTE count periods shall be prescribed in rules of the State Board of Education. The summer school period for students in Department of Juvenile Justice programs shall begin on the day immediately following the end of the regular school year and end on the day immediately preceding the subsequent regular school year. Students shall be funded for no more than 25 hours per week of direct instruction. The Department of Education shall develop a method which captures all direct instructional time provided to such students during the summer school period.

(14)~~(10)~~ Each school district shall negotiate a cooperative agreement with the Department of Juvenile Justice on the delivery of educational services to youths under the jurisdiction of the department. Such agreement must include, but is not limited to:

(a) Roles and responsibilities of each agency, including the roles and responsibilities of contract providers.

(b) Administrative issues including procedures for sharing information.

(c) Allocation of resources including maximization of local, state, and federal funding.

(d) Procedures for educational evaluation for educational exceptionalities and special needs.

(e) Curriculum and delivery of instruction.

(f) Classroom management procedures and attendance policies.

(g) Procedures for provision of qualified instructional personnel, whether supplied by the school district or provided under contract by the provider, and for performance of duties while in a juvenile justice setting.

(h) Provisions for improving skills in teaching and working with juvenile delinquents.

(i) Transition plans for students moving into and out of juvenile facilities.

(j) Procedures and timelines for the timely documentation of credits earned and transfer of student records.

(k) Methods and procedures for dispute resolution.

(l) Provisions for ensuring the safety of education personnel and support for the agreed-upon education program.

(m) Strategies for correcting any deficiencies found through the quality assurance process.

(15)~~(11)~~ The cooperative agreement pursuant to subsection *(14)* ~~(10)~~ does not preclude the development of an operating agreement or contract between the school district and the provider for each juvenile justice program in the school district where educational programs are to be provided. Any of the matters which must be included in the agreement pursuant to subsection *(14)* ~~(10)~~ may be defined in the operational agreements or operating contracts rather than in the cooperative agreement if agreed to by the Department of Juvenile Justice. Nothing in this section or in a cooperative agreement shall be construed to require the school board to provide more services than can be supported by the funds generated by students in the juvenile justice programs.

(16)(a)~~(12)~~ The Department of Education in consultation with the Department of Juvenile Justice, *school districts and providers* shall establish *objective and measurable quality assurance* standards *for the educational component of residential and nonresidential juvenile justice facilities. These standards shall rate the school district's performance both as a provider and contractor. The quality assurance rating for the education component shall be disaggregated from the overall quality assurance score and reported separately.*

(b) The Department of Education shall develop ~~and~~ a comprehensive quality assurance review process and schedule for the evaluation of the educational component in juvenile justice programs. *The Department of Juvenile Justice quality assurance site visit and the education quality assurance site visit shall be conducted during the same visit.*

(c) The Department of Education, in consultation with school districts and providers, shall establish minimum thresholds for the standards and key indicators for education programs in juvenile justice facilities. If a school district fails to meet the established minimum standards, the district will be given 6 months to achieve compliance with the standards. If after 6 months, the school district's performance is still below minimum standards, the Department of Education shall exercise sanctions as prescribed by rules adopted by the State Board of Education. If a provider, under contract with the school district, fails to meet minimum standards, such failure shall cause the school district to cancel the provider's contract unless the provider achieves compliance within 6 months or unless there are documented extenuating circumstances.

(17)~~(13)~~ The district school board shall not be charged any rent, maintenance, utilities, or overhead on such facilities. Maintenance, repairs, and remodeling of existing facilities shall be provided by the Department of Juvenile Justice.

(18)~~(14)~~ When additional facilities are required, the district school board and the Department of Juvenile Justice shall agree on the appropriate site based on the instructional needs of the students. When the most appropriate site for instruction is on district school board property, a special capital outlay request shall be made by the commissioner in accordance with s. 235.41. When the most appropriate site is on state property, state capital outlay funds shall be requested by the Department of Juvenile Justice provided by s. 216.043 and shall be submitted as specified by s. 216.023. Any instructional facility to be built on state property shall have educational specifications jointly developed by the school district and the Department of Juvenile Justice and approved by the Department of Education. The size of space and occupant design capacity criteria as provided by state board rules shall be used for remodeling or new construction whether facilities are provided on state property or district school board property.

(19)~~(15)~~ The parent or guardian of exceptional students shall have the due process rights provided for in chapter 232.

(20)~~(16)~~ Department of Juvenile Justice detention and commitment programs may be designated as second chance schools pursuant to s. 230.2316(3)(d). Admission to such programs shall be governed by chapter 985.

(21)~~(17)~~ The Department of Education and Department of Juvenile Justice, after consultation with and assistance from local providers and local school districts, shall report annually to the Legislature by *February* ~~December~~ 1 on the progress towards developing effective educational programs for juvenile delinquents including the amount of funding provided by local school districts to juvenile justice programs, the amount retained for administration including documenting the purposes for such expenses, the status of the development of cooperative agreements, ~~and~~ the results of the quality assurance reviews including recommendations for system improvement, *and information on the identification of, and services provided to, exceptional students in juvenile justice commitment facilities to determine whether these students are properly reported for funding and are appropriately served.*

(22)~~(18)~~ The educational programs at the Arthur Dozier School for Boys in Jackson County and the Florida School for Boys in Okeechobee shall be operated by the Department of Education, either directly or through grants or contractual agreements with other public or duly accredited education agencies approved by the Department of Education.

(23)~~(19)~~ The Department of Education shall have the authority to adopt any rules necessary to implement the provisions of this section, including uniform curriculum, funding, and second chance schools. Such rules shall require the minimum amount of paperwork and reporting necessary to comply with this act.

Section 49. Section 235.1975, Florida Statutes, is created to read:

235.1975 Cooperative Development of Educational Facilities in Juvenile Justice Programs.—

(1) The Department of Management Services, in consultation with the Department of Education and the Department of Juvenile Justice, shall conduct a review and analysis of existing education facilities in Department of Juvenile Justice facilities to determine the adequacy of the facilities for educational use. This information shall be used to generate a 3-year plan for the provision of adequate space, equipment, furnishings, and technology for improving the learner's educational outcomes. The Department of Education shall submit this plan to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of the Department of Juvenile Justice by November 1, 1999. The plan shall contain sufficient detail for the development of a fixed capital outlay budget request which will ensure that student achievement will be enhanced.

(2) The Department of Juvenile Justice shall provide early notice to school districts regarding the siting of new juvenile justice facilities. School districts shall include the projected number of students in the districts' annual estimates. School districts should be consulted regarding the types of students expected to be assigned to commitment facilities for education planning and budgeting purposes. The Department of Juvenile Justice shall notify, in writing, the Department of Education when a request for proposals is issued for the construction or operation of a commitment or detention facility anywhere in the state. The Department of Juvenile Justice shall notify, in writing, the appropriate school district when a request for proposals is issued for the construction or operation of a commitment or detention facility when a county or site is specifically identified. The Department of Juvenile Justice is also required to notify the district school superintendent within 30 days of the award of a contract for the construction or operation of a commitment or detention facility within that school district.

Section 50. Paragraph (a) of subsection (3) of section 237.34, Florida Statutes, is amended to read.

237.34 Cost accounting and reporting.—

(3) PROGRAM EXPENDITURE REQUIREMENTS.—

(a) Each district shall expend at least the percent of the funds generated by each of the programs listed herein on the aggregate total school costs for such programs:

1. Kindergarten and grades 1, 2, and 3, 90 percent.

2. Grades 4, 5, 6, 7, and 8, 80 percent.

3. Grades 9, 10, 11, and 12, 80 percent.

4. Programs for exceptional students, on an aggregate program basis, 80 percent.

5. Grades 7 through 12 vocational education programs, on an aggregate program basis, 80 percent.

6. Students-at-risk programs, on an aggregate program basis, 80 percent.

7. Juvenile justice programs, on an aggregate program basis, 80 percent.

8.~~7.~~ Any new program established and funded under s. 236.081(1)(c), that is not included under subparagraphs 1. through 6., on an aggregate basis as appropriate, 80 percent.

Section 51. Subsection (6) of section 985.401, Florida Statutes, 1998 Supplement, is renumbered as subsection (7), and a new subsection (6) is added to said section to read:

985.401 Juvenile Justice Accountability Board.—

(6) The board shall study the extent and nature of education programs for juvenile offenders committed by the court to the Department of Juvenile Justice and for juvenile offenders under court supervision in the community. The board shall utilize a subcommittee of interested board members and may request other interested persons to participate and act as a juvenile justice education task force for the study. The task force shall address, at a minimum, the following issues:

(a) The impact of education services on students in commitment programs;

(b) The barriers impeding the timely transfer of education records;

(c) The development and implementation of vocational programming in commitment programs;

(d) The implementation of provisions for earning high school credits regardless of varied lengths of stay; and

(e) The accountability of school districts and providers regarding the expenditure of education funds.

(7)~~(6)~~ Each state agency shall provide assistance when requested by the board. The board shall have access to all records, files, and reports that are material to its duties and that are in the custody of a school board, a law enforcement agency, a state attorney, a public defender, the court, the Department of Children and Family Services, and the department.

Section 52. Paragraph (d) of subsection (3) of section 985.413, Florida Statutes, 1998 Supplement, is amended to read:

985.413 District juvenile justice boards.—

(3) DISTRICT JUVENILE JUSTICE BOARDS.—

(d) A district juvenile justice board has the purpose, power, and duty to:

1. Advise the district juvenile justice manager and the district administrator on the need for and the availability of juvenile justice programs and services in the district, *including the educational services in Department of Juvenile Justice programs*.

2. Develop a district juvenile justice plan that is based upon the juvenile justice plans developed by each county within the district, and that addresses the needs of each county within the district.

3. Develop a district interagency cooperation and information-sharing agreement that supplements county agreements and expands the scope to include appropriate circuit and district officials and groups.

4. Coordinate the efforts of the district juvenile justice board with the activities of the Governor's Juvenile Justice and Delinquency Prevention Advisory Committee and other public and private entities.

5. Advise and assist the district juvenile justice manager in the provision of optional, innovative delinquency services in the district to meet the unique needs of delinquent children and their families.

6. Develop, in consultation with the district juvenile justice manager, funding sources external to the Department of Juvenile Justice for the provision and maintenance of additional delinquency programs and services. The board may, either independently or in partnership with one or more county juvenile justice councils or other public or private entities, apply for and receive funds, under contract or other funding arrangement, from federal, state, county, city, and other public agencies, and from public and private foundations, agencies, and charities for the purpose of funding optional innovative prevention, diversion, or treatment services in the district for delinquent children and children at risk of delinquency, and their families. To aid in this process, the department shall provide fiscal agency services for the councils.

7. Educate the community about and assist in the community juvenile justice partnership grant program administered by the Department of Juvenile Justice.

8. Advise the district health and human services board, the district juvenile justice manager, and the Secretary of Juvenile Justice regarding the development of the legislative budget request for juvenile justice programs and services in the district and the commitment region, and, in coordination with the district health and human services board, make recommendations, develop programs, and provide funding for prevention and early intervention programs and services designed to serve children in need of services, families in need of services, and children who are at risk of delinquency within the district or region.

9. Assist the district juvenile justice manager in collecting information and statistical data useful in assessing the need for prevention programs and services within the juvenile justice continuum program in the district.

10. Make recommendations with respect to, and monitor the effectiveness of, the judicial administrative plan for each circuit pursuant to Rule 2.050, Florida Rules of Judicial Administration.

11. Provide periodic reports to the health and human services board in the appropriate district of the Department of Children and Family Services. These reports must contain, at a minimum, data about the clients served by the juvenile justice programs and services in the district, as well as data concerning the unmet needs of juveniles within the district.

12. Provide a written annual report on the activities of the board to the district administrator, the Secretary of Juvenile Justice, and the Juvenile Justice *Accountability* ~~Advisory~~ Board. The report should include an assessment of the effectiveness of juvenile justice continuum programs and services within the district, recommendations for elimination, modification, or expansion of existing programs, and suggestions for new programs or services in the juvenile justice continuum that would meet identified needs of children and families in the district.

Section 53. *The Department of Education shall work in consultation with the Department of Juvenile Justice and the local school districts to develop a plan for educational programs in detention centers. The plan shall reflect the unique needs, variability in lengths of stay, and diversity of youth assigned to juvenile justice detention centers, and instructional strategies to improve student achievement. The plan shall anticipate the use of all state and local funding categories available to ensure the success of students who are being educated in juvenile justice facilities. The plan shall provide for appropriate performance outcome measures. The plan shall be submitted to the Governor, the Speaker of the House of Representatives, and the President of the Senate prior to January 1, 2000, and shall include appropriate cost estimates.*

Section 54. 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 juvenile justice; 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 discharging 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; amending s. 435.04, F.S.; adding to the list of offenses that will prohibit the employment of a person subject to Level 2 screening standards; amending s. 943.0515, F.S.; requiring the Criminal Justice Information Program to retain the criminal history records of minors who are committed to a juvenile correctional facility or juvenile prison; amending s. 960.001, F.S.; authorizing state agencies to expend funds for certain crime prevention and educational activities; amending ss. 984.03, 985.03, F.S.; redefining the term "delinquency program" to delete references to furlough programs; defining the term "aftercare" for purposes of ch. 985, F.S.; providing for minimum-risk nonresidential programs to be used for the aftercare placement of juveniles; amending ss. 39.0132, 985.04, F.S.; requiring the department to disclose to school officials that a student has a history of criminal sexual behavior with other juveniles; conforming cross-references; amending ss. 985.207, 985.208, F.S., relating to conditions under which a juvenile may be detained; adding a reference to home detention; deleting references to violation of furlough; amending s. 985.212, F.S.; providing for fingerprint records and photographs of juveniles to be submitted to the Department of Law Enforcement; amending s. 985.231, F.S.; providing for an adjudicated delinquent juvenile to be placed in postcommitment community control rather than in an aftercare program under certain circumstances; specifying responsibility for preparing certain documents; amending s. 985.308, F.S.; deleting the Department of Legal Affairs' rulemaking responsibilities for sexual abuse intervention networks; amending s. 985.316, F.S.; providing legislative findings and intent; providing for the delivery of aftercare services to a juvenile released from a residential commitment program; deleting requirements for juveniles released on furlough; amending s. 985.404, F.S., relating to the juvenile justice continuum; providing for release of a juvenile into an aftercare program; requiring educational support activities to be provided; amending s. 985.406, F.S.; providing additional qualifications for the program staff of the Department of Juvenile Justice and its providers; requiring competency-based examinations; creating s. 985.4145, F.S.; defining the term "direct-support organization"; authorizing such an organization to use property and facilities of the Department of Juvenile Justice; providing restrictions; requiring the Secretary of Juvenile Justice to appoint a board of directors for the direct-support organization; requiring an annual audit of the organization; amending s. 985.415, F.S.; revising the procedures for submittal and selection of Community Juvenile Justice Partnership Grants; amending s. 985.417, F.S., relating to the transfer of children from the Department of Corrections to the Department of Juvenile Justice; deleting references to the furlough of a child convicted of a capital felony; amending ss. 419.001, 784.075, 984.05, 985.227, 985.31, 985.311, 985.312, F.S.; conforming cross-references to changes made by the act; amending s. 985.234, F.S.; providing the time within which an order involving a child may be appealed; amending s. 985.315, F.S.; revising the vocational work training programs under the Department of Juvenile Justice; providing for participation of certain juveniles in educational/technical or vocational work-related program 5 hours per day, 5 days per week; requiring the Juvenile Justice Accountability Board to conduct a study of juvenile vocational and work programs; requiring a report; requiring the department to inventory programs in the state; amending s. 985.03, F.S.; redesignating "maximum-risk" residential facilities as "juvenile correctional facilities" or "juvenile prisons"; amending s. 985.201, F.S.; conforming a cross-reference for purposes of application to terms of certain restitution orders; amending s. 985.21, F.S.; deleting an authorization for a juvenile probation officer to make certain recommendations to the state attorney; clarifying certain contents of intake reports; authorizing the State Attorney and Department of Juvenile Justice to enter into certain interagency agreements for certain purposes; amending s. 985.225, F.S.; requiring transfer of certain felony cases relating to children to adult court for prosecution as an adult; repealing s. 985.218(6), F.S., relating to adjudicatory hearings for children committing delinquent acts or violations of law; amending s. 985.226, F.S., relating to criteria for discretionary waiver and mandatory waiver of juvenile court jurisdiction; revising the list of specified offenses to include certain additional offenses; amending s. 985.227, F.S., relating to discretionary direct-file criteria and mandatory direct-file criteria; permitting the filing of an information when a child was 14 or 15 years of age at the time the child attempted to commit or conspired to commit any one of specified offenses; revising duties of the court and guidelines for transfer of cases pertaining to the child when a child is transferred for adult prosecution; removing the requirement for annual updating by the state attorney of direct-file policies and guidelines; providing that the information filed pursuant to specified provisions may include all charges that are based on the same act, criminal episode, or transaction as the primary offense; amending s. 985.228, F.S.; specifying disqualification for possessing a firearm until a certain age for persons adjudicated delinquent for certain felony offenses; amending s. 790.23, F.S.; providing a prohibition against possession of firearms or weapons by certain persons who were found to have committed delinquent acts classified as felonies; amending s. 985.313, F.S.; redesignating "maximum-risk" residential programs as "juvenile correctional facilities" or "juvenile prisons"; providing that a juvenile may be committed to such a facility if adjudicated on certain additional offenses; amending s. 228.041, F.S.; defining "juvenile justice provider" and "school year for juvenile justice programs"; amending s. 228.051, F.S., relating to the organization and funding of required public schools; requiring the public schools of the state to provide instruction for youth in Department of Juvenile Justice programs; amending s. 228.081, F.S.; requiring the development and adoption of a rule articulating expectations for education programs for youth in Department of Juvenile Justice programs; requiring the development of model contracts for the delivery of educational services to youth in Department of Juvenile Justice programs; requiring the Department of Education to provide training and technical assistance; requiring the development of model procedures for transitioning youth into and out of Department of Juvenile Justice programs; requiring the development of model procedures regarding education records; requiring the Department of Education to provide, or contract for the provision of, quality assurance reviews of all juvenile justice education programs; amending s. 229.57, F.S.; revising provisions relating to the statewide assessment program to include schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs; requiring the Department of Education to develop and implement assessment tools to be used in juvenile justice programs; amending s. 229.58, F.S.; authorizing the establishment of district advisory councils for juvenile justice education programs; amending s. 229.592, F.S.; revising provisions relating to the implementation of the state system of school improvement and education accountability to include schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs; deleting obsolete language; amending s. 230.23, F.S., relating to powers and duties of the school board; revising provisions relating to school improvement plans and public disclosure to include schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs; amending s. 230.23161, F.S., relating to educational services in Department of Juvenile Justice programs; providing legislative intent; requiring the Department of Education to serve as the lead agency; requiring the Department of Education and the Department of Juvenile Justice to designate a coordinator to ensure department participation in certain activities; requiring student access to GED programs; requiring certain funding; revising provisions relating to compulsory school attendance; requiring the development of an academic improvement plan for certain students; providing requirements regarding academic records; requiring provisions for the earning and transfer of credits; providing funding requirements; revising provisions relating to quality assurance standards; requiring the Department of Juvenile Justice site visit and the education quality assurance site visit to take place during the same visit; requiring the establishment of minimum standards; requiring the State Board of Education to adopt rules establishing sanctions for performance below minimum standards; revising requirements regarding an annual report; creating s. 235.1975, F.S., relating to cooperative development of educational facilities in juvenile justice programs; requiring a review and analysis of existing facilities; requiring the development and submission of a plan; requiring the Department of Juvenile Justice to provide certain information to school districts and the Department of Education regarding new juvenile justice facilities; providing requirements regarding planning and budgeting; amending s. 237.34, F.S.; requiring each district to expend a specified percentage of the funds generated by juvenile justice programs on the aggregate total school costs for such programs; amending s. 985.401, F.S.; requiring the Juvenile Justice Accountability Board to study the

extent and nature of education programs for juvenile offenders; amending s. 985.413, F.S.; revising the duties of district juvenile justice boards; requiring the development and submission of a plan for education programs in detention centers; amending s. 985.404, F.S., relating to the administration of the juvenile justice continuum; correcting a cross-reference; providing an effective date.

Senator Campbell moved the following amendment to **Amendment 2** which was adopted:

Amendment 2A (305600)(with title amendment)—On page 101, line 22 through page 102, line 7, delete those lines and insert: *Facilities in Juvenile Justice Programs.—The Department of Juvenile Justice shall provide*

And the title is amended as follows:

On page 116, delete lines 2-4 and insert: juvenile justice programs;

Amendment 2 as amended was adopted.

On motion by Senator Silver, by two-thirds vote **HB 349** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

MOTION

On motion by Senator McKay, the rules were waived and time of recess was extended until completion of **SB 1526**, **CS for SB 1598** and **CS for SB 1596**.

SPECIAL ORDER CALENDAR, continued

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

CS for SB 1352—A bill to be entitled An act relating to the Public Service Commission; amending s. 367.081, F.S.; prohibiting the commission from imputing prospective future contributions-in-aid-of-construction against certain utility investments in certain rate proceedings; providing construction; requiring the commission to approve rates for certain services under certain circumstances; providing construction; deleting a requirement that the commission consider a utility's investments in certain lands or facilities in setting final rates; providing an effective date.

—which was previously considered and amended this day.

RECONSIDERATION OF AMENDMENT

Senator Diaz-Balart moved that the Senate reconsider the vote by which **Amendment 5** was adopted. The motion was adopted. The vote was:

Yeas—28

Madam President	Clary	Hargrett	Meek
Bronson	Dawson-White	Holzendorf	Myers
Burt	Diaz-Balart	Horne	Saunders
Campbell	Dyer	Klein	Scott
Carlton	Geller	Laurent	Sullivan
Casas	Grant	Lee	Thomas
Childers	Gutman	McKay	Webster

Nays—9

Brown-Waite	Jones	Kurth	Mitchell
Cowin	King	Latvala	Sebesta
Forman			

The question recurred on **Amendment 5** which failed. The vote was:

Yeas—8

Brown-Waite	Forman	Kurth	Mitchell
Cowin	King	Latvala	Sebesta

Nays—28

Madam President	Clary	Hargrett	McKay
Bronson	Dawson-White	Holzendorf	Myers
Burt	Diaz-Balart	Horne	Saunders
Campbell	Dyer	Kirkpatrick	Scott
Carlton	Geller	Klein	Sullivan
Casas	Grant	Laurent	Thomas
Childers	Gutman	Lee	Webster

SENATOR HORNE PRESIDING

THE PRESIDENT PRESIDING

Senator Brown-Waite moved the following amendment which failed:

Amendment 6 (545256)(with title amendment)—On page 3, between lines 19 and 20, insert:

Section 3. *This act does not apply to any county that is not regulated by the Florida Public Service Commission.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 14, after the semicolon (;) insert: exempting certain counties from application of the act;

The vote was:

Yeas—15

Brown-Waite	Diaz-Balart	Kurth	Myers
Campbell	Forman	Latvala	Sebesta
Casas	Gutman	Meek	Silver
Cowin	King	Mitchell	

Nays—21

Madam President	Geller	Klein	Sullivan
Bronson	Grant	Laurent	Thomas
Carlton	Hargrett	Lee	Webster
Childers	Holzendorf	McKay	
Dawson-White	Horne	Saunders	
Dyer	Kirkpatrick	Scott	

Senator Bronson moved that the rules be waived and **CS for SB 1352** be read the third time by title. The motion failed to receive the required two-thirds vote. The vote was:

Yeas—23

Madam President	Diaz-Balart	Kirkpatrick	Rossin
Bronson	Dyer	Klein	Scott
Carlton	Gutman	Laurent	Sebesta
Casas	Hargrett	Lee	Sullivan
Childers	Holzendorf	McKay	Webster
Dawson-White	Horne	Myers	

Nays—14

Brown-Waite	Geller	Kurth	Saunders
Campbell	Grant	Latvala	Silver
Cowin	Jones	Meek	
Forman	King	Mitchell	

Pursuant to Rule 4.19, **CS for SB 1352** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Sullivan, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 2186, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 2186—A bill to be entitled An act relating to education; amending s. 228.0565, F.S.; extending the duration of pilot programs for deregulated public schools; authorizing additional pilot programs; providing an effective date.

House Amendment 1 (812511)(with title amendment)—remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Subsection (1), paragraph (b) of subsection (3), paragraphs (a) and (d) of subsection (6), and paragraph (b) of subsection (7) of section 228.0565, Florida Statutes, 1998 Supplement, are amended to read:

228.0565 Deregulated public schools.—

(1) PILOT PROGRAM.—To provide public schools the same flexibility and accountability afforded charter schools, pilot programs for deregulated public schools shall be conducted ~~in two large, two medium-sized, and two small school districts. For the 1998-1999 school year, no more than six schools per district, to include no more than two high schools, two middle schools, and two elementary schools, may participate in the flexibility program~~. The following districts are authorized to conduct pilot *programs* ~~program~~ in 1998-1999: Palm Beach, Pinellas, Seminole, Leon, Walton, and Citrus Counties. *The schools and school districts which are participating in the pilot program as of January 1, 1999, are authorized to continue the pilot program through the 2003-2004 school year. Lee County, Duval County, and Broward County are authorized to conduct the pilot program beginning in the 1999-2000 school year through the 2003-2004 school year.*

(3) PROPOSAL.—

(b) A district school board shall receive and review all proposals for a deregulated public school ~~during July and August~~. A district school board must by a majority vote approve or deny a proposal no later than 30 days after the proposal is received. If a proposal is denied, the district school board must, within 10 calendar days, articulate in writing the specific reasons based upon good cause supporting its denial of the proposal.

(6) ELEMENTS OF THE PROPOSAL.—The major issues involving the operation of a deregulated public school shall be considered in advance and written into the proposal.

(a) The proposal shall address, and criteria for approval of the proposal shall be based, on:

1. The school's mission and the students to be served.

2. The focus of the curriculum, the instructional methods to be used, and any distinctive instructional techniques to be employed.

3. The current baseline standard of achievement and the outcomes to be achieved and the method of measurement that will be used.

4. The methods used to identify the educational strengths and needs of students and how well educational goals and performance standards are met by students attending the school. Students in deregulated ~~and flexible~~ public schools shall, at a minimum, participate in the statewide assessment program.

5. In secondary schools, a method for determining that a student has satisfied the requirements for graduation in s. 232.246.

6. A method for resolving conflicts between the school and the district.

7. The admissions procedures and dismissal procedures, including the school's code of student conduct.

8. The ways by which the school's racial/ethnic balance reflects the community it serves or reflects the racial/ethnic range of other public schools in the same school district.

9. The financial and administrative management of the school including a statement of the areas in which the school will have administrative and fiscal autonomy and the areas in which the school will follow school district fiscal and administrative policies.

10. The manner in which the school will be insured, including whether or not the school will be required to have liability insurance, and, if so, the terms and conditions thereof and the amounts of coverage.

11. The qualifications to be required of the teachers.

(d) Upon receipt of the annual report required by paragraph (b), the Department of Education shall provide ~~to~~ the State Board of Education, the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives with a copy of each report and an analysis and comparison of the overall performance of students, to include all students in deregulated public schools whose scores are counted as part of the *statewide* ~~norm-referenced~~ assessment tests, versus comparable public school students in the district as determined by *FCAT and district* ~~norm-referenced~~ assessment tests ~~currently administered in the school district~~, and, as appropriate, the Florida Writes Assessment Test, the High School Competency Test, and other assessments administered pursuant to s. 229.57(3).

(7) EXEMPTION FROM STATUTES.—

(b) *A deregulated public school may, with appropriate justification, request a waiver from the certification requirements of chapter 231. Pursuant to s. 229.592(6), the commissioner may waive requirements of chapter 231 that relate to teacher certification to facilitate innovative practices and to allow local school selection of educational methods.* ~~Teachers employed by or under contract to a deregulated public school shall be certified as required by chapter 231.~~ A deregulated public school may employ or contract with skilled selected noncertified personnel to provide instructional services or to assist instructional staff members as *education paraprofessionals* ~~teacher aides~~ in the same manner as defined in chapter 231. A deregulated public school may not employ an individual to provide instructional services or to serve as *an education paraprofessional* ~~a teacher aide~~ if the individual's certification or licensure as an educator is suspended or revoked by this or any other state. The qualifications of teachers shall be disclosed to parents.

Section 2. This act shall take effect July 1, 1999.

And the title is amended as follows: remove from the title of the bill: the entire title and insert in lieu thereof: A bill to be entitled An act relating to deregulated public schools; amending s. 228.0565, F.S.; providing for the continuation of the deregulated public schools pilot project; authorizing additional districts to participate; revising exemptions from statute for purposes of the pilot project; providing an effective date.

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

Senate Amendment 1 (212514) to House Amendment 1—On page 2, delete line 4 and insert: *Lee County is authorized to*

On motion by Senator Sullivan, the Senate concurred in **House Amendment 1** as amended and requested the House to concur in the Senate amendment to the House amendment.

CS for SB 2186 passed as amended and the action of the Senate was 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

BILLS ON THIRD READING, Continued

The Senate resumed consideration of—

HB 1971—A bill to be entitled An act relating to nursing home facilities; amending s. 430.502, F.S.; establishing an additional memory disorder clinic; authorizing the Department of Elder Affairs and the Department of Children and Families to initiate certain projects; creating s. 400.0078, F.S.; requiring the Office of State Long-Term Care Ombudsman to establish a statewide toll-free telephone number; amending s. 400.022, F.S.; providing immediate access to residents for representatives of the Office of the Attorney General; creating s. 400.0225, F.S.; directing the Agency for Health Care Administration to contract for consumer satisfaction surveys for nursing home residents; providing procedures and requirements for use of such surveys; amending s. 400.0255, F.S.; defining terms relating to facility decisions to transfer or discharge a resident; providing procedures, requirements, and limitations; requiring notice to the agency under certain circumstances; providing for review of a notice of discharge or transfer by the district long-term care ombudsman, upon request; specifying timeframes; amending s. 400.071, F.S.; providing additional requirements for licensure and renewal; providing a certificate-of-need preference for Gold Seal licensees; creating s. 400.118, F.S.; directing the agency to establish a quality assurance early warning system; providing for quality-of-care monitoring; providing duties of monitors; excluding certain information from discovery or introduction in evidence in civil or administrative actions; providing for rapid response teams; amending s. 400.121, F.S.; authorizing the agency to require certain facilities to increase staffing; authorizing such facilities to request an expedited interim rate increase; providing a penalty; amending s. 400.141, F.S.; providing requirements for appointment of a medical director; providing for resident use of a community pharmacy and for certain repackaging of prescription medication; providing for immunity from liability in the administration of repackaged medication; revising conditions for encouraging facilities to provide other needed services; requiring public display of certain assistance information; authorizing Gold Seal facilities to develop programs to provide certified nursing assistant training; amending s. 400.162, F.S.; revising procedures and policies regarding the safekeeping of residents' property; amending s. 400.19, F.S., relating to the agency's right of entry and inspection; providing a time period for investigation of certain complaints; amending s. 400.191, F.S.; revising requirements for provision of information to the public by the agency; amending s. 400.215, F.S.; specifying conditions for probationary employment of applicants, pending results of an abuse registry screening; requiring the agency to provide a direct-access screening system; amending s. 400.23, F.S.; abolishing the Nursing Home Advisory Committee; revising the system for evaluating facility compliance with licensure requirements; eliminating ratings and providing for standard or conditional licensure status; directing the agency to adopt rules to provide minimum staffing requirements for nursing homes and to allow certain staff to assist residents with eating; increasing the maximum penalties for deficiencies in facility operations; creating s. 400.235, F.S.; providing for development of a Gold Seal Program for recognition of facilities demonstrating excellence in long-term care; establishing a Panel on Excellence in Long-Term Care under the Executive Office of the Governor; providing membership; providing program criteria; providing for duties of the panel and the Governor; providing for agency rules; providing for biennial relicensure of Gold Seal Program facilities, under certain conditions; amending s. 400.241, F.S.; prohibiting willful interference with an unannounced inspection; providing a penalty; amending s. 408.035, F.S.; providing certificate-of-need review criteria for Gold Seal facilities; creating s. 430.80, F.S.; requiring that the Agency for Health Care Administration implement a pilot project for establishing teaching nursing homes; specifying requirements for a nursing home facility to be designated as a teaching nursing home; requiring that the agency develop additional criteria; authorizing a teaching nursing home to be affiliated with a medical school within the State University System; providing for annual appropriations to a teaching nursing home; providing certain limitations on the expenditure of funds by a teaching nursing home; amending s. 468.1755, F.S.; providing for disciplinary action against a nursing home administrator who authorizes discharge or transfer of a resident for a reason other than provided by law; amending ss. 394.4625, 400.063, and 468.1756, F.S.; correcting cross references; reenacting ss. 468.1695(3) and 468.1735, F.S.; incorporating the amendment to s. 468.1755, F.S., in references thereto; providing for funding for recruitment of qualified nursing facility staff; creating a panel on Medicaid reimbursement; providing membership and duties; requiring reports; providing for expiration; requiring a study of factors affecting recruitment, training, employment, and retention of qualified certified nursing assistants; requiring a report; repealing s. 400.29, F.S., relating to an agency annual report of nursing home facilities; providing appropriations; providing effective dates.

—which was previously considered this day.

On motion by Senator Clary, by two-thirds vote **HB 1971** was read the third time by title, 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

SPECIAL ORDER CALENDAR, continued

CS for SB 1598—A bill to be entitled An act relating to termination of pregnancies; providing a short title; amending s. 390.011, F.S.; defining terms; amending s. 390.0111, F.S.; revising provisions relating to terminations of pregnancies; prohibiting the performing or inducement of a termination of pregnancy upon a minor without specified notice; providing disciplinary action for violation; prescribing notice requirements; providing exceptions; prescribing procedure for judicial waiver of notice; providing for notice of right to counsel; providing for issuance of a court order authorizing consent to a termination of pregnancy without notification; providing for dismissal of petitions; requiring the issuance of written findings of fact and legal conclusions; providing for expedited appeal; providing for waiver of filing fees; requesting the Supreme Court to adopt rules; allowing legislative sponsors of this act to intervene in certain legal actions; providing for severability; providing an effective date.

—was read the second time by title.

Senator Bronson moved the following amendment:

Amendment 1 (381258)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 390.01115, Florida Statutes, is created to read:

390.01115 Parental Notice of Abortion Act.—

(1) SHORT TITLE.—This section may be cited as the "Parental Notice of Abortion Act."

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

(a) "Actual notice" means notice that is given directly, in person, or by telephone.

(b) "Child abuse" has the meaning ascribed in s. 39.0015(3) and refers to the acts of child abuse against a minor by a family member as defined in s. 741.28(2).

(c) "Constructive notice" means notice that is given by certified mail to the last known address of the parent or legal guardian of a minor, with delivery deemed to have occurred 48 hours after the certified notice is mailed.

(d) "Medical emergency" means a condition that, on the basis of a physician's good-faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate termination of her pregnancy to avert her death, or for which a delay in the termination of her pregnancy will create serious risk of substantial and irreversible impairment of a major bodily function.

(e) "Sexual abuse" has the meaning ascribed in s. 39.01 and refers to the acts of sexual abuse against a minor by a family member as defined in s. 741.28(2).

(3) NOTIFICATION REQUIRED.—

(a) A termination of pregnancy may not be performed or induced upon a minor unless the physician performing or inducing the termination of pregnancy has given at least 48 hours' actual notice to one parent or to the legal guardian of the pregnant minor of his or her intention to perform or induce the termination of pregnancy. The notice may be given by a referring physician. The physician who performs the termination of pregnancy must receive the written statement of the referring physician certifying that the referring physician has given notice. If actual notice is not possible after a reasonable effort has been made, the physician or his or her agent must give 48 hours' constructive notice.

(b) Notice is not required if:

1. A medical emergency exists and there is insufficient time for the attending physician to comply with the notification requirements. If a medical emergency exists, the physician may proceed but must document reasons for the medical necessity in the patient's medical records;

2. Notice is waived in writing by the person who is entitled to notice;

3. Notice is waived by the minor who is or has been married or has had the disability of nonage removed under s. 743.015 or a similar statute of another state;

4. Notice is waived by the patient because the patient has a minor child dependent on her; or

5. Notice is waived under subsection (4).

(c) Violation of this subsection by a physician constitutes grounds for disciplinary action under s. 458.331 or s. 459.015.

(4) PROCEDURE FOR JUDICIAL WAIVER OF NOTICE.—

(a) A minor may petition any circuit court for a waiver of the notice requirements of subsection (3) and may participate in proceedings on her own behalf. The petition must include a statement that the petitioner is pregnant and notice has not been waived. The court may appoint a guardian ad litem for her. A guardian ad litem appointed under this subsection shall act to maintain the confidentiality of the proceedings. The circuit court shall advise the minor that she has a right to court-appointed counsel and shall provide her with counsel upon her request.

(b) Court proceedings under this subsection must be given precedence over other pending matters to the extent necessary to ensure that the court reaches a decision promptly. The court shall rule, and issue written findings of fact and conclusions of law, within 48 hours after the petition is filed, except that the 48-hour limitation may be extended at the request of the minor. If the court fails to rule within the 48-hour period and an extension has not been requested, the petition is granted, and the notice requirement is waived.

(c) If the court finds, by clear evidence, that the minor is sufficiently mature to decide whether to terminate her pregnancy, the court shall issue an order authorizing the minor to consent to the performance or inducement of a termination of pregnancy without the notification of a parent or guardian. If the court does not make the finding specified in this paragraph or paragraph (d), it must dismiss the petition.

(d) If the court finds, by clear evidence, that there is evidence of child abuse or sexual abuse of the petitioner by one or both of her parents or her guardian, or that the notification of a parent or guardian is not in the best interest of the petitioner, the court shall issue an order authorizing the minor to consent to the performance or inducement of a termination of pregnancy without the notification of a parent or guardian. If the court does not make the finding specified in this paragraph or paragraph (c), it must dismiss the petition.

(e) A court that conducts proceedings under this section shall provide for a written transcript of all testimony and proceedings and issue written and specific factual findings and legal conclusions supporting its decision and shall order that a confidential record of the evidence and the judge's findings and conclusions be maintained. At the hearing, the court shall hear evidence relating to the emotional development, maturity, intellect, and understanding of the minor.

(f) An expedited confidential appeal shall be available, as the Supreme Court provides by rule, to any minor to whom the circuit court denies a waiver of notice. An order authorizing a termination of pregnancy without notice is not subject to appeal.

(g) No filing fees or court costs shall be required of any pregnant minor who petitions a court for a waiver of parental notification under this subsection at either the trial or the appellate level.

(h) No county shall be obligated to pay the salaries, costs, or expenses of any counsel appointed by the court under this subsection.

(5) PROCEEDINGS.—The Supreme Court is requested to adopt rules and forms for petitions to ensure that proceedings under subsection (4) are handled expeditiously and in a manner that will satisfy the requirements of state and federal courts.

(6) REPORT.—The Supreme Court, through the Office of the State Courts Administrator, shall report by February 1 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the number of petitions filed under subsection (4) for the preceding year, and the timing and manner of disposal of such petitions by each circuit court.

Section 2. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

Section 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 termination of pregnancies; creating s. 390.01115, F.S.; providing a short title; defining terms; prohibiting the performing or inducement of a termination of pregnancy upon a minor without specified notice; providing disciplinary action for violation; prescribing notice requirements; providing exceptions; prescribing procedure for judicial waiver of notice; providing for notice of right to counsel; providing for issuance of a court order authorizing consent to a termination of pregnancy without notification; providing for dismissal of petitions; requiring the issuance of written findings of fact and legal conclusions; providing for expedited appeal; providing for waiver of filing fees and court costs; precluding assumption of certain expenses by counties; requesting the Supreme Court to adopt rules; requiring the Supreme Court to report annually to the Governor and the Legislature; providing for severability; providing an effective date.

WHEREAS, the Legislature finds that immature minors often lack the ability to make fully informed choices that take into account both immediate and long-range consequences, and

WHEREAS, the unique medical, emotional, and psychological consequences of abortion are sometimes serious and can be lasting, particularly when the patient is immature, and

WHEREAS, the capacity to become pregnant and the capacity for mature judgment concerning the wisdom of an abortion are not necessarily related, and

WHEREAS, parents ordinarily possess information essential to a physician's exercise of his or her best medical judgment concerning the child, and

WHEREAS, parents who are aware that their minor daughter has had an abortion may better ensure that she receives adequate medical attention after her abortion, and

WHEREAS, parental consultation is usually desirable and in the best interests of the minor, and

WHEREAS, the Legislature's purpose in enacting parental notice legislation is to further the important and compelling state interests of protecting minors against their own immaturity, fostering family unity and preserving the family as a viable social unit, protecting the constitutional rights of parents to rear children who are members of their household, and reducing teenage pregnancy and unnecessary abortion, and

WHEREAS, further legislative purposes are to ensure that parents are able to meet their high duty to seek out and follow medical advice pertaining to their children, stay apprised of the medical needs and physical condition of their children, and recognize complications that might arise following medical procedures or services, to preserve the right of parents to pursue a civil action on behalf of their child before expiration of the statute of limitations period, if a facility or physician commits medical malpractice that results in injury to a child, and to prevent, detect, and prosecute batteries, rapes, and other crimes committed upon minors, and

WHEREAS, previous legislation requiring the consent of parents before a physician performed an abortion on their daughter was struck down by the Florida Supreme Court on the basis of the constitutional right of privacy, in the case of In Re: T.W., and this legislation is designed to extend the protection of the law to minor girls and their parents in accordance with the State Constitution, NOW, THEREFORE,

Senator Dawson-White moved the following amendment to **Amendment 1** which failed:

Amendment 1A (090614)—On page 2, line 12 through page 3, line 10, delete those lines and insert:

(3) NOTIFICATION REQUIRED.—

(a) A termination of pregnancy may not be performed or induced upon a minor unless the person performing or inducing the termination of pregnancy has given at least 48 hours actual notice to one parent or to the legal guardian of the pregnant minor and, if the person who has impregnated the minor is also a minor, to one of his parents or to his legal guardian of his or her intention to perform or induce the termination of pregnancy. The notice may be given by a referring physician. The person who performs the termination of pregnancy must receive the written statement of the referring physician certifying that the referring physician has given notice. If actual notice is not possible after a reasonable effort has been made, the person or his or her agent must give 48 hours' constructive notice.

(b) Notice is not required if:

1. A medical emergency exists and there is insufficient time for the attending physician to comply with the notification requirements. If a medical emergency exists, the physician may terminate the pregnancy if he or she has obtained at least one corroborative medical opinion attesting to the medical necessity for emergency medical procedures. If a second physician is unavailable to provide a corroborating opinion or, due to a medical emergency, there is insufficient time to consult with a second physician, the physician may proceed but must document reasons for the medical necessity in the patient's medical records;

2. Notice is waived in writing by all persons who are entitled to notice;

3. Notice is waived if the minor is or has been married or has had the disability of nonage removed under s. 743.015 or a similar statute of another state and the minor who impregnated the minor is or has been married or has had the disability of nonage removed under s. 743.015 or a similar statute of another state;

4. Notice is waived because the patient has a minor child dependent on her; or

5. Notice is waived under subsection (5).

(c) Violation of this subsection by a physician constitutes grounds for disciplinary action under s. 458.331 or s. 459.015.

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

Amendment 1B (093394)(with title amendment)—On page 5, between lines 20 and 21, insert:

Section 2. Subsection (6) of section 382.008, Florida Statutes, 1998 Supplement, is amended to read:

382.008 Death and fetal death registration.—

(6) The original certificate of death or fetal death shall contain all the information required by the department for legal, social, and health research purposes *including for the purpose of determining deaths due to suicide and child abuse of minors who are pregnant*. All information relating to cause of death in all death and fetal death records and the parentage, marital status, and medical information included in all fetal death records of this state are confidential and exempt from the provisions of s. 119.07(1), except for health research purposes as approved by the department; nor may copies of the same be issued except as provided in s. 382.025.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 25, after the first semicolon (;) insert: amending s. 382.008, F.S.; providing additional information to be included on certificates of death or fetal death;

Senator Campbell moved the following amendment to **Amendment 1** which failed:

Amendment 1C (660426)(with title amendment)—On page 5, between lines 26 and 27, insert:

Section 5. Section 39.703, Florida Statutes, 1998 Supplement, is amended to read:

39.703 Initiation of termination of parental rights proceedings*; judicial review*.—

(1) If, in preparation for any judicial review hearing under this chapter, it is the opinion of the social service agency that the parents of the child have not complied with their responsibilities as specified in the written case plan although able to do so, the *department* ~~social service agency~~ shall state its intent to initiate proceedings to terminate parental rights, unless the social service agency can demonstrate to the court that such a recommendation would not be in the child's best interests. If it is the intent of the department ~~or licensed child-placing agency~~ to initiate proceedings to terminate parental rights, the department ~~or licensed child-placing agency~~ shall file a petition for termination of parental rights no later than 3 months after the date of the previous judicial review hearing. If the petition cannot be filed within 3 months, the department ~~or licensed child-placing agency~~ shall provide a written report to the court outlining the reasons for delay, the progress made in the termination of parental rights process, and the anticipated date of completion of the process.

(2) If, at the time of the 12-month judicial review hearing, a child is not returned to the physical custody of the parents, caregivers, or legal custodians, the *department* ~~social service agency~~ shall initiate termination of parental rights proceedings under this chapter within 30 days. Only if the court finds that the situation of the child is so extraordinary and that the best interests of the child will be met by such action at the time of the judicial review may the case plan be extended. If the court decides to extend the plan, the court shall enter detailed findings justifying the decision to extend, as well as the length of the extension. A termination of parental rights petition need not be filed if: the child is being cared for by a relative who chooses not to adopt the child; the court determines that filing such a petition would not be in the best interests of the child; or the state has not provided the child's family, when reasonable efforts to return a child are required, consistent with the time period in the state's case plan, such services as the state deems necessary for the safe return of the child to his or her home. Failure to initiate termination of parental rights proceedings at the time of the 12-month judicial review or within 30 days after such review does not prohibit initiating termination of parental rights proceedings at any other time.

Section 6. Subsections (1) and (2) of section 39.802, Florida Statutes, 1998 Supplement, are amended to read:

39.802 Petition for termination of parental rights; filing; elements.—

(1) All proceedings seeking an adjudication to terminate parental rights pursuant to this chapter must be initiated by the filing of an

original petition by the department, the guardian ad litem, or ~~a licensed child-placing agency or by~~ any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

(2) The form of the petition is governed by the Florida Rules of Juvenile Procedure. The petition must be in writing and signed by the petitioner *or, if the department is the petitioner, by an employee of the department,* under oath stating the petitioner's good faith in filing the petition.

Section 7. Subsection (1) of section 39.806, Florida Statutes, 1998 Supplement, is amended to read:

39.806 Grounds for termination of parental rights.—

(1) The department, the guardian ad litem, ~~a licensed child-placing agency,~~ or any person who has knowledge of the facts alleged or who is informed of said facts and believes that they are true, may petition for the termination of parental rights under any of the following circumstances:

(a) When the parent or parents voluntarily executed a written surrender of the child and consented to the entry of an order giving custody of the child to the department ~~or to a licensed child-placing agency~~ for subsequent adoption and the department ~~or licensed child-placing agency~~ is willing to accept custody of the child.

1. The surrender document must be executed before two witnesses and a notary public or other person authorized to take acknowledgments.

2. The surrender and consent may be withdrawn after acceptance by the department ~~or licensed child-placing agency~~ only after a finding by the court that the surrender and consent were obtained by fraud or duress.

(b) When the identity or location of the parent or parents is unknown and cannot be ascertained by diligent search within 90 days.

(c) When the parent or parents engaged in conduct toward the child or toward other children that demonstrates that the continuing involvement of the parent or parents in the parent-child relationship threatens the life, safety, well-being, or physical, mental, or emotional health of the child irrespective of the provision of services. Provision of services may be evidenced by proof that services were provided through a previous plan or offered as a case plan from a child welfare agency.

(d) When the parent of a child is incarcerated in a state or federal correctional institution and:

1. The period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years;

2. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this paragraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; and

3. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, that termination of the parental rights of the incarcerated parent is in the best interest of the child.

(e) A petition for termination of parental rights may also be filed when a child has been adjudicated dependent, a case plan has been filed with the court, and the child continues to be abused, neglected, or abandoned by the parents. In this case, the failure of the parents to substantially comply for a period of 12 months after an adjudication of the child as a dependent child constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with the case plan was due either to the lack of financial resources of the parents or to the failure of the department to make reasonable efforts to reunify the family. Such 12-month period may begin to run only after the entry of a disposition order placing the custody of the child with the department or a person other than the parent and the approval by the court of a case plan with a goal of reunification with the parent.

(f) When the parent or parents engaged in egregious conduct or had the opportunity and capability to prevent and knowingly failed to prevent egregious conduct that threatens the life, safety, or physical, mental, or emotional health of the child or the child's sibling.

1. As used in this subsection, the term "sibling" means another child who resides with or is cared for by the parent or parents regardless of whether the child is related legally or by consanguinity.

2. As used in this subsection, the term "egregious conduct" means abuse, abandonment, neglect, or any other conduct of the parent or parents that is deplorable, flagrant, or outrageous by a normal standard of conduct. Egregious conduct may include an act or omission that occurred only once but was of such intensity, magnitude, or severity as to endanger the life of the child.

(g) When the parent or parents have subjected the child to aggravated child abuse as defined in s. 827.03, sexual battery or sexual abuse as defined in s. 39.01, or chronic abuse.

(h) When the parent or parents have committed murder or voluntary manslaughter of another child of the parent, or a felony assault that results in serious bodily injury to the child or another child of the parent, or aided or abetted, attempted, conspired, or solicited to commit such a murder or voluntary manslaughter or felony assault.

(i) When the parental rights of the parent to a sibling have been terminated involuntarily.

Section 8. Subsections (2) and (8) of section 39.811, Florida Statutes, 1998 Supplement, are amended to read:

39.811 Powers of disposition; order of disposition.—

(2) If the child is in out-of-home care custody of the department and the court finds that the grounds for termination of parental rights have been established by clear and convincing evidence, the court shall, by order, place the child in the custody of the department for the purpose of adoption ~~or place the child in the custody of a licensed child-placing agency for the purpose of adoption~~.

(8) If the court terminates parental rights, it shall, in its order of disposition, provide for a hearing, to be scheduled no later than 30 days after the date of disposition, in which the department ~~or the licensed child-placing agency~~ shall provide to the court a plan for permanency for the child. Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child. Thereafter, until the adoption of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court shall hold hearings at 6-month intervals to review the progress being made toward permanency for the child.

Section 9. Section 39.812, Florida Statutes, 1998 Supplement, is amended to read:

39.812 Postdisposition relief*; petition for adoption*.—

(1) *If* ~~A licensed child-placing agency or~~ the department ~~which~~ is given custody of a child for subsequent adoption in accordance with this chapter*, the department* may place the child *with an agency as defined in s. 63.032, with a child-caring agency registered under s. 409.176, or* in a family home for prospective subsequent adoption.~~, and the licensed child-placing agency or~~ The department may thereafter become a party to any proceeding for the legal adoption of the child and appear in any court where the adoption proceeding is pending and consent to the adoption,~~;~~ and that consent alone shall in all cases be sufficient.

(2) In any subsequent adoption proceeding, the parents *are* ~~shall~~ not ~~be~~ entitled to ~~any~~ notice *of the proceeding and are not* ~~thereof, nor shall they be~~ entitled to knowledge at any time after the order terminating

parental rights is entered of the whereabouts of the child or of the identity or location of any person having the custody of or having adopted the child, except as provided by order of the court pursuant to this chapter or chapter 63.~~; and~~ In any habeas corpus or other proceeding involving the child brought by any parent of the child, *an* ~~no~~ agent or contract provider of the ~~licensed child-placing agency or~~ department *may not* ~~shall~~ be compelled to divulge that information, but may be compelled to produce the child before a court of competent jurisdiction if the child is still subject to the guardianship of the ~~licensed child-placing agency or~~ department.

(3) The entry of the custody order to the department *does* ~~or licensed child-placing agency shall~~ not entitle the ~~licensed child-placing agency or~~ department to guardianship of the estate or property of the child, but the ~~licensed child-placing agency or~~ department shall be the guardian of the person of the child.

(4) The court shall retain jurisdiction over any child *placed in the custody of* ~~for whom custody is given to a licensed child-placing agency or to~~ the department until the child is adopted. After custody of a child for subsequent adoption has been given to ~~an agency or~~ the department, the court has jurisdiction for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child.

(5) The petition for adoption must be filed in the division of the circuit court which entered the judgment terminating parental rights, unless a motion for change of venue is granted pursuant to s. 47.122. A copy of the consent executed by the department as required under s. 63.062(7) must be attached to the petition. The petition must be accompanied by a form provided by the department which details the social and medical history of the child and each parent and includes the social security number and date of birth for each parent, if such information is available or readily obtainable. The person seeking to adopt the child may not file a petition for adoption until the judgment terminating parental rights becomes final. An adoption proceeding under this subsection is governed by chapter 63, as limited under s. 63.037.

Section 10. Section 63.022, Florida Statutes, 1998 Supplement, is amended to read:

63.022 Legislative intent.—

(1) It is the intent of the Legislature to protect and promote the well-being of persons being adopted and their birth and adoptive parents and to provide to all children who can benefit by it a permanent family life, and, whenever possible, to maintain sibling groups.

(2) The basic safeguards intended to be provided by this *chapter* ~~act~~ are that:

(a) The *minor* ~~child~~ is legally free for adoption.

(b) The required persons consent to the adoption or the parent-child relationship is terminated by judgment of the court.

(c) The required social studies are completed and the court considers the reports of these studies prior to judgment on adoption petitions.

(d) All placements of minors for adoption are reported to the Department of Children and Family Services.

(e) A sufficient period of time elapses during which the *minor* ~~child~~ has lived within the proposed adoptive home under the guidance of the department, *a child-caring agency registered under s. 409.176,* or a licensed child-placing agency.

(f) All expenditures by *adoption entities* ~~intermediaries~~ placing, and persons independently adopting, a minor are reported to the court and become a permanent record in the file of the adoption proceedings.

(g) Social and medical information concerning the *minor* ~~child~~ and the ~~birth~~ parents is furnished by the ~~birth~~ parent when available and filed with the *court before a final hearing on a petition to terminate parental rights pending adoption* ~~consent to the adoption when a minor is placed by an intermediary~~.

(h) A new birth certificate is issued after entry of the adoption judgment.

(i) At the time of the hearing, the court *may* ~~is authorized to~~ order temporary substitute care when it determines that the minor is in an unsuitable home.

(j) The records of all proceedings concerning custody and adoption of *a minor* ~~children~~ are confidential and exempt from ~~the provisions of~~ s. 119.07(1), except as provided in s. 63.162.

(k) The ~~birth~~ parent, the *prospective* adoptive parent, and the *minor* ~~child~~ receive the same or similar safeguards, guidance, counseling, and supervision in *all adoptions* ~~an intermediary adoption as they receive in an agency or department adoption~~.

(l) In all matters coming before the court *under* ~~pursuant to~~ this *chapter* ~~act~~, the court shall enter such orders as it deems necessary and suitable to promote and protect the best interests of the person to be adopted.

(m) In dependency cases initiated by the department, where termination of parental rights occurs, and siblings are separated despite diligent efforts of the department, continuing postadoption communication or contact among the siblings may be ordered by the court if found to be in the best interests of the children.

Section 11. Section 63.032, Florida Statutes, is amended to read:

63.032 Definitions.—As used in this *chapter* ~~act~~, ~~unless the context otherwise requires,~~ the term:

(1)~~(14)~~ "Abandoned" means a situation in which the parent or *person having legal custody* ~~legal custodian~~ of a child, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligations. If, in the opinion of the court, the efforts of such parent or *person having legal custody of the child* ~~legal custodian~~ to support and communicate with the child are only marginal efforts that do not evince a settled purpose to assume all parental duties, the court may declare the child to be abandoned. In making this decision, the court may consider the conduct of a father towards the child's mother during her pregnancy.

(2)~~(10)~~ "Adoption" means the act of creating the legal relationship between parent and child where it did not exist, thereby declaring the child to be legally the child of the adoptive parents and their heir at law and entitled to all the rights and privileges and subject to all the obligations of a child born to such adoptive parents in lawful wedlock.

(3) "Adoption entity" means the department, an agency, a child-caring agency registered under s. 409.176, or an intermediary.

(4)~~(5)~~ "Adult" means a person who is not a minor.

(5)~~(7)~~ "Agency" means any child-placing agency licensed by the department pursuant to s. 63.202 to place minors for adoption.

(6)~~(2)~~ "Child" means a son or daughter, whether by birth or adoption.

(7)~~(3)~~ "Court" means any circuit court of this state and, when the context requires, the court of any state that is empowered to grant petitions for adoption.

(8)~~(1)~~ "Department" means the Department of Children and Family Services.

(9)~~(8)~~ "Intermediary" means an attorney ~~or physician~~ who is licensed or authorized to practice in this state *and who is placing or intends to place a child for adoption* or, for the purpose of adoptive placements of children from out of state with citizens of this state, a child-placing agency licensed in another state that is qualified by the department.

(10) "Legal custody" has the meaning ascribed in s. 39.01.

(11)~~(4)~~ "Minor" means a person under the age of 18 years.

(12) "Parent" has the same meaning ascribed in s. 39.01.

(13)~~(6)~~ "Person" includes a natural person, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, or association, and any other legal entity.

(14) "Relative" has the same meaning ascribed in s. 39.01.

(15)~~(9)~~ "To place" or "placement" means the process of a person giving a child up for adoption and the prospective parents receiving and adopting the child, and includes all actions by any person or *adoption entity* ~~agency~~ participating in the process.

(16)~~(13)~~ "Primarily lives and works outside Florida" means anyone who does not meet the definition of "primary residence and place of employment in Florida."

(17)~~(12)~~ "Primary residence and place of employment in Florida" means a person lives and works in this state at least 6 months of the year and intends to do so for the foreseeable future or military personnel who designate Florida as their place of residence in accordance with the Soldiers' and Sailors' Civil Relief Act of 1940 or employees of the United States Department of State living in a foreign country who designate Florida as their place of residence.

(18)~~(11)~~ "Suitability of the intended placement" includes the fitness of the intended placement, with primary consideration being given to the welfare of the child; the fitness and capabilities of the adoptive parent or parents to function as parent or parents for a particular child; *any familial relationship between the child and the prospective placement;* and the compatibility of the child with the home in which the child is intended to be placed.

Section 12. Section 63.037, Florida Statutes, is created to read:

63.037 Proceedings applicable to cases resulting from a termination of parental rights under chapter 39.—A case in which a minor becomes available for adoption after the parental rights of each parent have been terminated by a judgment entered pursuant to chapter 39 shall be governed by s. 39.812 and this chapter. Adoption proceedings initiated under chapter 39 are exempt from the following provisions of this chapter: disclosure requirements for the adoption entity provided in s. 63.085; general provisions governing termination of parental rights pending adoption provided in s. 63.087; notice and service provisions governing termination of parental rights pending adoption provided in s. 63.088; and procedures for terminating parental rights pending adoption provided in s. 63.089.

Section 13. Section 63.039, Florida Statutes, is created to read:

63.039 Duty of adoption entity to prospective adoptive parents; sanctions.—

(1) An adoption entity placing a minor for adoption has an affirmative duty to follow the requirements of this chapter; specifically, the following provisions, which protect and promote the well-being of persons being adopted and their parents and prospective adoptive parents by promoting certainty, finality, and permanency for such persons. The adoption entity must:

(a) Provide written initial disclosure to the prospective adoptive parent at the time and in the manner required under s. 63.085.

(b) Provide written initial and postbirth disclosure to the parent at the time and in the manner required under s. 63.085.

(c) When a written consent for adoption is obtained, obtain the consent at the time and in the manner required under s. 63.082.

(d) When a written consent or affidavit of nonpaternity for adoption is obtained, obtain a consent to adoption or affidavit of nonpaternity that contains the language required under s. 63.062 or s. 63.082.

(e) Include in the petition to terminate parental rights pending adoption all information required under s. 63.087(6)(e) and (f).

(f) Obtain and file the affidavit of inquiry pursuant to s. 63.088(3), if the required inquiry is not conducted orally in the presence of the court.

(g) When the identity of a person whose consent to adoption is necessary under this chapter is known but the location of such a person is unknown, conduct the diligent search and file the affidavit required under s. 63.088(4).

(h) Serve the petition and notice of hearing to terminate parental rights pending adoption at the time and in the manner required by s. 63.088.

(i) Obtain the written waiver of venue required under s. 63.062 in cases involving a child younger than 6 months of age in which venue for the termination of parental rights will be located in a county other than the county where the parent whose rights are to be terminated resides.

(2) An adoption entity that materially fails to meet a duty specified in subsection (1) may be liable to the prospective adoptive parents for all sums paid by the prospective adoptive parents or on their behalf in anticipation of or in connection with an adoption upon a showing by the moving party that actual injury was caused by the material failure.

(3) If a court finds that a consent or an affidavit of nonpaternity taken under this chapter was obtained by fraud or duress attributable to the adoption entity, the court must award all sums paid by the prospective adoptive parents or on their behalf in anticipation of or in connection with the adoption. The court may also award reasonable attorney's fees and costs incurred by the prospective adoptive parents in connection with the adoption and any litigation related to placement or adoption of a minor. An award under this subsection must be paid directly to the prospective adoptive parents by the adoption entity or by any applicable insurance carrier on behalf of the adoption entity.

(4) If a person whose consent to an adoption is required under s. 63.062 prevails in an action to set aside a consent to adoption, a judgment terminating parental rights pending adoption, or a judgment of adoption, the court must award a reasonable attorney's fee to the prevailing party. An award under this subsection must be paid by the adoption entity or by any applicable insurance carrier on behalf of the adoption entity if the court finds that the acts or omissions of the entity were the basis for the court's order granting relief to the prevailing party.

(5) The court must provide to The Florida Bar any order that imposes sanctions under this section against an attorney acting as an adoption agency or as an intermediary. The court must provide to the Department of Children and Family Services any order that imposes sanctions under this section against an agency. The order must be provided within 30 days after the date that the order was issued.

Section 14. Subsection (1) of section 63.0425, Florida Statutes, is amended to read:

63.0425 Grandparent's right to adopt.—

(1) When a child who has lived with a grandparent for at least 6 months is placed for adoption, the *adoption entity* ~~agency or intermediary~~ handling the adoption shall notify that grandparent of the impending adoption before the petition for adoption is filed. If the grandparent petitions the court to adopt the child, the court shall give first priority for adoption to that grandparent.

Section 15. Section 63.052, Florida Statutes, 1998 Supplement, is amended to read:

63.052 Guardians designated; proof of commitment.—

(1) For minors who have been placed for adoption with and permanently committed to an agency *as defined in s. 63.032 or a child-caring agency registered under s. 409.176, such* ~~the~~ agency shall be the guardian of the person of the *minor* ~~child~~; for those who have been placed for adoption with and permanently committed to the department, the department shall be the guardian of the person of the *minor* ~~child~~.

(2) For minors who have been voluntarily surrendered to an intermediary through an execution of consent to adoption, the intermediary shall be responsible for the *minor* ~~child~~ until the time a court orders preliminary approval of placement of the *minor* ~~child~~ in the prospective adoptive home, at which time the prospective adoptive parents become guardians pending finalization of adoption. *Until a court has terminated parental rights pending adoption and has ordered preliminary approval of placement of the minor in the adoptive home, the minor must be placed in the care of a relative as defined in s. 39.01, in foster care, or in the care of a prospective adoptive home. No minor shall be placed in a prospective*

adoptive home until that home has received a favorable preliminary home study by a licensed child-placing agency, a licensed professional, or an agency, as provided in s. 63.092, within 1 year before such placement in the prospective home. Temporary placement in the prospective home with the prospective adoptive parents does not give rise to a presumption that the parental rights of the parents will subsequently be terminated.

~~(2)~~ For minors who have been placed for adoption with or voluntarily surrendered to an agency, but have not been permanently committed to the agency, the agency shall have the responsibility and authority to provide for the needs and welfare for such minors. For those minors placed for adoption with or voluntarily surrendered to the department, but not permanently committed to the department, the department shall have the responsibility and authority to provide for the needs and welfare for such minors. The *adoption entity may* ~~department, an intermediary, or a licensed child-placing agency has the authority to~~ authorize all appropriate medical care for *a minor* ~~the children~~ who *has* ~~have~~ been placed for adoption with or voluntarily surrendered to *the adoption entity* ~~them~~. The provisions of s. 627.6578 shall remain in effect notwithstanding the guardianship provisions in this section.

(3) If a minor is surrendered to an intermediary for subsequent adoption and a suitable prospective adoptive home is not available *pursuant to s. 63.092 at the time the minor is surrendered to the intermediary or, if the minor is a newborn admitted to a licensed hospital or birth center, at the time the minor is discharged from the hospital or birth center, the minor must be placed in licensed foster care*~~, the intermediary shall be responsible for the child~~ until *such* a suitable prospective adoptive home is available.

(4) If a *minor* ~~child~~ is voluntarily surrendered to an *adoption entity* ~~intermediary~~ for subsequent adoption and the adoption does not become final within 180 days, the *adoption entity* ~~intermediary~~ must report to the court on the status of the *minor* ~~child~~ and the court may at that time proceed under s. 39.701 or take action reasonably necessary to protect the best interest of the *minor* ~~child~~.

(5) The recital in the written consent given by the department that the *minor* ~~child~~ sought to be adopted has been permanently committed to the department shall be prima facie proof of such commitment. The recital in the written consent given by a licensed child-placing agency or the declaration in an answer or recommendation filed by a licensed child-placing agency that the *minor* ~~child~~ has been permanently committed and the child-placing agency is duly licensed by the department shall be prima facie proof of such commitment and of such license.

(6) Unless otherwise authorized by law, the department is not responsible for expenses incurred by *other adoption entities* ~~licensed child-placing agencies or intermediaries~~ participating in placement of a *minor* ~~child~~ for the purposes of adoption.

(7) The court retains jurisdiction of a minor who has been placed for adoption until the adoption is final. After a minor is placed with an adoption entity or prospective adoptive parent, the court may review the status of the minor and the progress toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by a person whose consent to an adoption is required under s. 63.062, the adoption entity, the parents, persons having legal custody of the minor, persons with custodial or visitation rights to the minor, persons entitled to notice pursuant to the Uniform Child Custody Jurisdiction Act or the Indian Child Welfare Act, or upon the court's own motion, the court may review the appropriateness of the adoptive placement of the minor.

Section 16. Section 63.062, Florida Statutes, is amended to read:

63.062 Persons required to consent to adoption*; affidavit of nonpaternity; waiver of venue.*—

(1) Unless *supported by one or more of the grounds enumerated under s. 63.089(3)* ~~consent is excused by the court~~, a petition to *terminate parental rights pending adoption* ~~adopt a minor~~ may be granted only if written consent has been executed *as provided in s. 63.082* after the birth of the minor *or notice has been served under s. 63.088 to* ~~by~~:

(a) The mother of the minor.

(b) The father of the minor, if:

1. The minor was conceived or born while the father was married to the mother*;* ~~.~~

2. The minor is his child by adoption*; or* ~~.~~

3. The minor has been established by court proceeding to be his child.

(c) If there is no father as set forth in paragraph (b), any man established to be the father of the child by scientific tests that are generally acceptable within the scientific community to show a probability of paternity.

(d) If there is no father as set forth in paragraph (b) or paragraph (c), any man who the mother has reason to believe may be the father of the minor and who:

1.~~4.~~ ~~He~~ Has acknowledged in writing, signed in the presence of a competent witness, that he is the father of the minor and has filed such acknowledgment with the Office of Vital Statistics of the Department of Health*;* ~~.~~

2.~~5.~~ ~~He~~ Has provided*, or has attempted to provide,* the child *or the mother during her pregnancy* with support in a repetitive, customary manner*; or* ~~.~~

3. Has been identified by the birth mother as a person she has reason to believe may be the father of the minor in an action to terminate parental rights pending adoption pursuant to this chapter.

(e) Any person who is a party in any pending proceeding in which paternity, custody, or termination of parental rights regarding the minor is at issue.

(f)~~(c)~~ The minor, if more than 12 years of age, unless the court in the best interest of the minor dispenses with the minor's consent.

(2) Any person whose consent is required under paragraph (1)(c) or paragraph (1)(d) may execute an affidavit of nonpaternity in lieu of a consent under this section and by doing so waives notice to all court proceedings after the date of execution. An affidavit of nonpaternity must be executed as provided in s. 63.082. The person executing the affidavit must receive disclosure under s. 63.085 prior to signing the affidavit.

(3) A person who signs a consent to adoption or an affidavit of nonpaternity must be given reasonable notice of his or her right to select a person who does not have an employment, professional, or personal relationship with the adoption entity or the prospective adoptive parents to be present when the consent to adoption or affidavit of nonpaternity is executed and to sign the consent or affidavit as a witness.

(4) An affidavit of nonpaternity must be in substantially the following form:

AFFIDAVIT OF NONPATERNITY

1. I have personal knowledge of the facts stated in this affidavit.

2. I have been told that . . . . has a child. I shall not establish or claim paternity for this child, whose name is ... and whose date of birth is ....

3. The child referenced in this affidavit was not conceived or born while the birth mother was married to me. I AM NOT MARRIED TO THE BIRTH MOTHER, nor do I intend to marry the birth mother.

4. With respect to the child referenced in this affidavit, I have not provided the birth mother with child support or prebirth support; I have not provided her with prenatal care or assisted her with medical expenses; I have not provided the birth mother or her child or unborn child with support of any kind, nor do I intend to do so.

5. I have no interest in assuming the responsibilities of parenthood for this child. I will not acknowledge in writing that I am the father of this child nor institute court proceedings to establish the child as mine.

6. I do not object to any decision or arrangements . . . . makes regarding this child, including adoption.

7. I have been told of my right to choose a person who does not have an employment, professional, or personal relationship with the adoption entity or the prospective adoptive parents to be present when this affidavit is executed and to sign it as a witness.

I WAIVE NOTICE OF ANY AND ALL PROCEEDINGS TO TERMINATE PARENTAL RIGHTS OR FINALIZE AN ADOPTION UNDER CHAPTER 63, FLORIDA STATUTES.

(5)~~(2)~~ The court may require that consent be executed by:

(a) Any person lawfully entitled to custody of the minor; or

(b) The court having jurisdiction to determine custody of the minor, if the person having physical custody of the minor has no authority to consent to the adoption.

(6)~~(3)~~ The petitioner must make good faith and diligent efforts *as provided under s. 63.088* to notify, and obtain written consent from, the persons required to consent to adoption *under this section* ~~within 60 days after filing the petition. These efforts may include conducting interviews and record searches to locate those persons, including verifying information related to location of residence, employment, service in the Armed Forces, vehicle registration in this state, and corrections records~~.

(7)~~(4)~~ If parental rights to the minor have previously been terminated, a licensed child-placing agency, *a child-caring agency registered under s. 409.176,* or the department with which the *minor* ~~child~~ has been placed for subsequent adoption may provide consent to the adoption. In such case, no other consent is required.

(8)~~(5)~~ A petition to adopt an adult may be granted if:

(a) Written consent to adoption has been executed by the adult and the adult's spouse, if any.

(b) Written consent to adoption has been executed by the ~~birth~~ parents, if any, or proof of service of process has been filed, showing notice has been served on the parents as provided in this *chapter* ~~section~~.

(9)(a) In cases involving a child younger than 6 months of age in which venue for the termination of parental rights may be located in a county other than where the parent whose rights are to be terminated resides, the adoption entity must obtain, from any party executing an affidavit of nonpaternity or consent, a waiver of venue, which must be filed with the petition and must be in substantially the following form:

WAIVER OF VENUE

I understand that I have the right to require that the Petition to terminate my parental rights be filed in the county where I reside. I waive such right so that the Petition to Terminate Parental Rights may be filed by (adoption entity) *in* (county name) *county, Florida.*

I understand that, after signing this waiver, I may object to the county where the proceedings to terminate my parental rights will be held by appearing at the hearing or by filing a written objection, on the attached form, with the Clerk of the Court who is located at (address of court). *If I later object to this transfer of venue, the case will be transferred to a county in Florida in which I reside. If I have no such residence, the case will be transferred to a county where another parent resides or where at least one parent resided at the time of signing a consent or affidavit of nonpaternity.*

(b)1. The waiver of venue must be a separate document containing no consents, disclosures, or other information unrelated to venue.

2. Adoption entities must attach to the waiver of venue a form that the parent whose rights are to be terminated may use to request a transfer of venue for the proceeding. This form must contain the intended caption of the action for termination of parental rights and information identifying the child which will be sufficient for the clerk to properly file the form upon receipt.

3. This form must include a notice that if an adoption entity knows that a parent whose rights will be terminated intends to object to the termination but intentionally files the petition for termination of parental rights in a county which is not consistent with the required venue under such circumstances, the adoption entity shall be responsible for the attorney's fees of the parent contesting the transfer of venue.

Section 17. Section 63.082, Florida Statutes, is amended to read:

63.082 Execution of consent *to adoption or affidavit of nonpaternity*; family *social and* medical history; withdrawal of consent.—

(1) Consent *to an adoption or an affidavit of nonpaternity* shall be executed as follows:

(a) If by the person to be adopted, by oral or written statement in the presence of the court or by being acknowledged before a notary public.

(b) If by an agency, by affidavit from its authorized representative.

(c) If by any other person, in the presence of the court or by affidavit.

(d) If by a court, by an appropriate order or certificate of the court.

(2) A consent that does not name or otherwise identify the adopting parent is valid if the consent contains a statement by the person consenting that the consent was voluntarily executed and that identification of the adopting parent is not required for granting the consent.

(3)(a) The department must provide a consent form and a family *social and* medical history form to an *adoption entity that* ~~intermediary who~~ intends to place a child for adoption. ~~The~~ Forms *containing, at a minimum, the same information as the forms promulgated by the department* ~~completed by the birth parents~~ must be attached to the petition *to terminate parental rights pending adoption* and must contain such biological and sociological information~~,~~ or such information as to the family medical history, regarding the *minor* ~~child~~ and the ~~birth~~ parents, as is required by the department. The information must be incorporated into the final home investigation report specified in s. 63.125. *Each parent must* ~~The court may also require that the birth mother~~ be interviewed by a representative of the department, a licensed child-placing agency, or a *licensed* professional, pursuant to s. 63.092, *before the consent is executed, unless the parent cannot be located or identified. A summary of each interview, or a statement that the parent is unlocated or unidentified, must be filed with the petition to terminate parental rights pending adoption and included in the final home investigation report filed under s. 63.125. The interview may be excused by the court for good cause.*

(b) Consent executed by ~~the department, by a licensed child-placing agency, or by~~ an appropriate order or certificate of the court *if executed under s. 63.062(5)(b)* must be attached to the petition *to terminate parental rights pending adoption* ~~and must be accompanied by a family medical history that includes such information concerning the medical history of the child and the birth parents as is available or readily obtainable~~.

(c) If any required consent or social and medical history is unavailable because the person whose consent is required cannot be located or identified, the petition to terminate parental rights pending adoption must be accompanied by the affidavit of diligent search required under s. 63.088.

(4)*(a)* The consent *to an adoption or affidavit of nonpaternity shall not* ~~for voluntary surrender must~~ be executed *before* ~~after~~ the birth of the *minor.*

(b) A consent to the adoption of a minor who is to be placed for adoption with identified prospective adoptive parents under s. 63.052, upon the minor's release from a licensed hospital or birth center following birth, shall not be executed sooner than 48 hours after the minor's birth or the day the birth mother has been notified in writing, either on her patient chart or in release paperwork, that she is fit to be released from a licensed hospital or birth center, whichever is earlier. A consent executed under this paragraph is valid upon execution and may be withdrawn only if the court finds that it was obtained by fraud or under duress.

(c) When the minor to be adopted is not placed pursuant to s. 63.052 upon the minor's release from a licensed hospital or birth center following birth, the consent to adoption may be executed at any time after the birth of the minor. While such consent is valid upon execution, it is subject to the 3-day revocation period under subsection (7) or may be revoked at any time prior to the placement of the minor with the prospective adoptive parents, whichever is later.

(d) The consent to adoption or the affidavit of nonpaternity must be signed ~~child,~~ in the presence of two witnesses, and be acknowledged before a notary public *who is not signing as one of the witnesses. The notary public must legibly note on the consent or the affidavit the date and time of execution.* The witnesses' names must be typed or printed underneath their signatures. *The witnesses'* ~~, and their~~ home or business

addresses and social security numbers, *driver's license numbers, or state identification card numbers* must be included. The absence of a social security number, *driver's license number, or state identification card number* shall not ~~be deemed to~~ invalidate the consent. *The person who signs the consent or the affidavit has the right to have at least one of the witnesses be an individual who does not have an employment, professional, or personal relationship with the adoption entity or the prospective adoptive parents. The adoption entity must give reasonable notice to the person signing the consent or affidavit of the right to select a witness of his or her own choosing. The person who signs the consent or affidavit must acknowledge in writing on the consent or affidavit that such notice was given and indicate the witness, if any, who was selected by the person signing the consent or affidavit. The adoption entity must include its name, address, and telephone number on the consent to adoption or affidavit of nonpaternity.*

(e) A consent to adoption must contain, in at least 16-point boldfaced type, an acknowledgment of the parent's rights in substantially the following form:

YOU HAVE THE RIGHT TO SELECT AT LEAST ONE PERSON WHO DOES NOT HAVE AN EMPLOYMENT, PROFESSIONAL, OR PERSONAL RELATIONSHIP WITH THE ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE PARENTS TO BE PRESENT WHEN THIS AFFIDAVIT IS EXECUTED AND TO SIGN IT AS A WITNESS. YOU MUST ACKNOWLEDGE ON THIS FORM THAT YOU WERE NOTIFIED OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS OR WITNESSES YOU SELECTED, IF ANY.

YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU MAY DO ANY OF THE FOLLOWING INSTEAD OF SIGNING THIS CONSENT OR BEFORE SIGNING THIS CONSENT:

1. CONSULT WITH AN ATTORNEY;

2. HOLD, CARE FOR, AND FEED THE CHILD;

3. PLACE THE CHILD IN FOSTER CARE OR WITH ANY FRIEND OR FAMILY MEMBER YOU CHOOSE WHO IS WILLING TO CARE FOR THE CHILD;

4. TAKE THE CHILD HOME UNLESS OTHERWISE LEGALLY PROHIBITED; AND

5. FIND OUT ABOUT THE COMMUNITY RESOURCES THAT ARE AVAILABLE TO YOU IF YOU DO NOT GO THROUGH WITH THE ADOPTION.

IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP ALL RIGHTS TO YOUR CHILD. YOUR CONSENT IS VALID AND BINDING UNLESS WITHDRAWN AS PERMITTED BY LAW. IF YOU ARE GIVING UP YOUR RIGHTS TO A CHILD WHO IS TO BE PLACED FOR ADOPTION WITH IDENTIFIED PROSPECTIVE ADOPTIVE PARENTS UPON THE CHILD'S RELEASE FROM A LICENSED HOSPITAL OR BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD WILL BE IMPOSED BEFORE YOU MAY SIGN THE CONSENT FOR ADOPTION. YOU MUST WAIT 48 HOURS FROM THE TIME OF BIRTH, OR UNTIL THE BIRTH MOTHER HAS BEEN NOTIFIED IN WRITING, EITHER ON HER PATIENT CHART OR IN RELEASE PAPERS, THAT SHE IS FIT TO BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS SOONER, BEFORE YOU MAY SIGN THE CONSENT FOR ADOPTION. ONCE YOU HAVE SIGNED THE CONSENT, IT IS VALID AND BINDING AND CANNOT BE WITHDRAWN UNLESS A COURT FINDS THAT IT WAS OBTAINED BY FRAUD OR UNDER DURESS.

IF YOU ARE GIVING UP YOUR RIGHTS TO A CHILD WHO IS NOT PLACED FOR ADOPTION UPON THE CHILD'S RELEASE FROM A LICENSED HOSPITAL OR BIRTH CENTER FOLLOWING BIRTH, YOU MAY SIGN THE CONSENT AT ANY TIME AFTER THE BIRTH OF THE CHILD. WHILE THE CONSENT IS VALID AND BINDING WHEN SIGNED, YOU HAVE TIME TO CHANGE YOUR MIND. THIS TIME IS CALLED THE REVOCATION PERIOD. WHEN THE REVOCATION PERIOD APPLIES, YOU MAY WITHDRAW YOUR CONSENT FOR ANY REASON AT ANY TIME PRIOR TO THE PLACEMENT OF THE CHILD WITH THE PROSPECTIVE ADOPTIVE PARENTS, OR IF YOU DO IT WITHIN 3 BUSINESS DAYS AFTER THE DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS LATER.

TO WITHDRAW YOUR CONSENT DURING THE REVOCATION PERIOD, YOU MUST:

1. NOTIFY THE ADOPTION ENTITY, BY WRITING A LETTER, THAT YOU ARE WITHDRAWING YOUR CONSENT.

2. MAIL THE LETTER AT A UNITED STATES POST OFFICE WITHIN 3 BUSINESS DAYS AFTER THE DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS LATER. THE TERM "BUSINESS DAY" MEANS ANY DAY ON WHICH THE UNITED STATES POSTAL SERVICE ACCEPTS CERTIFIED MAIL FOR DELIVERY.

3. SEND THE LETTER BY CERTIFIED UNITED STATES MAIL WITH RETURN RECEIPT REQUESTED.

4. PAY POSTAL COSTS AT THE TIME YOU MAIL THE LETTER.

5. KEEP THE CERTIFIED MAIL RECEIPT AS PROOF THAT CONSENT WAS WITHDRAWN IN A TIMELY MANNER.

TO WITHDRAW YOUR CONSENT PRIOR TO THE PLACEMENT OF THE CHILD WITH THE PROSPECTIVE ADOPTIVE PARENTS, YOU MUST NOTIFY THE ADOPTION ENTITY, IN WRITING BY CERTIFIED UNITED STATES MAIL, RETURN RECEIPT REQUESTED. THE ADOPTION ENTITY YOU SHOULD NOTIFY IS: (name of adoption entity), (address of adoption entity), (phone number of adoption entity).

ONCE THE REVOCATION PERIOD IS OVER, OR THE CHILD HAS BEEN PLACED WITH THE PROSPECTIVE ADOPTIVE PARENTS, WHICHEVER OCCURS LATER, YOU MAY NOT WITHDRAW YOUR CONSENT UNLESS YOU CAN PROVE IN COURT THAT CONSENT WAS OBTAINED BY FRAUD OR UNDER DURESS.

(5) Before any consent to adoption or affidavit of nonpaternity is executed by a parent, but after the birth of the minor, all requirements of disclosure under s. 63.085 must be met.

(6) A copy of each consent signed in an action for termination of parental rights pending adoption must be provided to the person who executed the consent to adoption. The copy must be hand delivered, with a written acknowledgment of receipt signed by the person whose consent is required, or mailed by first class United States mail to the address of record in the court file. If a copy of a consent cannot be provided as required in this subsection, the adoption entity must execute an affidavit stating why the copy of the consent is undeliverable. The original consent and acknowledgment of receipt, an acknowledgment of mailing by the adoption entity, or an affidavit stating why the copy of the consent is undeliverable must be filed with the petition for termination of parental rights pending adoption.

(7)~~(5)~~(a) *A consent that is being withdrawn under paragraph (4)(c) may be withdrawn at any time prior to the minor's placement with the prospective adoptive parents or by notifying the adoption entity in writing by certified United States mail, return receipt requested, not later than 3 business days after execution of the consent or 1 business day after the date of the birth mother's discharge from a licensed hospital or birth center, whichever occurs later. As used in this subsection, the term "business day" means any day on which the United States Postal Service accepts certified mail for delivery.*

(b) Upon receiving written notice from a person of that person's desire to withdraw consent to adoption, the adoption entity must contact the prospective adoptive parent to arrange a time certain for the adoption entity to regain physical custody of the minor, unless, upon a motion for emergency hearing by the adoption entity, the court determines in written findings that placement of the minor with the person withdrawing consent may endanger the minor.

(c) If the court finds that such placement may endanger the minor, the court must enter an order regarding continued placement of the minor. The order shall include, but not be limited to, whether temporary placement in foster care is appropriate, whether an investigation by the depart-

ment is recommended, and whether a relative within the third degree is available for the temporary placement.

(d) If the person withdrawing consent claims to be the father of the minor but has not been established to be the father by marriage, court order, or scientific testing, the court may order scientific paternity testing and reserve ruling on removal of the minor until the results of such testing have been filed with the court.

(e) The adoption entity must return the minor within 3 days after notification of the withdrawal of consent or after the court determines that withdrawal is valid and binding upon consideration of an emergency motion, as filed pursuant to subsection (b), to the physical custody of the person withdrawing consent.

(f) Following the revocation period for withdrawal of consent described in paragraph (a), or the placement of the child with the prospective adoptive parents, whichever occurs later, consent may be withdrawn only when the court finds that the consent was obtained by fraud or *under* duress.

(g) An affidavit of nonpaternity may be withdrawn only if the court finds that the affidavit was obtained by fraud or under duress.

Section 18. Section 63.085, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 63.085, F.S., for present text.)

63.085 Disclosure by adoption entity.—

(1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE ADOPTIVE PARENTS.—Not later than 7 days after a person seeking to adopt a minor or a person seeking to place a minor for adoption contacts an adoption entity in person or provides the adoption entity with a mailing address, the entity must provide a written disclosure statement to that person if the entity agrees or continues to work with such person. If an adoption entity is assisting in the effort to terminate the parental rights of a parent who did not initiate the contact with the adoption entity, the written disclosure must be provided within 7 days after that parent is identified and located. The written disclosure statement must be in substantially the following form:

ADOPTION DISCLOSURE

THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE PROVIDED TO ALL PERSONS CONSIDERING ADOPTING A MINOR OR SEEKING TO PLACE A MINOR FOR ADOPTION, TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING ADOPTION UNDER FLORIDA LAW:

1. Under section 63.102, Florida Statutes, the existence of a placement or adoption contract signed by the parent or prospective adoptive parent, prior approval of that contract by the court, or payment of any expenses permitted under Florida law does not obligate anyone to sign a consent or ultimately place a minor for adoption.

2. Under sections 63.092 and 63.125, Florida Statutes, a favorable preliminary home study, before the minor may be placed in that home, and a final home investigation, before the adoption becomes final, must be completed.

3. Under section 63.082, Florida Statutes, a consent to adoption or affidavit of nonpaternity may not be signed until after the birth of the minor.

4. Under section 63.082, Florida Statutes, if the minor is to be placed for adoption with identified prospective adoptive parents upon release from a licensed hospital or birth center following birth, the consent to adoption may not be signed until 48 hours after birth or until the day the birth mother has been notified in writing, either on her patient chart or in release papers, that she is fit to be released from the licensed hospital or birth center, whichever is sooner. The consent to adoption or affidavit of nonpaternity is valid and binding upon execution unless the court finds it was obtained by fraud or under duress.

5. Under section 63.082, Florida Statutes, if the minor is not placed for adoption with the prospective adoptive parent upon release from the hospital or birth center following birth, a 3-day revocation period applies during which consent may be withdrawn for any reason by notifying the adoption entity in writing. In order to withdraw consent, the written withdrawal of consent must be mailed at a United States Post Office no later than 3 business days after execution of the consent or 1 business day after the date of the birth mother's discharge from a licensed hospital or birth center, whichever occurs later. For purposes of mailing the withdrawal of consent, the term "business day" means any day on which the United States Postal Service accepts certified mail for delivery. The letter must be sent by certified United States mail, return receipt requested. Postal costs must be paid at the time of mailing and the receipt should be retained as proof that consent was withdrawn in a timely manner.

6. Under section 63.082, Florida Statutes, and notwithstanding the revocation period, the consent may be withdrawn at any time prior to the placement of the child with the prospective adoptive parent, by notifying the adoption entity in writing by certified United States mail, return receipt requested.

7. Under section 63.082, Florida Statutes, if an adoption entity timely receives written notice from a person of that person's desire to withdraw consent, the adoption entity must contact the prospective adoptive parent to arrange a time certain to regain physical custody of the child. Absent a court order for continued placement of the child entered under section 63.082, Florida Statutes, the adoption entity must return the minor within 3 days after notification of the withdrawal of consent to the physical custody of the person withdrawing consent. After the revocation period for withdrawal of consent ends, or after the placement of the child with prospective adoptive parent, whichever occurs later, the consent may be withdrawn only if the court finds that the consent was obtained by fraud or under duress.

8. Under section 63.082, Florida Statutes, an affidavit of nonpaternity, once executed, may be withdrawn only if the court finds that it was obtained by fraud or under duress.

9. Under section 63.082, Florida Statutes, a person who signs a consent to adoption or an affidavit of nonpaternity must be given reasonable notice of his or her right to select a person who does not have an employment, professional, or personal relationship with the adoption entity or the prospective adoptive parents to be present when the consent or affidavit is executed and to sign the consent or affidavit as a witness.

10. Under section 63.088, Florida Statutes, specific and extensive efforts are required by law to attempt to obtain the consents required under section 63.062, Florida Statutes. If these efforts are unsuccessful, the court may not enter a judgment terminating parental rights pending adoption until certain requirements have been met.

11. Under Florida law, an intermediary may represent the legal interests of only the prospective adoptive parents. Each person whose consent to an adoption is required under section 63.062, Florida Statutes, is entitled to seek independent legal advice and representation before signing any document or surrendering parental rights.

12. Under section 63.182, Florida Statutes, an action or proceeding of any kind to vacate, set aside, or otherwise nullify a judgment of adoption or an underlying judgment terminating parental rights pending adoption, on any ground, including duress but excluding fraud, must be filed within 1 year after entry of the judgment terminating parental rights pending adoption. Such an action or proceeding for fraud must be filed within 2 years after entry of the judgment terminating parental rights.

13. Under section 63.089, Florida Statutes, a judgment terminating parental rights pending adoption is voidable and any later judgment of adoption of that minor is voidable if, upon the motion of a parent, the court finds that any person knowingly gave false information that prevented the parent from timely making known his or her desire to assume parental responsibilities toward the minor or to exercise his or her parental rights. The motion must be filed with the court that originally entered the judgment. The motion must be filed within a reasonable time, but not later than 2 years after the date the judgment to which the motion is directed was entered.

14. Under section 63.165, Florida Statutes, the State of Florida maintains a registry of adoption information. Information about the registry is available from the Department of Children and Family Services.

15. Under section 63.032, Florida Statutes, a court may find that a parent has abandoned his or her child based on conduct during the

pregnancy or based on conduct after the child is born. In addition, under section 63.089, Florida Statutes, the failure of a parent to respond to notices of proceedings involving his or her child shall result in termination of parental rights of a parent. A lawyer can explain what a parent must do to protect his or her parental rights. Any parent wishing to protect his or her parental rights should act IMMEDIATELY.

16. Each parent and prospective adoptive parent is entitled to independent legal advice and representation. Attorney information may be obtained from the yellow pages, The Florida Bar's lawyer referral service, and local legal aid offices and bar associations.

17. Counseling services may be helpful while making a parenting decision. Consult the yellow pages of the telephone directory.

18. Medical and social services support is available if the parent wishes to retain parental rights and responsibilities. Consult the Department of Children and Family Services.

19. Under section 63.039, Florida Statutes, an adoption entity has certain legal responsibilities and may be liable for damages to persons whose consent to an adoption is required or to prospective adoptive parents for failing to materially meet those responsibilities. Damages may also be recovered from an adoption entity if a consent to adoption or affidavit of nonpaternity is obtained by fraud or under duress attributable to an adoption entity.

20. Under section 63.097, Florida Statutes, reasonable living expenses of the birth mother may be paid by the prospective adoptive parents and the adoption entity only if the birth mother is unable to pay due to unemployment, underemployment, or disability. The law also allows payment of reasonable and necessary medical expenses, expenses necessary to comply with the requirements of chapter 63, Florida Statutes, court filing expenses, and costs associated with advertising. Certain documented legal, counseling, and other professional fees may be paid. Prior approval of the court is not required until the cumulative total of amounts permitted exceeds $2,500 in legal or other fees, $500 in court costs, $3,000 in expenses or $1,500 in cumulative expenses incurred prior to the date the prospective adoptive parent retains the adoption entity. The following fees, costs, and expenses are prohibited:

a. Any fee or expense that constitutes payment for locating a minor for adoption.

b. Any lump-sum payment to the entity which is nonrefundable directly to the payor or which is not itemized on the affidavit.

c. Any fee on the affidavit which does not specify the service that was provided and for which the fee is being charged, such as a fee for facilitation or acquisition.

The court may reduce amounts charged or refund amounts that have been paid if it finds that these amounts were more than what was reasonable or allowed under the law.

21. Under section 63.132, Florida Statutes, the adoption entity and the prospective adoptive parents must sign and file with the court a written statement under oath listing all the fees, expenses, and costs made, or agreed to be made, by or on behalf of the prospective adoptive parents and any adoption entity in connection with the adoption. The affidavit must state whether any of the expenses were eligible to be paid for by any other source.

22. Under section 63.132, Florida Statutes, the court order approving the money spent on the adoption must be separate from the judgment making the adoption final. The court may approve only certain costs and expenses allowed under s. 63.097. The court may approve only fees that are allowed under law and that it finds to be "reasonable." A good idea of what is and is not allowed to be paid for in an adoption can be determined by reading sections 63.097 and 63.132, Florida Statutes.

(2) ACKNOWLEDGMENT OF DISCLOSURE.—The adoption entity must obtain a written statement acknowledging receipt of the disclosure required under subsection (1) and signed by the persons receiving the disclosure or, if it is not possible to obtain such an acknowledgment, the adoption entity must execute an affidavit stating why an acknowledgment could not be obtained. If the disclosure was delivered by certified United States mail, return receipt requested, a return receipt signed by the person from whom acknowledgment is required is sufficient to meet the requirements of this subsection. A copy of the acknowledgment of receipt of the disclosure must be provided to the person signing it. A copy of the acknowledgment or affidavit executed by the adoption entity in lieu of the acknowledgment must be maintained in the file of the adoption entity. The original acknowledgment or affidavit must be filed with the court. In the case of a disclosure provided under subsection (1), the original acknowledgment or affidavit must be included in the preliminary home study required in s. 63.092.

(3) POSTBIRTH DISCLOSURE TO PARENTS.—Before execution of any consent to adoption by a parent, but after the birth of the minor, all requirements of subsections (1) and (2) for making certain disclosures to a parent and obtaining a written acknowledgment of receipt must be repeated.

Section 19. Section 63.087, Florida Statutes, is created to read:

63.087 Proceeding to terminate parental rights pending adoption; general provisions.—

(1) INTENT.—It is the intent of the Legislature that a court determine whether a minor is legally available for adoption through a separate proceeding terminating parental rights prior to the filing of a petition for adoption.

(2) GOVERNING RULES.—The Florida Family Law Rules of Procedure govern a proceeding to terminate parental rights pending adoption unless otherwise provided by law.

(3) JURISDICTION.—A court of this state which is competent to decide child welfare or custody matters has jurisdiction to hear all matters arising from a proceeding to terminate parental rights pending adoption. All subsequent proceedings for the adoption of the minor, if the petition for termination is granted, must be conducted by the same judge who conducted the termination proceedings, if that judge is still available within the division of the court which conducts termination or adoption cases or, if that judge is unavailable, by another judge within the division.

(4) VENUE.—

(a) A petition to terminate parental rights pending adoption must be filed:

1. In the county where the child resided for the previous 6 months;

2. If the child is younger than 6 months of age or has not continuously resided in one county for the previous 6 months, in the county where the parent resided at the time of the execution of the consent to adoption or the affidavit of nonpaternity;

3. If the child is younger than 6 months of age and a waiver of venue has been obtained pursuant to 63.062 in the county where the adoption entity is located or, if the adoption entity has more than one place of business, in the county which is located in closest proximity to the county in which the parent whose rights are to be terminated resided at the time of execution of the consent or affidavit of nonpaternity; or

4. If there is no consent or affidavit of nonpaternity executed by a parent, in the county where the birth mother resides.

5. If neither parent resides in the state, venue is in the county where the adoption entity is located.

(b) Regardless of the age of the child, if the adoption entity is notified that a parent whose parental rights are to be terminated intends to contest the termination, venue must be in the county where that parent resides. If there is no such residence in this state, venue must be in the county where:

1. At least one parent whose rights are to be terminated resides; or

2. At least one parent resided at the time of execution of a consent or affidavit of nonpaternity; or

3. The adoption entity is located if neither subparagrph 1. nor subparagraph 2. applies.

(c) If a petition for termination of parental rights has been filed and a parent whose rights are to be terminated objects to venue, there shall be a hearing in which the court shall immediately transfer venue to one of the counties listed in this subsection. The court is to consider for purposes of selecting venue the ease of access to the court of the parent who intends to contest a termination of parental rights.

(d) If there is a transfer of venue, the adoption entity or the petitioner shall bear the cost of venue transfer.

(5) PREREQUISITE FOR ADOPTION.—A petition for adoption may not be filed until 30 days after the date the judge signed the judgment terminating parental rights pending adoption under this chapter, unless the adoptee is an adult or the minor has been the subject of a judgment terminating parental rights under chapter 39.

(6) PETITION.—

(a) A proceeding seeking to terminate parental rights pending adoption pursuant to this chapter must be initiated by the filing of an original petition after the birth of the minor.

(b) The petition may be filed by a parent or person having legal custody of the minor. The petition may be filed by an adoption entity only if a parent or person having legal custody who has executed a consent to adoption pursuant to s. 63.082 consents in writing to the entity filing the petition. The original of such consent must be filed with the petition.

(c) The petition must be entitled: "In the Matter of the Proposed Adoption of a Minor Child."

(d) A petition to terminate parental rights may be consolidated with a previously filed petition for a declaratory statement filed under s. 63.102. Only one filing fee may be assessed for both the termination of parental rights and declaratory-statement petitions.

(e) The petition to terminate parental rights pending adoption must be in writing and signed by the petitioner under oath stating the petitioner's good faith in filing the petition. A written consent to adoption, affidavit of nonpaternity, or affidavit of diligent search under s. 63.088, for each person whose consent to adoption is required under s. 63.062, must be executed and attached.

(f) The petition must include:

1. The minor's name, gender, date of birth, and place of birth. The petition must contain all names by which the minor is or has been known, excluding the minor's prospective adoptive name but including the minor's legal name at the time of the filing of the petition, to allow interested parties to the action, including parents, persons having legal custody of the minor, persons with custodial or visitation rights to the minor, and persons entitled to notice pursuant to the Uniform Child Custody Jurisdiction Act or the Indian Child Welfare Act, to identify their own interest in the action.

2. If the petition is filed before the day the minor is 6 months old and if the identity or location of the father is unknown, each city in which the mother resided or traveled, in which conception may have occurred, during the 12 months before the minor's birth, including the county and state in which that city is located.

3. Unless a consent to adoption or affidavit of nonpaternity executed by each person whose consent is required under s. 63.062 is attached to the petition, the name and the city of residence, including the county and state in which that city is located, of:

a. The minor's mother;

b. Any man whom the mother reasonably believes may be the minor's father; and

c. Any person who has legal custody, as defined in s. 39.01, of the minor.

If a required name or address is not known, the petition must so state.

4. All information required by the Uniform Child Custody Jurisdiction Act and the Indian Child Welfare Act.

5. A statement of the grounds under s. 63.089 upon which the petition is based.

6. The name, address, and telephone number of any adoption entity seeking to place the minor for adoption.

7. The name, address, and telephone number of the division of the circuit court in which the petition is to be filed.

(7) ANSWER NOT REQUIRED.—An answer to the petition or any pleading need not be filed by any minor, parent, or person having legal custody of the minor, but any matter that might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing. However, failure to file a written response or to appear at the hearing on the petition constitutes grounds upon which the court may terminate parental rights. Notwithstanding the filing of any answer or any pleading, any person present at the hearing to terminate parental rights pending adoption whose consent to adoption is required under s. 63.062 must:

(a) Be advised by the court that he or she has a right to ask that the hearing be reset for a later date so that the person may consult with an attorney;

(b) Be given an opportunity to deny the allegations in the petition; and

(c) Be given the opportunity to challenge the validity of any consent or affidavit of nonpaternity signed by any person.

Section 20. Section 63.088, Florida Statutes, is created to read:

63.088 Proceeding to terminate parental rights pending adoption; notice and service; diligent search.—

(1) INITIATE LOCATION AND IDENTIFICATION PROCEDURES.—When the location or identity of a person whose consent to an adoption is required but is not known, the adoption entity must begin the inquiry and diligent search process required by this section not later than 7 days after the date on which the person seeking to place a minor for adoption has evidenced in writing to the entity a desire to place the minor for adoption with that entity, or not later than 7 days after the date any money is provided as permitted under this chapter by the adoption entity for the benefit of the person seeking to place a minor for adoption.

(2) LOCATION AND IDENTITY KNOWN.—Before the court may determine that a minor is available for adoption, and in addition to the other requirements set forth in this chapter, each person whose consent is required under s. 63.062, who has not executed an affidavit of nonpaternity and whose location and identity have been determined by compliance with the procedures in this section, must be personally served, pursuant to chapter 48, at least 30 days before the hearing with a copy of the petition to terminate parental rights pending adoption and with notice in substantially the following form:

NOTICE OF PETITION AND HEARING
TO TERMINATE PARENTAL RIGHTS PENDING ADOPTION

A petition to terminate parental rights pending adoption has been filed. A copy of the petition is being served with this notice. There will be a hearing on the petition to terminate parental rights pending adoption on ... (date) ... at ... (time) ... before ... (judge) ... at ... (location, including complete name and street address of the courthouse) .... The court has set aside ... (amount of time) ... for this hearing. If you executed a consent or an affidavit of nonpaternity and a waiver of venue, you have the right to request that the termination of parental rights hearing be transferred to the county in which you reside.

UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE TO FILE A WRITTEN RESPONSE TO THIS NOTICE WITH THE COURT OR TO APPEAR AT THIS HEARING CONSTITUTES GROUNDS UPON WHICH THE COURT SHALL END ANY PARENTAL RIGHTS YOU MAY HAVE REGARDING THE MINOR CHILD.

(3) REQUIRED INQUIRY.—In proceedings initiated under s. 63.087, the court must conduct an inquiry of the person who is placing the minor for adoption and of any relative or person having legal custody

of the minor who is present at the hearing and likely to have the following information regarding the identity of:

(a) Any person to whom the mother of the minor was married at any time when conception of the minor may have occurred or at the time of the birth of the minor;

(b) Any person who has been declared by a court to be the father of the minor;

(c) Any man with whom the mother was cohabiting at any time when conception of the minor may have occurred;

(d) Any person the mother has reason to believe may be the father and from whom she has received payments or promises of support with respect to the minor or because of her pregnancy;

(e) Any person the mother has named as the father on the birth certificate of the minor or in connection with applying for or receiving public assistance;

(f) Any person who has acknowledged or claimed paternity of the minor; and

(g) Any person the mother has reason to believe may be the father.

The information required under this subsection may be provided to the court in the form of a sworn affidavit by a person having personal knowledge of the facts, addressing each inquiry enumerated in this subsection, except that, if the inquiry identifies a father under paragraph (a) or paragraph (b), the inquiry shall not continue further. The inquiry required under this subsection may be conducted before the birth of the minor.

(4) LOCATION UNKNOWN; IDENTITY KNOWN.—If the inquiry by the court under subsection (3) identifies any person whose consent to adoption is required under s. 63.062 and who has not executed a consent to adoption or an affidavit of nonpaternity, and the location of the person from whom consent is required is unknown, the adoption entity must conduct a diligent search for that person which must include inquiries concerning:

(a) The person's current address, or any previous address, through an inquiry of the United States Postal Service through the Freedom of Information Act;

(b) The last known employment of the person, including the name and address of the person's employer. Inquiry should be made of the last known employer as to any address to which wage and earnings statements (W-2 forms) of the person have been mailed. Inquiry should be made of the last known employer as to whether the person is eligible for a pension or profit-sharing plan and any address to which pension or other funds have been mailed;

(c) Union memberships the person may have held or unions that governed the person's particular trade or craft in the area where the person last resided;

(d) Regulatory agencies, including those regulating licensing in the area where the person last resided;

(e) Names and addresses of relatives to the extent such can be reasonably obtained from the petitioner or other sources, contacts with those relatives, and inquiry as to the person's last known address. The petitioner shall pursue any leads of any addresses to which the person may have moved. Relatives include, but are not limited to, parents, brothers, sisters, aunts, uncles, cousins, nieces, nephews, grandparents, great-grandparents, former or current in-laws, stepparents, and stepchildren;

(f) Information as to whether or not the person may have died and, if so, the date and location;

(g) Telephone listings in the area where the person last resided;

(h) Inquiries of law enforcement agencies in the area where the person last resided;

(i) Highway patrol records in the state where the person last resided;

(j) Department of Corrections records in the state where the person last resided;

(k) Hospitals in the area where the person last resided;

(l) Records of utility companies, including water, sewer, cable television, and electric companies, in the area where the person last resided;

(m) Records of the Armed Forces of the United States as to whether there is any information as to the person;

(n) Records of the tax assessor and tax collector in the area where the person last resided;

(o) Search of one Internet databank locator service; and

(p) Information held by all medical providers who rendered medical treatment or care to the birth mother and child, including the identity and location information of all persons listed by the mother as being financially responsible for the uninsured expenses of treatment or care and all persons who made any such payments.

Any person contacted by a petitioner or adoption entity who is requesting information pursuant to this subsection must release the requested information to the petitioner or adoption entity, except when prohibited by law, without the necessity of a subpoena or court order. An affidavit of diligent search executed by the petitioner and the adoption entity must be filed with the court confirming completion of each aspect of the diligent search enumerated in this subsection and specifying the results. The diligent search required under this subsection may be conducted before the birth of the minor.

(5) LOCATION UNKNOWN OR IDENTITY UNKNOWN.—This subsection only applies if, as to any person whose consent is required under s. 63.062 and who has not executed an affidavit of nonpaternity, the location or identity of the person is unknown and the inquiry under subsection (3) fails to identify the person or the diligent search under subsection (4) fails to locate the person. The unlocated or unidentified person must be served notice under subsection (2) by constructive service in the manner provided in chapter 49 in each county identified in the petition, as provided in s. 63.087(6). The notice, in addition to all information required in the petition under s. 63.087(6) and chapter 49, must contain a physical description, including, but not limited to, age, race, hair and eye color, and approximate height and weight of the minor's mother and of any person the mother reasonably believes may be the father; the minor's date of birth; and any date and city, including the county and state in which the city is located, in which conception may have occurred. If any of the facts that must be included in the notice under this subsection are unknown and cannot be reasonably ascertained, the notice must so state.

Section 21. Section 63.089, Florida Statutes, is created to read:

63.089 Proceeding to terminate parental rights pending adoption; hearing; grounds; dismissal of petition; judgment.—

(1) HEARING.—The court may terminate parental rights pending adoption only after a full evidentiary hearing.

(2) HEARING PREREQUISITES.—The court may hold the hearing only when:

(a) For each person whose consent to adoption is required under s. 63.062:

1. A consent under s. 63.082 has been executed and filed with the court;

2. An affidavit of nonpaternity under s. 63.082 has been executed and filed with the court; or

3. Notice has been provided under ss. 63.087 and 63.088;

(b) For each notice and petition that must be served under ss. 63.087 and 63.088:

1. At least 30 days have elapsed since the date of personal service and an affidavit of service has been filed with the court;

2. At least 60 days have elapsed since the first date of publication of constructive service and an affidavit of service has been filed with the court; or

3. An affidavit of nonpaternity which affirmatively waives service has been executed and filed with the court;

(c) The minor named in the petition has been born; and

(d) The petition contains all information required under s. 63.087 and all affidavits of inquiry, diligent search, and service required under s. 63.088 have been obtained and filed with the court.

(3) GROUNDS FOR TERMINATING PARENTAL RIGHTS PENDING ADOPTION.—The court may enter a judgment terminating parental rights pending adoption if the court determines by clear and convincing evidence, supported by written findings of fact, that each person whose consent to adoption is required under s. 63.062:

(a) Has executed a valid consent that has not been withdrawn under s. 63.082 and the consent was obtained according to the requirements of this chapter;

(b) Has executed an affidavit of nonpaternity and the affidavit was obtained according to the requirements of this chapter;

(c) Has been properly served notice of the proceeding in accordance with the requirements of this chapter and has failed to file a written answer or appear at the evidentiary hearing resulting in the judgment terminating parental rights pending adoption;

(d) Has been properly served notice of the proceeding in accordance with the requirements of this chapter and has been determined under subsection (4) to have abandoned the minor as defined in s. 63.032;

(e) Is a parent of the person to be adopted, which parent has been judicially declared incapacitated with restoration of competency found to be medically improbable;

(f) Is a person who has legal custody of the person to be adopted, other than a parent, who has failed to respond in writing to a request for consent for a period of 60 days or, after examination of his or her written reasons for withholding consent, is found by the court to be withholding his or her consent unreasonably;

(g) Has been properly served notice of the proceeding in accordance with the requirements of this chapter, but whom the court finds, after examining written reasons for the withholding of consent, to be unreasonably withholding his or her consent; or

(h) Is the spouse of the person to be adopted who has failed to consent, and the failure of the spouse to consent to the adoption is excused by reason of prolonged and unexplained absence, unavailability, incapacity, or circumstances that are found by the court to constitute unreasonable withholding of consent.

(4) FINDING OF ABANDONMENT.—A finding of abandonment resulting in a termination of parental rights must be based upon clear and convincing evidence. A finding of abandonment may not be based upon a lack of emotional support to a birth mother during her pregnancy, but may be based upon emotional abuse to a birth mother during her pregnancy.

(a) In making a determination of abandonment at a hearing for termination of parental rights pursuant to this chapter, the court must consider:

1. Whether the actions alleged to constitute abandonment demonstrate a willful disregard for the safety or welfare of the child or unborn child;

2. Whether other persons prevented the person alleged to have abandoned the child from making the efforts referenced in this subsection;

3. Whether the person alleged to have abandoned the child, while being able, refused to provide financial support after such person was informed he may be the father of the child;

4. Whether the person alleged to have abandoned the child, while being able, refused to pay for medical treatment when such payment was requested by the person having legal custody of the child and those expenses were not covered by insurance or other available sources;

5. Whether the amount of support provided or medical expenses paid was appropriate, taking into consideration the needs of the child and relative means and resources available to the person alleged to have abandoned the child and available to the person having legal custody of the child during the period the child allegedly was abandoned; and

6. Whether the person having legal custody of the child made the child's whereabouts known to the person alleged to have abandoned the child, advised that person of the needs of the child or the needs of the mother of an unborn child with regard to the pregnancy, or informed that person of events such as medical appointments and tests relating to the child or, if unborn, the pregnancy.

(b) The child has been abandoned when the parent of a child is incarcerated on or after October 1, 1999, in a state or federal correctional institution and:

1. The period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years;

2. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, convicted of child abuse as defined in s. 827.03, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this paragraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; and

3. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, that termination of the parental rights of the incarcerated parent is in the best interest of the child.

(c) The only conduct of a father toward a mother during pregnancy that the court may consider in determining whether the child has been abandoned is conduct that occurred after the father was informed he may be the father of the child or after diligent search and notice as provided in s. 63.088 have been made to inform the father that he is, or may be, the father of the child.

(5) DISMISSAL OF PETITION WITH PREJUDICE.—If the court does not find by clear and convincing evidence that parental rights of a parent should be terminated pending adoption, the court must dismiss the petition with prejudice and that parent's parental rights that were the subject of such petition remain in full force under the law. The order must include written findings in support of the dismissal, including findings as to the criteria in subsection (4) if rejecting a claim of abandonment. Parental rights may not be terminated based upon a consent that the court finds has been timely withdrawn under s. 63.082 or a consent to adoption or affidavit of nonpaternity that the court finds was obtained by fraud or under duress. The court must enter an order based upon written findings providing for the placement of the minor. The court may order scientific testing to determine the paternity of the minor at any time during which the court has jurisdiction over the minor. Further proceedings, if any, regarding the minor must be brought in a separate custody action under chapter 61, a dependency action under chapter 39, or a paternity action under chapter 742.

(6) JUDGMENT TERMINATING PARENTAL RIGHTS PENDING ADOPTION.—

(a) The judgment terminating parental rights pending adoption must be in writing and contain findings of fact as to the grounds for terminating parental rights pending adoption.

(b) Within 24 hours after filing, the clerk of the court shall mail a copy of the judgment to the department, the petitioner, those persons required to give consent under s. 63.062, and the respondent. The clerk shall execute a certificate of each mailing.

(7) RELIEF FROM JUDGMENT TERMINATING PARENTAL RIGHTS.—

(a) A judgment terminating parental rights pending adoption is voidable and any later judgment of adoption of that minor is voidable if, upon the motion of a parent, the court finds that a person knowingly gave false information that prevented the parent from timely making known his or her desire to assume parental responsibilities toward the minor or meeting the requirements under this chapter to exercise his or her parental rights. A motion under this subsection must be filed with the court originally entering the judgment. The motion must be filed within a reasonable time, but not later than 2 years after the entry of the judgment terminating parental rights.

(b) No later than 30 days after the filing of a motion under this subsection, the court must conduct a preliminary hearing to determine what contact, if any, shall be permitted between a parent and the child pending resolution of the motion. Such contact shall be considered only if it is requested by a parent who has appeared at the hearing. If the court orders contact between a parent and child, the order must be issued in writing as expeditiously as possible and must state with specificity any provisions regarding contact with persons other than those with whom the child resides.

(c) At the preliminary hearing, the court, upon the motion of any party or upon its own motion, may order scientific testing to determine the paternity of the minor if the person seeking to set aside the judgment is alleging to be the child's father and that fact has not previously been determined by legitimacy or scientific testing. The court may order supervised visitation with a person for whom scientific testing for paternity has been ordered. Such visitation shall be conditioned upon the filing of those test results with the court and such results establishing that person's paternity of the minor.

(d) No later than 45 days after the preliminary hearing, the court must conduct a final hearing on the motion to set aside the judgment and enter its written order as expeditiously as possible thereafter.

(8) RECORDS; CONFIDENTIAL INFORMATION.—All papers and records pertaining to a petition to terminate parental rights pending adoption are related to the subsequent adoption of the minor and are subject to the provisions of s. 63.162. The confidentiality provisions of this chapter do not apply to the extent information regarding persons or proceedings must be made available as specified under s. 63.088.

Section 22. Section 63.092, Florida Statutes, 1998 Supplement, is amended to read:

63.092 Report to the court of intended placement by an *adoption entity; at-risk placement* ~~intermediary~~; preliminary study.—

(1) REPORT TO THE COURT.—The *adoption entity* ~~intermediary~~ must report any intended placement of a minor for adoption with any person not related within the third degree or a stepparent if the *adoption entity* ~~intermediary~~ has knowledge of, or participates in, such intended placement. The report must be made to the court before the minor is placed in the home.

(2) AT-RISK PLACEMENT.—If the minor is placed in the prospective adoptive home before the parental rights of the minor's parents are terminated under s. 63.089, the placement is an at-risk placement. If the placement is an at-risk placement, the prospective adoptive parents must acknowledge in writing before the minor may be placed in the prospective adoptive home that the placement is at risk and that the minor is subject to removal from the prospective adoptive home by the adoption entity or by court order.

(3)~~(2)~~ PRELIMINARY HOME STUDY.—Before placing the minor in the intended adoptive home, a preliminary home study must be performed by a licensed child-placing agency, a licensed professional, or agency described in s. 61.20(2), unless the petitioner is a stepparent, a spouse of the ~~birth~~ parent, or a relative. The preliminary study shall be completed within 30 days after the receipt by the court of the *adoption entity's* ~~intermediary's~~ report, but in no event may the *minor* ~~child~~ be placed in the prospective adoptive home prior to the completion of the preliminary study unless ordered by the court. If the petitioner is a stepparent, a spouse of the ~~birth~~ parent, or a relative, the preliminary home study may be required by the court for good cause shown. The department is required to perform the preliminary home study only if there is no licensed child-placing agency, licensed professional, or agency described in s. 61.20(2), in the county where the prospective adoptive parents reside. The preliminary home study must be made to determine the suitability of the intended adoptive parents and may be completed prior to identification of a prospective adoptive *minor* ~~child~~. A favorable preliminary home study is valid for 1 year after the date of its completion. A *minor may* ~~child must~~ not be placed in an intended adoptive home before a favorable preliminary home study is completed unless the adoptive home is also a licensed foster home under s. 409.175. The preliminary home study must include, at a minimum:

(a) An interview with the intended adoptive parents;

(b) Records checks of the department's central abuse registry and criminal records correspondence checks pursuant to s. 435.045 through the Department of Law Enforcement on the intended adoptive parents;

(c) An assessment of the physical environment of the home;

(d) A determination of the financial security of the intended adoptive parents;

(e) Documentation of counseling and education of the intended adoptive parents on adoptive parenting;

(f) Documentation that information on adoption and the adoption process has been provided to the intended adoptive parents;

(g) Documentation that information on support services available in the community has been provided to the intended adoptive parents; *and*

(h) A copy of *each* ~~the~~ signed *acknowledgment* ~~statement~~ required by s. 63.085~~; and~~

~~(i) A copy of the written acknowledgment required by s. 63.085(1)~~.

If the preliminary home study is favorable, a minor may be placed in the home pending entry of the judgment of adoption. A minor may not be placed in the home if the preliminary home study is unfavorable. If the preliminary home study is unfavorable, the *adoption entity* ~~intermediary or petitioner~~ may, within 20 days after receipt of a copy of the written recommendation, petition the court to determine the suitability of the intended adoptive home. A determination as to suitability under this subsection does not act as a presumption of suitability at the final hearing. In determining the suitability of the intended adoptive home, the court must consider the totality of the circumstances in the home.

Section 23. Section 63.097, Florida Statutes, is amended to read:

63.097 Fees.—

(1) When the adoption entity is an agency, fees may be assessed if they are approved by the department within the process of licensing the agency and if they are for:

(a) Foster care expenses;

(b) Preplacement and post-placement social services; and

(c) Agency facility and administrative costs.

(2) The following fees, costs, and expenses may be assessed by the adoption entity or paid by the adoption entity on behalf of the prospective adoptive parents:

(a) Reasonable living expenses of the birth mother which the birth mother is unable to pay due to unemployment, underemployment, or disability due to the pregnancy which is certified by a medical professional who has examined the birth mother, or any other disability defined in s. 110.215. Reasonable living expenses are rent, utilities, basic telephone service, food, necessary clothing, transportation, and expenses found by the court to be necessary for the health of the unborn child.

(b) Reasonable and necessary medical expenses.

(c) Expenses necessary to comply with the requirements of this chapter, including, but not limited to, service of process under s. 63.088, a diligent search under s. 63.088, a preliminary home study under s. 63.092, and a final home investigation under s. 63.125.

(d) Court filing expenses, court costs, and other litigation expenses.

(e) Costs associated with advertising under s. 63.212(1)(g).

(f) The following professional fees:

1. A reasonable hourly fee necessary to provide legal representation to the adoptive parents or adoption entity in a proceeding filed under this chapter.

2. A reasonable hourly fee for contact with the parent related to the adoption. In determining a reasonable hourly fee under this subparagraph, the court must consider if the tasks done were clerical or of such a nature that the matter could have been handled by support staff at a lesser rate than the rate for legal representation charged under subparagraph 1. Such tasks specifically do not include obtaining a parent's signature on any document; such tasks include, but need not be limited to, transportation, transmitting funds, arranging appointments, and securing accommodations.

3. A reasonable hourly fee for counseling services provided to a parent or a prospective adoptive parent by a psychologist licensed under chapter 490 or a clinical social worker, marriage and family therapist, or mental health counselor licensed under chapter 491, or a counselor who is employed by an adoption entity accredited by the Council on Accreditation of Services for Children and Families to provide pregnancy counseling and supportive services.

(3) Prior approval of the court is not required until the cumulative total of amounts permitted under subsection (2) exceeds:

(a) $2,500 in legal or other fees;

(b) $500 in court costs;

(c) $3,000 in expenses; or

(d) $1,500 cumulative expenses that are related to the minor, the pregnancy, a parent, or adoption proceeding, which expenses are incurred prior to the date the prospective adoptive parent retains the adoption entity.

(4) Any fees, costs, or expenses not included in subsection (2) or prohibited under subsection (5) require court approval prior to payment and must be based on a finding of extraordinary circumstances.

(5) The following fees, costs, and expenses are prohibited:

(a) Any fee or expense that constitutes payment for locating a minor for adoption.

(b) Any lump-sum payment to the entity which is nonrefundable directly to the payor or which is not itemized on the affidavit filed under s. 63.132.

(c) Any fee on the affidavit which does not specify the service that was provided and for which the fee is being charged, such as a fee for facilitation, acquisition, or other similar service, or which does not identify the date the service was provided, the time required to provide the service, the person or entity providing the service, and the hourly fee charged.

~~(1) APPROVAL OF FEES TO INTERMEDIARIES.—Any fee over $1,000 and those costs as set out in s. 63.212(1)(d) over $2,500, paid to an intermediary other than actual, documented medical costs, court costs, and hospital costs must be approved by the court prior to assessment of the fee by the intermediary and upon a showing of justification for the larger fee.~~

(6)~~(2) FEES FOR AGENCIES OR THE DEPARTMENT.—~~*Unless otherwise indicated in this section,* when an *adoption entity* ~~intermediary~~ uses the services of a licensed child-placing agency, a professional, any other person or agency pursuant to s. 63.092, or, if necessary, the department, the person seeking to adopt the child must pay the licensed child-placing agency, professional, other person or agency, or the department an amount equal to the cost of all services performed, including, but not limited to, the cost of conducting the preliminary home study, counseling, and the final home investigation. The court, upon a finding that the person seeking to adopt the child is financially unable to pay that amount, may order that such person pay a lesser amount.

Section 24. Section 63.102, Florida Statutes, is amended to read:

63.102 Filing of petition for adoption or declaratory statement; venue; proceeding for approval of fees and costs.—

(1) *A petition for adoption may not be filed until 30 days after the date of the entry of the judgment terminating parental rights pending adoption under this chapter, unless the adoptee is an adult or the minor has been the subject of a judgment terminating parental rights under chapter 39. After a judgment terminating parental rights has been entered,* a proceeding for adoption *may* ~~shall~~ be commenced by filing a petition entitled, "In the Matter of the Adoption of . . . ." in the circuit court. The person to be adopted shall be designated in the caption in the name by which he or she is to be known if the petition is granted. ~~If the child is placed for adoption by an agency,~~ Any name by which the *minor* ~~child~~ was previously known *may* ~~shall~~ not be disclosed in the petition, the notice of hearing, or the judgment of adoption.

(2) A petition for adoption or for a declaratory statement as to the adoption contract shall be filed in the county where the *petition for termination of parental rights was granted, unless the court in accordance with s. 47.122, changes the venue to the county where the* petitioner or petitioners or the *minor* ~~child~~ resides or where the agency *or adoption entity with* ~~in~~ which the *minor* ~~child~~ has been placed is located. *The circuit court in this state must retain jurisdiction over the matter until a final judgment is entered on the adoption. The Uniform Child Custody Jurisdiction Act does not apply until a final judgment is entered on the adoption.*

(3) Except for adoptions involving placement of a *minor* ~~child~~ with a relative within the third degree of consanguinity, a petition for adoption in an adoption handled by an *adoption entity* ~~intermediary~~ shall be filed within *60* ~~30~~ working days after *entry of the judgment terminating parental rights* ~~placement of a child with a parent seeking to adopt the child~~. If no petition is filed within *60* ~~30~~ days, any interested party, including the state, may file an action challenging the prospective adoptive parent's physical custody of the *minor* ~~child~~.

(4) If the filing of the petition for adoption or for a declaratory statement as to the adoption contract in the county where the petitioner or *minor* ~~child~~ resides would tend to endanger the privacy of the petitioner or *minor* ~~child~~, the petition for adoption may be filed in a different county, provided the substantive rights of any person will not thereby be affected.

(5) A proceeding for prior approval of fees and costs may be commenced any time after an agreement is reached between the birth mother and the adoptive parents by filing a petition for declaratory statement on the agreement entitled "In the Matter of the Proposed Adoption of a Minor Child" in the circuit court.

(a) The petition must be filed jointly by the adoption entity and each person who enters into the agreement.

(b) A contract for the payment of fees, costs, and expenses permitted under this chapter must be in writing, and any person who enters into the contract has 3 business days in which to cancel the contract. To cancel the contract, the person must notify the adoption entity in writing by certified United States mail, return receipt requested, no later than 3 business days after signing the contract. For the purposes of this subsection, the term "business day" means a day on which the United States Postal Service accepts certified mail for delivery. If the contract is canceled within the first 3 business days, the person who cancels the contract does not owe any legal, intermediary, or other fees, but may be responsible for the adoption entity's actual costs during that time.

(c) The court may grant prior approval only of fees and expenses permitted under s. 63.097. A prior approval of prospective fees and costs

does not create a presumption that these items will subsequently be approved by the court under s. 63.132. The court, under s. 63.132, may order an adoption entity to refund any amount paid under this subsection that is subsequently found by the court to be greater than fees, costs, and expenses actually incurred.

(d) The contract may not require, and the court may not approve, any lump-sum payment to the entity which is nonrefundable to the payor or any amount that constitutes payment for locating a minor for adoption.

(e) A petition for adoption filed under this section may be consolidated with a previously filed petition for a declaratory statement. Only one filing fee may be assessed for both the adoption and declaratory-statement petitions.

(f) Prior approval of fees and costs by the court does not obligate the parent to ultimately relinquish the minor for adoption. ~~If a petition for adoption is subsequently filed, the petition for declaratory statement and the petition for adoption must be consolidated into one case.~~

Section 25. Section 63.112, Florida Statutes, is amended to read:

63.112 Petition for adoption; description; report or recommendation, exceptions; mailing.—

(1) A sufficient number of copies of the petition for adoption shall be signed and verified by the petitioner and filed with the clerk of the court so that service may be made under subsection (4) and shall state:

(a) The date and place of birth of the person to be adopted, if known;

(b) The name to be given to the person to be adopted;

(c) The date petitioner acquired custody of the minor and the name of the person placing the minor;

(d) The full name, age, and place and duration of residence of the petitioner;

(e) The marital status of the petitioner, including the date and place of marriage, if married, and divorces, if any;

(f) The facilities and resources of the petitioner, including those under a subsidy agreement, available to provide for the care of the minor to be adopted;

(g) A description and estimate of the value of any property of the person to be adopted;

(h) The *case style and date of entry of the judgment terminating parental rights or the judgment declaring a minor available for adoption* ~~name and address, if known, of any person whose consent to the adoption is required, but who has not consented, and facts or circumstances that excuse the lack of consent~~; and

(i) The reasons why the petitioner desires to adopt the person.

(2) The following documents are required to be filed with the clerk of the court at the time the petition is filed:

(a) *A certified copy of the court judgment terminating parental rights under chapter 39 or the judgment declaring a minor available for adoption under this chapter.* ~~The required consents, unless consent is excused by the court.~~

(b) The favorable preliminary home study of the department, licensed child-placing agency, or professional pursuant to s. 63.092, as to the suitability of the home in which the minor has been placed.

(c) The surrender document must include documentation that *an interview was* ~~interviews were~~ held with:

~~1. The birth mother, if parental rights have not been terminated;~~

~~2. The birth father, if his consent to the adoption is required and parental rights have not been terminated; and~~

~~3.~~ the *minor* ~~child~~, if older than 12 years of age, unless the court, in the best interest of the *minor* ~~child~~, dispenses with the *minor's* ~~child's~~ consent under s. *63.062(1)(f)* ~~63.062(1)(c)~~.

~~The court may waive the requirement for an interview with the birth mother or birth father in the investigation for good cause shown.~~

(3) Unless ordered by the court, no report or recommendation is required when the placement is a stepparent adoption or when the *minor* ~~child~~ is related to one of the adoptive parents within the third degree.

(4) The clerk of the court shall mail a copy of the petition within 24 hours after filing, and execute a certificate of mailing, to the *adoption entity* ~~department and the agency~~ placing the minor, if any.

Section 26. Section 63.122, Florida Statutes, is amended to read:

63.122 Notice of hearing on petition.—

(1) After the petition to adopt a minor is filed, the court must establish a time and place for hearing the petition. The hearing *may* ~~must~~ not be held sooner than *30 days after the date the judgment terminating parental rights was entered or sooner than* 90 days after *the date the minor was placed* ~~the placing of the minor~~ in the physical custody of the petitioner. The minor must remain under the supervision of the *adoption entity* ~~department, an intermediary, or a licensed child-placing agency~~ until the adoption becomes final. When the petitioner is a spouse of the birth parent, the hearing may be held immediately after the filing of the petition.

(2) Notice of hearing must be given as prescribed by the rules of civil procedure, and service of process must be made as specified by law for civil actions.

(3) Upon a showing by the petitioner that the privacy of the petitioner or *minor* ~~child~~ may be endangered, the court may order the names of the petitioner or *minor* ~~child~~, or both, to be deleted from the notice of hearing and from the copy of the petition attached thereto, provided the substantive rights of any person will not thereby be affected.

(4) Notice of the hearing must be given by the petitioner to *the adoption entity that places the minor.*:

~~(a) The department or any licensed child-placing agency placing the minor.~~

~~(b) The intermediary.~~

~~(c) Any person whose consent to the adoption is required by this act who has not consented, unless such person's consent is excused by the court.~~

~~(d) Any person who is seeking to withdraw consent.~~

(5) After filing the petition to adopt an adult, a notice of the time and place of the hearing must be given to any person whose consent to the adoption is required but who has not consented. The court may order an appropriate investigation to assist in determining whether the adoption is in the best interest of the persons involved.

Section 27. Section 63.125, Florida Statutes, is amended to read:

63.125 Final home investigation.—

(1) The final home investigation must be conducted before the adoption becomes final. The investigation may be conducted by a licensed child-placing agency or a professional in the same manner as provided in s. 63.092 to ascertain whether the adoptive home is a suitable home for the minor and whether the proposed adoption is in the best interest of the minor. Unless directed by the court, an investigation and recommendation are not required if the petitioner is a stepparent or if the *minor* ~~child~~ is related to one of the adoptive parents within the third degree of consanguinity. The department is required to perform the home investigation only if there is no licensed child-placing agency or professional pursuant to s. 63.092 in the county in which the prospective adoptive parent resides.

(2) The department, the licensed child-placing agency, or the professional that performs the investigation must file a written report of the investigation with the court and the petitioner within 90 days after the date the petition is filed.

(3) The report of the investigation must contain an evaluation of the placement with a recommendation on the granting of the petition for adoption and any other information the court requires regarding the petitioner or the minor.

(4) The department, the licensed child-placing agency, or the professional making the required investigation may request other state agencies or child-placing agencies within or outside this state to make investigations of designated parts of the inquiry and to make a written report to the department, the professional, or other person or agency.

(5) The final home investigation must include:

(a) The information from the preliminary home study.

(b) After the *minor* ~~child~~ is placed in the intended adoptive home, two scheduled visits with the *minor* ~~child~~ and the *minor's* ~~child's~~ adoptive parent or parents, one of which visits must be in the home, to determine the suitability of the placement.

(c) The family *social and* medical history as provided in s. 63.082.

(d) Any other information relevant to the suitability of the intended adoptive home.

(e) Any other relevant information, as provided in rules that the department may adopt.

Section 28. Section 63.132, Florida Statutes, is amended to read:

63.132 *Affidavit* ~~Report~~ of *expenses* ~~expenditures~~ and receipts.—

(1) At least 10 days before the hearing *on the petition for adoption*, the *prospective adoptive parent* ~~petitioner~~ and any *adoption entity* ~~intermediary~~ must file two copies of an affidavit *under this section.*

(a) The affidavit must be signed by the adoption entity and the prospective adoptive parents. A copy of the affidavit must be provided to the adoptive parents at the time the affidavit is executed.

(b) The affidavit must itemize ~~containing a full accounting of~~ all disbursements and receipts of anything of value, including professional *and legal* fees, made or agreed to be made by or on behalf of the *prospective adoptive parent* ~~petitioner~~ and any *adoption entity* ~~intermediary~~ in connection with the adoption~~.~~ *or in connection with any prior proceeding to terminate parental rights which involved the minor who is the subject of the petition for adoption. The affidavit must also include, for each fee itemized, the service provided for which the fee is being charged, the date the service was provided, the time required to provide the service, the person or entity that provided the service, and the hourly fee charged.*

(c) The clerk of the court shall forward a copy of the affidavit to the department.

(d) The *affidavit* ~~report~~ must show any expenses or receipts incurred in connection with:

1.~~(a)~~ The birth of the minor.

2.~~(b)~~ The placement of the minor with the petitioner.

3.~~(c)~~ The medical or hospital care received by the mother or by the minor during the mother's prenatal care and confinement.

4.~~(d)~~ The living expenses of the birth mother. The living expenses must be documented in detail to apprise the court of the exact expenses incurred.

5.~~(e)~~ The services relating to the adoption or to the placement of the minor for adoption that were received by or on behalf of the petitioner, the *adoption entity* ~~intermediary~~, either ~~natural~~ parent, the minor, or any other person.

The affidavit must state whether any of these expenses were paid for by collateral sources, including, but not limited to, health insurance, Medicaid, Medicare, or public assistance.

(2) The court may require such additional information as is deemed necessary.

(3) The court must issue a separate order approving or disapproving the fees, costs, and expenses itemized in the affidavit. The court may approve only fees, costs, and expenditures allowed under s. 63.097. The court may reject in whole or in part any fee, cost, or expenditure listed if the court finds that the expense is:

(a) Contrary to this chapter;

(b) Not supported by a receipt in the record, if the expense is not a fee of the adoption entity; or

(c) Not a reasonable fee or expense, considering the requirements of this chapter and the totality of the circumstances.

(4)~~(3)~~ This section does not apply to an adoption by a stepparent whose spouse is a ~~natural or adoptive~~ parent of the *minor* ~~child~~.

Section 29. Section 63.142, Florida Statutes, is amended to read:

63.142 Hearing; judgment of adoption.—

(1) *APPEARANCE.*—The petitioner and the person to be adopted shall appear at the hearing on the petition *for adoption*, unless:

(a) The person is a minor under 12 years of age~~,~~; or

(b) The presence of either is excused by the court for good cause.

(2) *CONTINUANCE.*—The court may continue the hearing from time to time to permit further observation, investigation, or consideration of any facts or circumstances affecting the granting of the petition.

(3) *DISMISSAL.*—

(a) If the petition is dismissed, the court shall determine the person that is to have custody of the minor.

(b) If the petition is dismissed, the court shall state with specificity the reasons for the dismissal.

(4) *JUDGMENT.*—At the conclusion of the hearing, *after* ~~when~~ the court determines that *the date for a parent to file an appeal of a valid judgment terminating that parent's parental rights has passed and no appeal, pursuant to the Florida Rules of Appellate Procedure, is pending* ~~all necessary consents have been obtained~~ and that the adoption is in the best interest of the person to be adopted, a judgment of adoption shall be entered.

(a) A judgment terminating parental rights pending adoption is voidable and any later judgment of adoption of that minor is voidable if, upon a motion to set aside of a parent, the court finds that any person knowingly gave false information that prevented the parent from timely making known his or her desire to assume parental responsibilities toward the minor or meeting the requirements under this chapter to exercise his or her parental rights. A motion under this paragraph must be filed with the court that entered the original judgment. The motion must be filed within a reasonable time, but not later than 2 years after the date the judgment terminating parental rights was entered.

(b) Except upon good cause shown, no later than 30 days after the filing of a motion under this subsection, the court must conduct a preliminary hearing to determine what contact, if any, shall be permitted between a parent and the child pending resolution of the motion. Such contact shall be considered only if it is requested by a parent who has appeared at the hearing. If the court orders contact between a parent and child, the order must be issued in writing as expeditiously as possible and must state with specificity any provisions regarding contact with persons other than those with whom the child resides.

(c) At the preliminary hearing, the court, upon the motion of any party or its own motion, may order scientific testing to determine the paternity of the minor if the person seeking to set aside the judgment is alleging to be the child's father and that fact has not previously been determined by legitimacy or scientific testing. The court may order supervised visitation with a person for whom scientific testing for paternity has been ordered. Such visitation shall be conditioned upon the filing of those test results with the court and such results establishing that person's paternity of the minor.

(d) Except upon good cause shown, no later than 45 days after the preliminary hearing, the court must conduct a final hearing on the motion to set aside the judgment and issue its written order as expeditiously as possible thereafter.

Section 30. Subsection (2) of section 63.162, Florida Statutes, is amended to read:

63.162 Hearings and records in adoption proceedings; confidential nature.—

(2) All papers and records pertaining to the adoption, including the original birth certificate, whether part of the permanent record of the court or a file in the *office of an adoption entity* ~~department, in a licensed child-placing agency, or in the office of an intermediary~~ are confidential and subject to inspection only upon order of the court; however, the petitioner in any proceeding for adoption under this chapter may, at the option of the petitioner, make public the reasons for a denial of the petition for adoption. The order must specify which portion of the records are subject to inspection, and it may exclude the name and identifying information concerning the ~~birth~~ parent or adoptee. Papers and records of the department, a court, or any other governmental agency, which papers and records relate to adoptions, are exempt from s. 119.07(1). In the case of a nonagency adoption, the department must be given notice of hearing and be permitted to present to the court a report on the advisability of disclosing or not disclosing information pertaining to the adoption. In the case of an agency adoption, the licensed child-placing agency must be given notice of hearing and be permitted to present to the court a report on the advisability of disclosing or not disclosing information pertaining to the adoption. This subsection does not prohibit the department from inspecting and copying any official record pertaining to the adoption that is maintained by the department and does not prohibit an agency from inspecting and copying any official record pertaining to the adoption that is maintained by that agency.

Section 31. Section 63.165, Florida Statutes, is amended to read:

63.165 State registry of adoption information; duty to inform and explain.—Notwithstanding any other law to the contrary, the department shall maintain a registry with the last known names and addresses of an adoptee and his or her ~~natural~~ parents *whose consent was required under s. 63.062,* and adoptive parents and any other identifying information *that* ~~which~~ the adoptee, ~~natural~~ parents *whose consent was required under s. 63.062,* or adoptive parents desire to include in the registry. *The department shall maintain the registry records for the time required by rules adopted by the department in accordance with this chapter or for 99 years, whichever period is greater.* The registry shall be open with respect to all adoptions in the state, regardless of when they took place. The registry shall be available for those persons choosing to enter information therein, but no one shall be required to do so.

(1) Anyone seeking to enter, change, or use information in the registry, or any agent of such person, shall present verification of his or her identity and, if applicable, his or her authority. A person who enters information in the registry shall be required to indicate clearly the persons to whom he or she is consenting to release this information, which persons shall be limited to the adoptee and the *birth* ~~natural~~ mother, ~~natural~~ father *whose consent was required under s. 63.062,* adoptive mother, adoptive father, *birth* ~~natural~~ siblings, and maternal and paternal *birth* ~~natural~~ grandparents of the adoptee. Except as provided in this section, information in the registry is confidential and exempt from ~~the provisions of~~ s. 119.07(1). Consent to the release of this information may be made in the case of a minor adoptee by his or her adoptive parents or by the court after a showing of good cause. At any time, any person may withdraw, limit, or otherwise restrict consent to release information by notifying the department in writing.

(2) The department may charge a reasonable fee to any person seeking to enter, change, or use information in the registry. The department shall deposit such fees in a trust fund to be used by the department only for the efficient administration of this section. The department and agencies shall make counseling available for a fee to all persons seeking to use the registry, and the department shall inform all affected persons of the availability of such counseling.

(3) The *adoption entity* ~~department, intermediary, or licensed child-placing agency~~ must inform the ~~birth~~ parents before parental rights are terminated, and the adoptive parents before placement, in writing, of the existence and purpose of the registry established under this section, but failure to do so does not affect the validity of any proceeding under this chapter.

Section 32. Section 63.182, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 63.182, F.S., for present text.)

63.182 Statute of repose.—

(1) An action or proceeding of any kind to vacate, set aside, or otherwise nullify a judgment of adoption or an underlying judgment terminating parental rights on any ground, including duress but excluding fraud, shall in no event be filed more than 1 year after entry of the judgment terminating parental rights.

(2) An action or proceeding of any kind to vacate, set aside, or otherwise nullify a judgment of adoption or an underlying judgment terminating parental rights on grounds of fraud shall in no event be filed more than 2 years after entry of the judgment terminating parental rights.

Section 33. Subsection (2) of section 63.202, Florida Statutes, is amended to read:

63.202 Authority to license; adoption of rules.—

(2) No agency shall place a minor for adoption unless such agency is licensed by the department, *except a child-caring agency registered under s. 409.176.*

Section 34. Section 63.207, Florida Statutes, is amended to read:

63.207 Out-of-state placement.—

(1) Unless the *parent placing a minor for adoption files an affidavit that the parent chooses to place the minor outside the state, giving the reason for that placement, or the minor* ~~child~~ is to be placed with a relative within the third degree or with a stepparent, *or the minor is a special needs child, as defined in s. 409.166, or for other good cause shown, an adoption entity may not* ~~no person except an intermediary, an agency, or the department shall~~:

(a) Take or send a *minor* ~~child~~ out of the state for the purpose of placement for adoption; or

(b) Place or attempt to place a *minor* ~~child~~ for the purpose of adoption with a family who primarily lives and works outside Florida in another state. ~~An intermediary may place or attempt to place a child for adoption in another state only if the child is a special needs child as that term is defined in s. 409.166.~~ If an *adoption entity* ~~intermediary~~ is acting under this subsection, the *adoption entity must* ~~intermediary shall~~ file a petition for declaratory statement pursuant to s. 63.102 for prior approval of fees and costs. The court shall review the costs pursuant to s. 63.097. The petition for declaratory statement must be converted to a petition for an adoption upon placement of the *minor* ~~child~~ in the home. The circuit court in this state must retain jurisdiction over the matter until the adoption becomes final. The *prospective* adoptive parents must come to this state to have the adoption finalized. Violation of the order subjects the *adoption entity* ~~intermediary~~ to contempt of court and to the penalties provided in s. 63.212.

(2) An *adoption entity* ~~intermediary~~ may not counsel a birth mother to leave the state for the purpose of giving birth to a child outside the state in order to secure a fee in excess of that permitted under s. 63.097 when it is the intention that the child is to be placed for adoption outside the state.

(3) When applicable, the Interstate Compact on the Placement of Children authorized in s. 409.401 shall be used in placing children outside the state for adoption.

Section 35. Section 63.212, Florida Statutes, is amended to read:

63.212 Prohibited acts; penalties for violation*; preplanned adoption agreement.*—

(1) It is unlawful for any person:

(a) ~~Except the department, an intermediary, or an agency,~~ To place or attempt to place a *minor* ~~child~~ for adoption with a person who primarily lives and works outside this state unless the *minor* ~~child~~ is placed with a relative within the third degree or with a stepparent. ~~An intermediary may place or attempt to place a special needs child for adoption with a person who primarily lives and works outside this state only if the intermediary has a declaratory statement from the court establishing the fees to be paid.~~ This requirement does not apply if the *minor* ~~child~~ is placed *by an adoption entity in accordance with s. 63.207* ~~with a relative within the third degree or with a stepparent~~.

~~(b) Except the department, an intermediary, or an agency, to place or attempt to place a child for adoption with a family whose primary residence and place of employment is in another state unless the child is placed with a relative within the third degree or with a stepparent. An intermediary may place or attempt to place a special needs child for adoption with a family whose primary residence and place of employment is in another state only if the intermediary has a declaratory statement from the court establishing the fees to be paid. This requirement does not apply if the child is placed with a relative within the third degree or with a stepparent.~~

(b)~~(c)~~ Except *an adoption entity* ~~the Department of Children and Family Services, an agency, or an intermediary~~, to place or attempt to place within the state a *minor* ~~child~~ for adoption unless the *minor* ~~child~~ is placed with a relative within the third degree or with a stepparent. This prohibition, however, does not apply to a person who is placing or attempting to place a *minor* ~~child~~ for the purpose of adoption with the *adoption entity* ~~Department of Children and Family Services or an agency or through an intermediary~~.

(c)~~(d)~~ To sell or surrender, or to arrange for the sale or surrender of, a *minor* ~~child~~ to another person for money or anything of value or to receive such minor child for such payment or thing of value. If a *minor* ~~child~~ is being adopted by a relative within the third degree or by a stepparent, or is being adopted through *an adoption entity, this paragraph does not prohibit* ~~the Department of Children and Family Services, an agency, or an intermediary, nothing herein shall be construed as prohibiting~~ the person who is contemplating adopting the child from paying, *under ss. 63.097 and 63.132,* the actual prenatal care and living expenses of the mother of the child to be adopted, *or* ~~nor~~ from paying, *under ss. 63.097 and 63.132,* the actual living and medical expenses of such mother for a reasonable time, not to exceed 6 weeks, if medical needs require such support, after the birth of the *minor* ~~child~~.

(d)~~(e)~~ Having the rights and duties of a parent with respect to the care and custody of a minor to assign or transfer such parental rights for the purpose of, incidental to, or otherwise connected with, selling or offering to sell such rights and duties.

(e)~~(f)~~ To assist in the commission of any act prohibited in *paragraphs (a)-(d)* ~~paragraph (a), paragraph (b), paragraph (c), paragraph (d), or paragraph (e)~~.

(f)~~(g)~~ Except *an adoption entity* ~~the Department of Children and Family Services or an agency~~, to charge or accept any fee or compensation of any nature from anyone for making a referral in connection with an adoption.

(g)~~(h)~~ Except *an adoption entity* ~~the Department of Children and Family Services, an agency, or an intermediary~~, to advertise or offer to the public, in any way, by any medium whatever that a *minor* ~~child~~ is available for adoption or that a *minor* ~~child~~ is sought for adoption; and, further, it is unlawful for any person to publish or broadcast any such advertisement without including a Florida license number of the agency *or*~~,~~ attorney~~, or physician~~ placing the advertisement.

(h)~~(i)~~ To contract for the purchase, sale, or transfer of custody or parental rights in connection with any child, ~~or~~ in connection with any fetus yet unborn, or in connection with any fetus identified in any way but not yet conceived, in return for any valuable consideration. Any such contract is void and unenforceable as against the public policy of this state. However, fees, costs, and other incidental payments made in accordance with statutory provisions for adoption, foster care, and child welfare are permitted, and a person may agree to pay expenses in connection with a preplanned adoption agreement as specified below, but the payment of such expenses may not be conditioned upon the transfer of parental rights. Each petition for adoption which is filed in connection with a preplanned adoption agreement must clearly identify the adoption as a preplanned adoption arrangement and must include a copy of the preplanned adoption agreement for review by the court.

1. Individuals may enter into a preplanned adoption arrangement as specified herein, but such arrangement shall not in any way:

a. Effect final transfer of custody of a child or final adoption of a child, without review and approval of the department and the court, and without compliance with other applicable provisions of law.

b. Constitute consent of a mother to place her child for adoption until 7 days following birth, and unless the court making the custody determination or approving the adoption determines that the mother was aware of her right to rescind within the 7-day period following birth but chose not to rescind such consent.

2. A preplanned adoption arrangement shall be based upon a preplanned adoption agreement *that must* ~~which shall~~ include, but need not be limited to, the following terms:

a. That the volunteer mother agrees to become pregnant by the fertility technique specified in the agreement, to bear the child, and to terminate any parental rights and responsibilities to the child she might have through a written consent executed at the same time as the preplanned adoption agreement, subject to a right of rescission by the volunteer mother any time within 7 days after the birth of the child.

b. That the volunteer mother agrees to submit to reasonable medical evaluation and treatment and to adhere to reasonable medical instructions about her prenatal health.

c. That the volunteer mother acknowledges that she is aware that she will assume parental rights and responsibilities for the child born to her as otherwise provided by law for a mother, if the intended father and intended mother terminate the agreement before final transfer of custody is completed, or if a court determines that a parent clearly specified by the preplanned adoption agreement to be the biological parent is not the biological parent, or if the preplanned adoption is not approved by the court pursuant to the Florida Adoption Act.

d. That an intended father who is also the biological father acknowledges that he is aware that he will assume parental rights and responsibilities for the child as otherwise provided by law for a father, if the agreement is terminated for any reason by any party before final transfer of custody is completed or if the planned adoption is not approved by the court pursuant to the Florida Adoption Act.

e. That the intended father and intended mother acknowledge that they may not receive custody or the parental rights under the agreement if the volunteer mother terminates the agreement or if the volunteer mother rescinds her consent to place her child for adoption within 7 days after birth.

f. That the intended father and intended mother may agree to pay all reasonable legal, medical, psychological, or psychiatric expenses of the volunteer mother related to the preplanned adoption arrangement, and may agree to pay the reasonable living expenses of the volunteer mother. No other compensation, whether in cash or in kind, shall be made pursuant to a preplanned adoption arrangement.

g. That the intended father and intended mother agree to accept custody of and to assert full parental rights and responsibilities for the child immediately upon the child's birth, regardless of any impairment to the child.

h. That the intended father and intended mother shall have the right to specify the blood and tissue typing tests to be performed if the agreement specifies that at least one of them is intended to be the biological parent of the child.

i. That the agreement may be terminated at any time by any of the parties.

3. A preplanned adoption agreement shall not contain any provision:

a. To reduce any amount paid to the volunteer mother if the child is stillborn or is born alive but impaired, or to provide for the payment of a supplement or bonus for any reason.

b. Requiring the termination of the volunteer mother's pregnancy.

4. An attorney who represents an intended father and intended mother or any other attorney with whom that attorney is associated shall not represent simultaneously a female who is or proposes to be a volunteer mother in any matter relating to a preplanned adoption agreement or preplanned adoption arrangement.

5. Payment to agents, finders, and intermediaries, including attorneys and physicians, as a finder's fee for finding volunteer mothers or matching a volunteer mother and intended father and intended mother is prohibited. Doctors, psychologists, attorneys, and other professionals may receive reasonable compensation for their professional services, such as providing medical services and procedures, legal advice in structuring and negotiating a preplanned adoption agreement, or counseling.

6. As used in this paragraph, the term:

a. "Blood and tissue typing tests" include, but are not limited to, tests of red cell antigens, red cell isoenzymes, human leukocyte antigens, and serum proteins.

b. "Child" means the child or children conceived by means of an insemination that is part of a preplanned adoption arrangement.

c. "Fertility technique" means artificial embryonation, artificial insemination, whether in vivo or in vitro, egg donation, or embryo adoption.

d. "Intended father" means a male who, as evidenced by a preplanned adoption agreement, intends to have the parental rights and responsibilities for a child conceived through a fertility technique, regardless of whether the child is biologically related to the male.

e. "Intended mother" means a female who, as evidenced by a preplanned adoption agreement, intends to have the parental rights and responsibilities for a child conceived through a fertility technique, regardless of whether the child is biologically related to the female.

f. "Parties" means the intended father and intended mother, the volunteer mother and her husband, if she has a husband, who are all parties to the preplanned adoption agreement.

g. "Preplanned adoption agreement" means a written agreement among the parties that specifies the intent of the parties as to their rights and responsibilities in the preplanned adoption arrangement, consistent with the provisions of this act.

h. "Preplanned adoption arrangement" means the arrangement through which the parties enter into an agreement for the volunteer mother to bear the child, for payment by the intended father and intended mother of the expenses allowed by this act, for the intended father and intended mother to assert full parental rights and responsibilities to the child if consent to adoption is not rescinded after birth by the volunteer mother, and for the volunteer mother to terminate, subject to a right of rescission, in favor of the intended father and intended mother all her parental rights and responsibilities to the child.

i. "Volunteer mother" means a female person at least 18 years of age who voluntarily agrees, subject to a right of rescission, that if she should become pregnant pursuant to a preplanned adoption arrangement, she will terminate in favor of the intended father and intended mother her parental rights and responsibilities to the child.

(2)(a) It is unlawful for any person under this chapter to:

1. Knowingly provide false information;

2. Knowingly withhold material information; or

3. For a parent, with the intent to defraud, to accept benefits related to the same pregnancy from more than one adoption entity without disclosing that fact to each entity.

(b) It is unlawful for any person who knows that the parent whose rights are to be terminated intends to object to said termination to intentionally file the petition for termination of parental rights in a county inconsistent with the required venue under such circumstances.

(c) Any person who willfully violates any provision of this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. In addition, such person is liable for damages caused by such acts or omissions, including reasonable attorney's fees and costs. Damages may be awarded through restitution in any related criminal prosecution or by filing a separate civil action.

(3)~~(2)~~ *This section does not* ~~Nothing herein shall be construed to~~ prohibit *an adoption entity* ~~a licensed child-placing agency~~ from charging fees *permitted under this chapter and* reasonably commensurate to the services provided.

(4)~~(3)~~ It is unlawful for any *adoption entity* ~~intermediary~~ to fail to report to the court, prior to placement, the intended placement of a *minor* ~~child~~ for purposes of adoption with any person not a stepparent or a relative within the third degree, if the *adoption entity* ~~intermediary~~ participates in such intended placement.

(5)~~(4)~~ It is unlawful for any *adoption entity* ~~intermediary~~ to charge any fee *except those fees permitted under s. 63.097 and approved under s. 63.102* ~~over $1,000 and those costs as set out in paragraph (1)(d) over $2,500, other than for actual documented medical costs, court costs, and hospital costs unless such fee is approved by the court prior to the assessment of the fee by the intermediary and upon a showing of justification for the larger fee~~.

(6)~~(5)~~ It is unlawful for any *adoption entity* ~~intermediary~~ to counsel a birth mother to leave the state for the purpose of giving birth to a child outside the state in order to secure a fee in excess of that permitted under s. 63.097 when it is the intention that the child be placed for adoption outside the state.

(7)~~(6)~~ It is unlawful for any *adoption entity* ~~intermediary~~ to obtain a preliminary home study or final home investigation and fail to disclose the existence of the study *or investigation* to the court.

(8)~~(7)~~ *Unless otherwise indicated,* a person who violates any provision of this section, excluding paragraph (1)*(g)*~~(h)~~, *commits* ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person who violates paragraph (1)*(g)*~~(h)~~ *commits* ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.083; and each day of continuing violation shall be considered a separate offense.

Section 36. Section 63.219, Florida Statutes, is amended to read:

63.219 Sanctions.—Upon a finding by the court that an *adoption entity* ~~intermediary or agency~~ has violated any provision of this chapter, the court is authorized to prohibit the *adoption entity* ~~intermediary or agency~~ from placing a minor for adoption in the future.

Section 37. Paragraph (c) of subsection (1) and paragraph (c) of subsection (2) of section 63.301, Florida Statutes, are amended to read:

63.301 Advisory council on adoption.—

(1) There is created within the Department of Children and Family Services an advisory council on adoption. The council shall consist of 17 members to be appointed by the Secretary of Children and Family Services as follows:

(c) One member shall be a *representative from a child-caring agency registered under s. 409.176 that* ~~physician licensed to practice in Florida who, as an intermediary,~~ places or has placed children for adoption.

All members shall be appointed to serve 2-year terms.

(2) The functions of the council shall be to:

(c) Review and evaluate law, procedures, policies, and practice regarding the protection of children placed for adoption, ~~birth~~ parents, *and* adoptive parents utilizing the services of *an adoption entity* ~~the Department of Children and Family Services, licensed child-placing agencies,~~

~~and intermediaries~~, to determine areas needing legislative, administrative, or other interventions.

Section 38. Subsections (49) and (50) of section 39.01, Florida Statutes, 1998 Supplement, are amended to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(49) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under *s. 63.062(1)* ~~s. 63.062(1)(b)~~. If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of *s. 39.503(1)* ~~s. 39.4051(1)~~ or s. 63.062(1)~~(b)~~.

(50) "Participant," for purposes of a shelter proceeding, dependency proceeding, or termination of parental rights proceeding, means any person who is not a party but who should receive notice of hearings involving the child, including foster parents or caregivers, identified prospective parents, *or* grandparents entitled to priority for adoption consideration under s. 63.0425, actual custodians of the child, and any other person whose participation may be in the best interest of the child. Participants may be granted leave by the court to be heard without the necessity of filing a motion to intervene.

Section 39. Subsection (41) of section 984.03, Florida Statutes, 1998 Supplement, is amended to read:

984.03 Definitions.—When used in this chapter, the term:

(41) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)~~(b)~~. If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of either s. 39.503*(1)* or s. 63.062(1)~~(b)~~.

Section 40. Subsection (42) of section 985.03, Florida Statutes, 1998 Supplement, is amended to read:

985.03 Definitions.—When used in this chapter, the term:

(42) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)~~(b)~~. If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of either s. 39.503*(1)* or s. 63.062(1)~~(b)~~.

Section 41. *Section 63.072, Florida Statutes, is repealed.*

Section 42. *Any petition for adoption filed before October 1, 1999, shall be governed by the law in effect at the time the petition was filed.*

And the title is amended as follows:

On page 6, line 25, after the first semicolon (;) insert: amending ss. 39.703, 39.802, 39.806, and 39.811, F.S., relating to the petition and grounds for terminating parental rights and powers of disposition; removing provisions authorizing licensed child-placing agencies to file actions to terminate parental rights; amending s. 39.812, F.S.; providing additional requirements for a petition for adoption; prohibiting filing such petition until the order terminating parental rights is final; amending s. 63.022, F.S.; revising legislative intent with respect to adoptions; amending s. 63.032, F.S.; revising definitions; defining "adoption entity," "legal custody," "parent," and "relative"; creating s. 63.037, F.S.; exempting certain provisions from adoption proceedings initiated under ch. 39, F.S.; creating s. 63.039, F.S.; providing duties of an adoption entity to prospective adoptive parents; providing sanctions and an award of attorney's fees under certain circumstances; amending s. 63.0425, F.S.; conforming provisions relating to grandparent's right to adopt; amending s. 63.052, F.S.; providing for placement of a minor pending adoption; specifying the jurisdiction of the court over a minor placed for adoption; amending s. 63.062, F.S.; specifying additional persons who must consent to an adoption, execute an affidavit of nonpaternity, or receive notice of proceedings to terminate parental rights; providing for form and content of affidavit of nonpaternity; providing for notice of the right to select a witness; providing a form for waiver of venue; amending s. 63.082, F.S.; revising requirements and form for executing a consent to an adoption; making such requirements applicable to affidavit of nonpaternity; providing a revocation period and requirements for withdrawing consent; providing additional disclosure requirements; revising requisite history form to include social history; amending s. 63.085, F.S.; specifying information that must be disclosed to persons seeking to adopt a minor and to the parents; creating s. 63.087, F.S.; requiring that a separate proceeding be conducted by the court to determine whether a parent's parental rights should be terminated; providing for rules, jurisdiction, and venue for such proceedings; providing requirements for the petition and hearing; creating s. 63.088, F.S.; providing diligent search and court inquiry requirements for identifying and locating a person who is required to consent to an adoption or receive notice of proceedings to terminate parental rights; providing notice requirements including notice by constructive service; providing that failure to respond or appear constitutes grounds to terminate parental rights pending adoption; creating s. 63.089, F.S.; providing hearing procedures for proceedings to terminate parental rights pending adoption; specifying grounds upon which parental rights may be terminated; providing for finding of abandonment; providing for dismissal of petition procedures; providing for post-judgment relief; providing for confidentiality of records; amending s. 63.092, F.S.; providing requirements in an at-risk placement before termination of parental rights; amending s. 63.097, F.S.; revising fee requirements to provide for allowable and prohibited fees and costs; amending s. 63.102, F.S.; revising requirements for filing a petition for adoption; providing requirements for prior approval of fees and costs; revising requirements for declaratory statement as to adoption contract; amending s. 63.112, F.S.; revising requirements for form and content of a petition for adoption; amending s. 63.122, F.S.; revising the time requirements for hearing a petition for adoption; amending s. 63.125, F.S.; conforming provisions relating to the final home investigation; amending s. 63.132, F.S.; revising requirements for affidavit of expenses and receipts; requiring separate court order approving fees, costs, and expenses; amending s. 63.142, F.S.; specifying circumstances under which a judgment terminating parental rights pending adoption is voidable; providing for an evidentiary hearing to determine the minor's placement following a motion to void such a judgment; amending s. 63.162, F.S.; conforming provisions relating to confidential records of adoption proceedings; amending s. 63.165, F.S.; requiring that a copy of the certified statement of final decree of adoption be included in the state registry of adoption information; requiring that the Department of Children and Family Services maintain such information for a specified period; amending s. 63.182, F.S.; providing a 1-year statute of repose for actions to set aside or vacate a judgment of adoption or a judgment terminating parental rights pending adoption; providing a 2-year statute of repose for an action in fraud to set aside or vacate a judgment of adoption or a judgment terminating parenting rights; amending s. 63.202, F.S.; conforming provisions relating to agencies authorized to place minors for adoption; amending s. 63.207, F.S.; revising provisions that limit the placement of a minor in another state for adoption; amending s. 63.212, F.S.; revising provisions relating to prohibitions and penalties with respect to adoptions; amending s. 63.219, F.S.; conforming provisions relating to sanctions; amending s. 63.301, F.S.; revising membership of an advisory council on adoption to include a child-caring agency registered under s. 409.176, F.S.; amending ss. 39.01, 984.03, and 985.03, F.S.; correcting cross-references; repealing s. 63.072, F.S., relating to persons who may waive required consent to an adoption; requiring that a petition for adoption be governed by the law in effect at the time the petition is filed; providing for severability;

The question recurred on **Amendment 1** which was adopted.

On motion by Senator Bronson, by two-thirds vote **CS for SB 1598** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—27

Madam President	Burt	Childers	Diaz-Balart
Bronson	Carlton	Clary	Grant
Brown-Waite	Casas	Cowin	Gutman

Holzendorf	Laurent	Myers	Sullivan
Horne	Lee	Saunders	Thomas
King	McKay	Scott	Webster
Latvala	Mitchell	Sebesta	

Nays—12

Campbell	Forman	Kirkpatrick	Meek
Dawson-White	Geller	Klein	Rossin
Dyer	Jones	Kurth	Silver

CS for SB 1596—A bill to be entitled An act relating to public records; providing an exemption from public records requirements for court documents that might identify a pregnant minor who petitions for a waiver of the notice requirements pertaining to her request to have her pregnancy terminated; providing findings of public necessity; providing a contingent effective date.

—was read the second time by title. On motion by Senator Bronson, by two-thirds vote **CS for SB 1596** was read the third time by title, 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	Grant	Laurent	Silver
Casas	Gutman	Lee	Sullivan
Childers	Holzendorf	McKay	Thomas
Clary	Horne	Meek	Webster
Cowin	Jones	Mitchell	

Nays—None

On motion by Senator Sebesta, the rules were waived and the Senate reverted to—

BILLS ON THIRD READING

MOTION

On motion by Senator McKay, the rules were waived and time of recess was extended until completion of **CS for SB 2000**.

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.

—as amended April 28 was read the third time by title.

Senator Forman moved the following amendment which failed to receive the required two-thirds vote:

Amendment 1 (711270)—On page 2, line 8, after the period (.) insert: *Funds may not be distributed to any organization or corporation which has one or more owners, board members, or employees who have been convicted of a misdemeanor or felony involving activity relating to an abortion provider, staff member of an abortion provider, or physician who performs abortions; nor may funds be distributed to any agency which has one or more owners, board members, or employees who have been enjoined from activity relating to an abortion provider, staff member of an abortion provider, or physician who performs abortions.*

The vote was:

Yeas—13

Campbell	Dyer	Geller	Jones
Dawson-White	Forman	Holzendorf	Klein
Kurth	Mitchell	Rossin	Silver
Meek			

Nays—24

Madam President	Childers	Horne	Saunders
Bronson	Clary	King	Scott
Brown-Waite	Cowin	Kirkpatrick	Sebesta
Burt	Diaz-Balart	Laurent	Sullivan
Carlton	Grant	McKay	Thomas
Casas	Gutman	Myers	Webster

Senator Holzendorf moved the following amendment which failed to receive the required two-thirds vote:

Amendment 2 (350586)(with title amendment)—On page 1, delete lines 17-24 and insert:

(z) Choose a Life 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) CHOOSE A LIFE LICENSE PLATES.—

(a) The department shall develop a Choose a Life license plate as provided in this section. The word "Florida" must appear at the bottom of the plate, and the words "Choose a Life"

And the title is amended as follows:

On page 1, line 4, after "Choose" insert: a

Pending further consideration of **SB 1526** as amended, Senator Sebesta moved to withdraw **HB 509** from the Committee on Transportation. The motion was adopted by the required two-thirds vote. The vote was:

Yeas—26

Madam President	Clary	Kirkpatrick	Scott
Bronson	Cowin	Latvala	Sebesta
Brown-Waite	Diaz-Balart	Laurent	Sullivan
Burt	Grant	Lee	Thomas
Carlton	Gutman	McKay	Webster
Casas	Horne	Myers	
Childers	King	Saunders	

Nays—13

Campbell	Geller	Klein	Mitchell
Dawson-White	Holzendorf	Kurth	Rossin
Dyer	Jones	Meek	Silver
Forman			

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

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.

—a companion measure, was substituted for **SB 1526** as amended and read the second time by title.

MOTION

Senator Latvala moved to limit debate on **HB 509** to five minutes per side. The motion was adopted by the required two-thirds vote. The vote was:

Yeas—26

Madam President	Carlton	Cowin	Horne
Bronson	Casas	Diaz-Balart	King
Brown-Waite	Childers	Grant	Kirkpatrick
Burt	Clary	Gutman	Latvala

Laurent	Myers	Sebesta	Thomas
Lee	Saunders	Sullivan	Webster
McKay	Scott		

Nays—13

Campbell	Geller	Klein	Mitchell
Dawson-White	Holzendorf	Kurth	Rossin
Dyer	Jones	Meek	Silver
Forman			

On motion by Senator Sebesta, by two-thirds vote **HB 509** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

Madam President	Clary	Kirkpatrick	Scott
Bronson	Cowin	Latvala	Sebesta
Brown-Waite	Diaz-Balart	Laurent	Sullivan
Burt	Grant	Lee	Thomas
Carlton	Gutman	McKay	Webster
Casas	Horne	Myers	
Childers	King	Saunders	

Nays—13

Campbell	Geller	Klein	Mitchell
Dawson-White	Holzendorf	Kurth	Rossin
Dyer	Jones	Meek	Silver
Forman			

SPECIAL ORDER CALENDAR, continued

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

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.

—with pending **Amendment 4** by Senators Rossin and Cowin.

Senator Rossin moved to defer further consideration of **Amendment 4**. The motion failed.

Senator Jones moved the following amendment to **Amendment 4** which failed:

Amendment 4A (690734)—On page 1, line 30 through page 2, line 2, delete those lines and insert: *jurisdiction of the affected court, appointed by the Governor pursuant to s. 43.29(1)(b) or pursuant to this paragraph.*

Senator Rossin moved the following amendment to **Amendment 4** which failed:

Amendment 4B (145426)—On page 3, delete lines 12-17 and insert: *reappointed to serve a new term. For cause, a member of a judicial nominating commission may be suspended by the Governor and removed by the Senate for cause pursuant to uniform rules of procedure established by the judicial nominating commissions consistent with s. 7, Art. IV of the State Constitution.*

The question recurred on **Amendment 4** which was adopted.

MOTION

Senator Cowin moved to substitute **CS for HB 2013** for **CS for SB 2000** as amended. The motion failed to receive the required two-thirds vote. The vote was:

Yeas—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	

Nays—13

Campbell	Geller	Klein	Mitchell
Dawson-White	Holzendorf	Kurth	Rossin
Dyer	Jones	Meek	Silver
Forman			

Pursuant to Rule 4.19, **CS for SB 2000** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

MOTION

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 Friday, April 30.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Thursday, April 29, 1999: CS for CS for SB 972, CS for SB 2296, CS for SB 264, CS for SB 1564, CS for SB 2000, CS for HB 903, 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

The Committee on Rules and Calendar submits the following bills to be placed on the Local Bill Calendar for Thursday, April 29, 1999: HB 1017, HB 1029, HB 1103, HB 1105, HB 1115, HB 1139, HB 1421, HB 1423, HB 1425, HB 1471, HB 1499, HB 1511, HB 1543, HB 1551, HB 1555, HB 1583, HB 1589, HB 1599, HB 1601, HB 1603, HB 1609, HB 1611, HB 1613, HB 1623, HB 1695, HB 2167

Respectfully submitted,
John McKay, Chairman

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

Senate Resolutions 2722—2742—Not referenced.

By Senator Saunders—

SB 2744—A bill to be entitled An act relating to Collier County; amending s. 3, ch. 89-449, Laws of Florida; prohibiting specified conduct

on park property; authorizing the Director of the Collier County Parks and Recreation Department to grant written permit exceptions to specific prohibitions, which may include consumption of alcoholic beverages for wedding receptions and other special events; providing that the authority delegated to the director must be exercised in strict adherence to park policy rules approved by resolution of the board of county commissioners; providing an effective date.

—was referred to the Committee on Rules and Calendar.

SR 2746—Not referenced.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State CS for SB 752, CS for SB 986 and SB 1464 which he approved on April 29, 1999.

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 HB 2251, HB 2273; has passed as amended HB 1971 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Crady—

HB 2251—A bill to be entitled An act relating to Bradford County; repealing, pursuant to s. 189.4044, F.S., chapter 73-408, Laws of Florida, as amended, which creates the Bradford County Historical Board of Trustees; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Representative Johnson—

HB 2273—A bill to be entitled An act relating to the Oklawaha Basin Recreation and Water Conservation and Control Authority, Lake County; amending chapter 29222, Laws of Florida, 1953, as amended; changing the name of the authority to the Lake County Water Conservation Authority; increasing the number of members of the board of trustees from three to five; requiring that members be elected in nonpartisan elections conducted by the county supervisor of elections in accordance with the Florida Election Code; requiring that each member reside in a different county commission district of Lake County; changing the terms of board members, to conform; providing for transition; prohibiting any board member from serving as executive director of the authority; changing the number of board members required to constitute a quorum, to conform; providing for certification of millage to the county property appraiser for assessment; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Elder Affairs and Long-Term Care; and Representative Argenziano and others—

HB 1971—A bill to be entitled An act relating to nursing home facilities; amending s. 430.502, F.S.; establishing an additional memory disorder clinic; authorizing the Department of Elder Affairs and the Department of Children and Families to initiate certain projects; creating s. 400.0078, F.S.; requiring the Office of State Long-Term Care Ombudsman to establish a statewide toll-free telephone number; amending s. 400.022, F.S.; providing immediate access to residents for representatives of the Office of the Attorney General; creating s. 400.0225, F.S.; directing the Agency for Health Care Administration to contract for consumer satisfaction surveys for nursing home residents; providing procedures and requirements for use of such surveys; amending s. 400.0255, F.S.; defining terms relating to facility decisions to transfer or discharge a resident; providing procedures, requirements, and limitations; requiring notice to the agency under certain circumstances; providing for review of a notice of discharge or transfer by the district long-term care ombudsman, upon request; specifying timeframes; amending s. 400.071, F.S.; providing additional requirements for licensure and renewal; providing a certificate-of-need preference for Gold Seal licensees; creating s. 400.118, F.S.; directing the agency to establish a quality assurance early warning system; providing for quality-of-care monitoring; providing duties of monitors; excluding certain information from discovery or introduction in evidence in civil or administrative actions; providing for rapid response teams; amending s. 400.121, F.S.; authorizing the agency to require certain facilities to increase staffing; authorizing such facilities to request an expedited interim rate increase; providing a penalty; amending s. 400.141, F.S.; providing requirements for appointment of a medical director; providing for resident use of a community pharmacy and for certain repackaging of prescription medication; providing for immunity from liability in the administration of repackaged medication; revising conditions for encouraging facilities to provide other needed services; requiring public display of certain assistance information; authorizing Gold Seal facilities to develop programs to provide certified nursing assistant training; amending s. 400.162, F.S.; revising procedures and policies regarding the safekeeping of residents' property; amending s. 400.19, F.S., relating to the agency's right of entry and inspection; providing a time period for investigation of certain complaints; amending s. 400.191, F.S.; revising requirements for provision of information to the public by the agency; amending s. 400.215, F.S.; specifying conditions for probationary employment of applicants, pending results of an abuse registry screening; requiring the agency to provide a direct-access screening system; amending s. 400.23, F.S.; abolishing the Nursing Home Advisory Committee; revising the system for evaluating facility compliance with licensure requirements; eliminating ratings and providing for standard or conditional licensure status; directing the agency to adopt rules to provide minimum staffing requirements for nursing homes and to allow certain staff to assist residents with eating; increasing the maximum penalties for deficiencies in facility operations; creating s. 400.235, F.S.; providing for development of a Gold Seal Program for recognition of facilities demonstrating excellence in long-term care; establishing a Panel on Excellence in Long-Term Care under the Executive Office of the Governor; providing membership; providing program criteria; providing for duties of the panel and the Governor; providing for agency rules; providing for biennial relicensure of Gold Seal Program facilities, under certain conditions; amending s. 400.241, F.S.; prohibiting willful interference with an unannounced inspection; providing a penalty; amending s. 408.035, F.S.; providing certificate-of-need review criteria for Gold Seal facilities; creating s. 430.80, F.S.; requiring that the Agency for Health Care Administration implement a pilot project for establishing teaching nursing homes; specifying requirements for a nursing home facility to be designated as a teaching nursing home; requiring that the agency develop additional criteria; authorizing a teaching nursing home to be affiliated with a medical school within the State University System; providing for annual appropriations to a teaching nursing home; providing certain limitations on the expenditure of funds by a teaching nursing home; amending s. 468.1755, F.S.; providing for disciplinary action against a nursing home administrator who authorizes discharge or transfer of a resident for a reason other than provided by law; amending ss. 394.4625, 400.063, and 468.1756, F.S.; correcting cross references; reenacting ss. 468.1695(3) and 468.1735, F.S.; incorporating the amendment to s. 468.1755, F.S., in references thereto; providing for funding for recruitment of qualified nursing facility staff; creating a panel on Medicaid reimbursement; providing membership and duties; requiring reports; providing for expiration; requiring a study of factors affecting recruitment, training, employment, and retention of qualified certified nursing assistants; requiring a report; repealing s. 400.29, F.S., relating to an agency annual report of nursing home facilities; providing appropriations; providing effective dates.

—was referred to the Committees on Health, Aging and Long-Term Care; and 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 232, SB 290, CS for SB 748, SB 934, SB 936, CS for CS for SB 1242, SB 1266, SB 1296, SB 1330, CS for SB 1444, CS for SB 1502, SB 1636, CS for CS for SB 1672, CS for SB 1948, CS for SB 2028, CS for SB 2282, CS for SB 2380, CS for SB 2496, SB 2594, SB 2614 and SB 2706.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendment(s) and passed CS for HB 13, HB 297, HB 357 and HB 1015, as amended.

John B. Phelps, Clerk

ENROLLING REPORTS

SB 14, SB 20 and CS for CS for SB 1672 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on April 29, 1999.

Faye W. Blanton, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 28 was corrected and approved.

CO-SPONSORS

Senators Cowin—SB 1746; Hargrett—CS for SB 1314, CS for SB 2438

RECESS

On motion by Senator McKay, the Senate recessed at 8:52 p.m. to reconvene at 9:00 a.m., Friday, April 30.