Journal of the Senate

Number 25—Regular Session **Friday, April 30, 1999**

CONTENTS

CALL TO ORDER

The Senate was called to order by President Jennings at 9:15 a.m. A quorum present—40:

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

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

PRAYER

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

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

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

We pray also that our point is well taken and that you concur as we send the final message for this 1999 Regular Session—we did our best.

Dear God, please bless us all and the citizens of the State of Florida whom we serve. In your holy name, we pray. Amen.

PLEDGE

Senate Pages Joshua Pritchard and Rachel Brigham of Orlando, led the Senate in the pledge of allegiance to the flag of the United States of America.

ADOPTION OF RESOLUTIONS

At the request of Senator Silver—

By Senator Silver—

SR 2730—A resolution supporting the rights of Holocaust victims to receive certain insurance proceeds.

WHEREAS, in 1998 the Florida Legislature passed the Holocaust Victims Insurance Act to provide that insurance claims of Holocaust victims and their heirs and beneficiaries be expeditiously identified and paid, and that Holocaust victims and their families receive appropriate assistance in the filing and payment of their claims, and

WHEREAS, the Department of Insurance has adopted rules to implement the Holocaust Victims Insurance Act, especially the creation of a registry of policy information from the European insurers and their affiliates in this state with respect to policies sold prior to World War II, and the establishment of a restitution program, and

WHEREAS, in 1998 the International Commission for the Resolution of Holocaust-Era Insurance Claims was created and included United States Insurance Commissioners, representatives of Jewish organizations, European Insurance Companies, and European regulators, and a chairman selected by the members, to which Bill Nelson was appointed, and

WHEREAS, the goal of the commission is to arrive at a framework for the settlement of the insurance claims of Holocaust victims and their beneficiaries, heirs, and descendants, for the purpose of expediting the resolution of these matters to avoid litigation and out of an overdue obligation to pay claims and return assets wrongfully withheld for over five decades, yet there may be pressure from the insurance companies and others to settle on terms less favorable than those intended or allowed by law, or otherwise on terms that are not just and fair to the Holocaust victims and their heirs and beneficiaries, and

WHEREAS, the Florida Senate declares its full support for the rights of victims of the Holocaust and their heirs and beneficiaries to receive compensation for all lost assets, including judicial remedies, and also supports a settlement process through the International Commission for the Resolution of Holocaust-Era Claims, if it meets the criteria listed herein and provides Holocaust victims and their heirs and beneficiaries with the ability to obtain full, fair, and expeditious compensation, NOW, THEREFORE,

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

That Holocaust survivors or their elected representatives must have the predominant decision-making role regarding the disposition of unclaimed insurance proceeds, including long-term health care for every Holocaust survivor, regardless of whether they recover an actual insurance policy, and regardless of financial need;

That insurers must make a full, public disclosure of unpaid Holocaust-era policy holders and named beneficiaries, the values and status of the policies, and other relevant information, so that claimants and potential claimants have an opportunity to become fully apprised of their interests and so the public and the appropriate authorities can understand the magnitude of untraceable or heirless proceeds;

That every beneficiary, survivor, or legal heir must be paid a fair value in today's U.S. currency, including compound interest from the date the policy would have become due and payable, such as the death of the insured;

That claimants may establish their right to insurance proceeds with a reasonable and not unduly restrictive standard of proof, as provided by the Holocaust Victim's Insurance Act. Standards of proof must be at least as liberal as those established by the Department of Insurance, and all processes must be transparent, with the claimants having access to the insurers' complete files to make a claim or an appeal;

That the commission must address all forms of insurance from the Holocaust era;

That any provisional settlement amount must be a minimum level for the companies' liability. No maximum liability can be established until the companies have made full and public disclosure of the number and total values of their insurance portfolios from the Holocaust era;

That any ultimate resolution must be subjected to a public review process during which the survivor community can have a full opportunity to be apprised of the terms of any claims process, as well as the amounts and process for disposition of any communal resources; and

That the Florida Senate will continue to ensure access to this state's courts for any claimant to seek redress for all wrongs committed by any insurer for any claim, including claims covered by the Holocaust Victim's Insurance Act.

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

At the request of Senator Bronson—

By Senator Bronson—

SR 2738—A resolution commending the Osceola High School Kowboys Football Team for its 1998 football season and Class 5-A State Championship.

WHEREAS, the Osceola High School Kowboys Football Team, under the direction of Head Coach Jim Scible and his excellent staff, won twelve of their fourteen games during the regular season, and

WHEREAS, the Kowboys beat the Estero High School Wildcats 28 to 14 in the State Championship Game in Ben Hill Griffin Stadium in Gainesville, Florida, on December 18, 1998, and

WHEREAS, the Kowboys achieved this tremendous victory and the Class 5-A Championship by courageous teamwork, dedication, and perseverance, and

WHEREAS, the Kowboy's great achievement has brought statewide honor and recognition to Osceola High School, and

WHEREAS, the teamwork, competitiveness, clean living, citizenship, and discipline exhibited by the Kowboys have been a positive example for and influence upon the youth of Florida at a time when the young people of this state need role models who possess such ideals, and

WHEREAS, this great achievement could not have been attained without the hard work of Assistant Head Coach Alan Baker; Assistant Coaches Jim Bird, Gregg Scible, Jamie Baker, Doug Nichols, Wes Williams, Charles Baker, Joe Rice, and Danny Pitt; Film Man Paul Evans; and team members Robert Sippio, Anthony Jones, Robbie Beach, Chad Mascoe, Taurean Wilkerson, Quentin Smith, Stacey Brown, T.J. Bell, Chris Harmon, Sean Price, Chace Hulon, Darius McCrimon, Dwayne McGee, Jerrell Terry, Darryl Walls, Jermaine Bright, Shawn McCrimon, Jermaine Boston, Patrick Ortiz, Tony Paradiso, Ernest Varnado, Brandon Pitt, Willie Green, John Evans, Angel Maldonado, Henry Campbell, David Woelk, Reggie Bell, Jimmy McCrimon, A.J. Baker, Jared Stewart, Leroy Sanchez, Bill Smith, Eric Collette, Josh Day, David Zupofska, B.J. Ashley, Danny Serrano, Charlie Owen, Robert Martin, Shad Farling, Dale Boston, Matt Quinter, Jeremy Buxton, and Larry Anderson, NOW, THEREFORE,

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

That the Florida Senate commends the Osceola High School Kowboys Football Team, Head Coach Jim Scible, and the coaching staff for their outstanding accomplishments in bringing Osceola High School to state prominence and excellence in high school football.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to the Osceola High School Kowboys Football Team and Coach Jim Scible as a tangible token of the sentiments of the Florida Senate.

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

At the request of Senator Lee—

By Senator Lee—

SR 2740—A resolution honoring Roland Manteiga and recognizing September 25, 1999, as "Roland Manteiga Day."

WHEREAS, Roland Marcelo Manteiga was born January 16, 1920, in Tampa, Florida, and

WHEREAS, Roland's father, Victoriano Manteiga, emigrated from Cuba in 1913 and began publishing a daily Spanish-language newspaper, La Gaceta, in Tampa in 1922, and

WHEREAS, young Roland learned journalism and publishing from the ground up, beginning by delivering La Gaceta on his bicycle, and later by mastering advertising, circulation, writing, and editing while in his teens, and

WHEREAS, Roland Manteiga took a more active role in La Gaceta after serving in the Pacific Theater during World War II, and

WHEREAS, La Gaceta became a weekly publication in 1953 and added Italian-language features in addition to its Spanish and English, making it the only such trilingual newspaper in the United States, and

WHEREAS, Roland Manteiga was committed to his political ideology, often opinionated, but never dull, and his column of political commentary and speculation "As We Heard It" was required reading for Tampa Bay-area politicians and journalists for over 44 years, and

WHEREAS, Roland Manteiga, a champion of the underdog and a secret benefactor to people in need, was a modest man, honored many times for his civic and journalistic accomplishments, and

WHEREAS, Roland Manteiga loved Ybor City and has been recognized by community leaders as a gentleman devoted to his community, who sought to make a difference by reporting its history and celebrating its people, making them come alive for posterity, and

WHEREAS, although Roland Manteiga departed this life September 25, 1998, at the age of 78, his spirit lives on in Ybor City, and his legacy shall live on in the community he loved so much, and

WHEREAS, Roland Manteiga, pioneer journalist and editor, historian and chronicler of the rich traditions of Ybor City, a voice of conscience in the community, and a true friend to the powerful and the powerless alike, was a man who exemplified the virtues of hard work, insightful reporting, dedication to his community, modesty, and humanitarianism, and

WHEREAS, for over 40 years, Roland Manteiga served as owner and publisher of La Gaceta, a newspaper of unique significance in our nation, which portrays the multicultural diversity and spirit of our state and, through expressive and informative writing, draws together into one community people of many various backgrounds, NOW, THEREFORE,

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

That the Florida Senate pauses in its deliberations to pay honor to the memory of Roland Manteiga and to recognize Saturday, September 25, 1999, as "Roland Manteiga Day" in Hillsborough County, Florida.

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

At the request of Senator Jones—

By Senator Jones—

SR 2746—A resolution commending Chief Judge Joseph W. Hatchett for his outstanding accomplishments as a jurist, public servant, and distinguished American.

WHEREAS, The Honorable Joseph W. Hatchett has announced his intention to retire from the federal judiciary, effective May 14, 1999, and

WHEREAS, Joseph W. Hatchett's retirement will mark his completion of more than 30 years of distinguished public service to the State of Florida and the United States of America as a jurist and lawyer, and

WHEREAS, Joseph W. Hatchett is a native of Clearwater, Florida, and attended Florida Agricultural and Mechanical University (A.B. Degree, 1954 in Political Science); Howard University School of Law (J.D. Degree, 1959), and

WHEREAS, Joseph W. Hatchett served with great skill and dedication in the United States Marine Corps Reserve, Military Judge (Lieutenant Colonel), Retired, 1988; and the United States Army, 1954-1956, and

WHEREAS, Joseph W. Hatchett served as a United States Circuit Judge, United States Court of Appeals for the Eleventh Circuit (October 1, 1981 to September 30, 1996); United States Circuit Judge, United States Court of Appeals for the Fifth Circuit (July 1979 to October 1, 1981); Justice, Supreme Court of Florida (1975-1979); United States Magistrate for the Middle District of Florida (1971-1975); Special Hearing Officer for Conscientious Objectors, Department of Justice (1967-1968); First Assistant United States Attorney for the Middle District of Florida (1967-1971); Assistant United States Attorney, Jacksonville (1966); Contract Consultant to the City of Daytona Beach (1963-1966); and maintained a private law practice in Daytona Beach from 1959-1966 before assuming his current position as Chief Judge of the United States Court of Appeals for the Eleventh Circuit on October 1, 1996, and

WHEREAS, Joseph W. Hatchett was the first African-American to be appointed to a state's highest court since Reconstruction, and

WHEREAS, Joseph W. Hatchett was the first African-American to be elected to a statewide post in the Southern United States, and

WHEREAS, Joseph W. Hatchett was also the first African-American to serve on a federal appellate court in the Southern United States, and

WHEREAS, Joseph W. Hatchett has served in numerous elected and appointed positions achieving prominence throughout the legal community, and Omega Psi Phi Fraternity, and

WHEREAS, Joseph W. Hatchett has distinguished himself by publishing numerous articles and publications on the subjects of constitutional law, the judicial system, and criminal law in legal journals such as the George Mason University Civil Rights Law Journal, The Florida Bar Journal, the Florida Endowment for the Humanities Florida Forum, the University of Miami Law Review, and Case & Comment, and

WHEREAS, Joseph W. Hatchett has distinguished himself in the civil rights arena when such activism was unpopular and often life-threatening, and

WHEREAS, Joseph W. Hatchett has been a leader in the judiciary and legal profession, and an inspiration, mentor, and role model for countless Floridians, NOW, THEREFORE,

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

That the Florida Senate commends Joseph W. Hatchett for his outstanding accomplishments as a jurist, public servant, and distinguished American and encourages all Floridians to pay tribute to his years of service to the State of Florida and the United States of America, and

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Joseph W. Hatchett at his retirement commemoration on May 21, 1999, as a tangible token of the sentiments of the Florida Senate.

—**SR 2746** was introduced, read and adopted by publication.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator McKay, by two-thirds vote **SB 1046** was withdrawn from the Committee on Fiscal Policy and **SJR 124** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Thomas, by two-thirds vote **SB 800** was removed from the calendar and further consideration.

MOTIONS

On motions by Senator McKay, the rules were waived and by two-thirds vote **SB 898**, **SB 878** and **CS for SB 880** were placed on the Special Order Calendar to be considered before **CS for CS for SB 972**.

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

SPECIAL ORDER CALENDAR

The Senate resumed consideration of—

SB 898—A bill to be entitled An act relating to title loan transactions; creating the "Florida Title Loan Act"; providing definitions; requiring licensure by the Department of Agriculture and Consumer Services to be in the business as a title loan lender; providing fees; providing for eligibility for licensure; providing for application; providing for suspension or revocation of license; providing for a title loan transaction form; providing for recordkeeping and reporting and safekeeping of property; providing for title loan charges; prohibiting certain acts; providing for the right to redeem; providing for lost title loan transaction forms; providing for a title loan lender's lien; providing for criminal penalties; providing for certain records from the Department of Law Enforcement; providing for subpoenas, enforcement of actions, and rules; providing a fine; providing for investigations and complaints; providing an appropriation; providing legislative intent; repealing s. 538.06(5), F.S., which allows a secondhand dealer to engage in a title loan transaction; repealing s. 538.15(4), (5), F.S., which prohibit certain acts and practices by secondhand dealers; amending ss. 538.03, 538.16, F.S.; deleting references to title loans; providing an effective date.

—which was previously considered and amended April 23. Pending **Amendment 10** by Senator Childers was withdrawn.

Senator Childers moved the following amendment which was adopted:

Amendment 11 (472872)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *Short title.—This act may be cited as the "Florida Title Loan Act."*

Section 2. *Definitions.—As used in this act, the term:*

(1) "Department" means the Department of Agriculture and Consumer Services.

(2) "Commercially reasonable" means a sale or disposal which occurs and can be construed as an arms-length transaction. Nonpublic sales or disposal of personal property between licensees and business affiliates or family members are sales and disposal which are presumed not to be commercially reasonable.

(3) "Executive officer" means the president, chief executive officer, chief financial officer, chief operating officer, executive vice president, senior vice president, secretary, or treasurer.

(4) "Identification" means a government issued photographic identification.

(5) "Licensee" means a person who is licensed under this act.

(6) "Loan property" means any personal property certificate of title that is deposited with a title loan lender in the course of the title loan lender's business and is the subject of a title loan agreement.

(7) "Title loan agreement" means a written agreement whereby a title loan lender agrees to make a loan of a specific sum of money to a pledgor, and the pledgor agrees to give the title loan lender a security interest in unencumbered titled personal property, except by a title loan agreement, owned by the pledgor.

(8) "Title loan lender" means any person who is engaged in the business of making title loans or engaging in title loan agreements with pledgors, except such laws made pursuant to licensees under chapter 516, chapter 520, or chapter 655.

(9) "Title loan office" means the location at which, or premises from which, a title loan lender regularly conducts business.

(10) "Title loan transaction form" means the instrument on which a title loan lender records title loan agreements.

(11) "Titled personal property" means any personal property that has as evidence of ownership a state-issued certificate of title, except for a mobile home that is the primary residence of the pledgor.

(12) "Ultimate equitable owner" means a natural person who, directly or indirectly, owns or controls an ownership interest in a corporation, a foreign corporation, an alien business organization, or any other form of business organization, regardless of whether the person owns or controls such ownership interest through one or more natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.

Section 3. *License required; license fees.—*

(1) A person may not engage in business as a title loan lender without a valid license issued by the department. A separate license is required for each physical location of a title loan office. The department shall issue more than one license to a person who complies with the requirements of this act for each license.

(2) An application for a license must be submitted to the department on forms prescribed by departmental rule. If the department determines that an application should be granted, it shall issue the license for a period not to exceed 1 year. A nonrefundable license fee of $1,500 and a nonrefundable investigation fee of $250 must accompany an initial application for each title loan location. The revenue from these fees is intended to reasonably reflect the actual cost of regulation. However, in no event shall the initial license fees payable by a single title loan lender with multiple title loan offices exceed $15,000 in the aggregate.

(3) A license must be renewed annually and must be accompanied by a nonrefundable fee of $1,500. However, in no event shall the renewal fees payable by a single title loan lender with multiple title loan offices exceed $15,000 in the aggregate. A license that is not renewed by its expiration date automatically reverts to inactive status. A license may be reactivated within 3 months after it becomes inactive, upon submission of a completed reactivation form and payment of a reactivation fee. A license may not be reactivated more than 3 months after it becomes inactive.

(4) Each license must specify the location for which it is issued and must be conspicuously displayed at that location. In order to move a title loan office to another location, a licensee must give 30 days prior written notice to the department by certified or registered mail, return receipt requested, and the department shall then amend the license accordingly. A license is not transferable or assignable.

(5) The department may deny an initial application for a license if the applicant or any person with power to direct the management or policies of the applicant is the subject of a pending criminal prosecution or governmental civil enforcement action in any jurisdiction until the conclusion of the criminal prosecution or enforcement action.

(6) A licensee must designate and maintain an agent in this state for service of process.

(7) A person must apply to the department for a new license upon the change of any person owning 25 percent or greater interest in any title loan office and must pay the nonrefundable license and investigation fees, up to a maximum of $10,000.

(8) All moneys collected by the department under this act shall be deposited into the State Treasury to be placed in the General Inspection Trust Fund for the sole purpose of implementing this act.

Section 4. *Eligibility for license.—*

(1) To be eligible for a title loan lending license, an applicant must:

(a) Be of good moral character and not have been found guilty of a crime of moral turpitude.

(b) File with the department a bond in the amount of $100,000 for each license with a surety company qualified to do business in this state. However, in no event shall the aggregate amount of the bond required for a single title loan lender exceed $1 million. In lieu of the bond, the applicant may provide proof to the department that it has a net worth in excess of $1 million; the applicant may provide to the department a current audited financial statement that documents that the applicant's net worth is in excess of $1 million; or the applicant may establish a certificate of deposit or an irrevocable letter of credit in a Florida financial institution, as defined in chapter 655.005, Florida Statutes, in the amount of the bond. The original bond, certificate of deposit, or letter of credit must be filed with the department, and the department must be the beneficiary of the document. The bond, certificate of deposit, or letter of credit must be in favor of the department for the use and benefit of any consumer who is injured pursuant to a title loan transaction by the fraud, misrepresentation, breach of contract, financial failure, or violation of any provision of this act by the title loan lender. The liability may be enforced by an administrative action or lawsuit in a court of competent jurisdiction. However, in a lawsuit, the bond, certificate of deposit, or letter of credit posted with the department is not subject to any judgment or other legal process issuing out of or from such court in connection with the lawsuit, but the bond, certificate of deposit, or letter of credit is enforceable only by administrative proceedings before the department. It is the intent of the Legislature that such bond, certificate of deposit, or letter of credit shall be applicable and liable only for the payment of claims duly adjudicated by the department. The bond, certificate of deposit, or letter of credit shall be payable on a pro rata basis as determined by the department, but the aggregate amount may not exceed the amount of the bond, certificate of deposit, or letter of credit.

(c) Not have been convicted of a felony within the last 10 years or be acting on behalf of an ultimate equitable owner who has been convicted of a felony within the last 10 years.

(d) Not have been convicted, and not be acting as an ultimate equitable owner for someone who has been convicted, of a crime that the department finds directly relates to the duties and responsibilities of a title loan lender within the last 10 years.

(2) An applicant for a title loan lending license may not be a motor vehicle dealer licensed under chapter 320 or be related to a licensed motor vehicle dealer by common officers, directors, principals, stockholders, agents, family, or employees.

(3) If an applicant for a title loan lending license is other than a corporation or limited liability company, the eligibility requirements of this section apply to each direct or ultimate equitable owner.

(4) If an applicant for a title loan lending license is a corporation or limited liability company, the eligibility requirements of this section apply to each direct or ultimate equitable owner of at least 25 percent of the outstanding equity interest of such corporation and to each director and executive officer.

Section 5. *Application for license.—*

(1) An application for a license to make title loans must be in writing, under oath, and in the form prescribed by departmental rule, and must contain the name and residence and business addresses of the applicant, and, if the applicant is a partnership or association, of every member thereof, and, if a corporation, of each executive officer and director and ultimate equitable owner of at least 25 percent thereof; must state whether any of the above has been arrested within the last 10 years for, convicted of, or is under indictment or information for, a felony or crime that directly relates to the duties and responsibilities of a title loan lender, and, if so, the nature thereof; must specify the county and municipality, with the street and number or location, where the business is to be conducted; and must provide such further relevant information as the department requires by rule. At the time of application, the applicant must pay the nonrefundable license fees specified in section 3. Applications, except for applications to renew or reactivate a license, must be accompanied by a nonrefundable investigation fee of $250.

(2) Notwithstanding the foregoing, the application need not state the full name and address of each officer, director, and shareholder if the applicant is owned directly or beneficially by a person who as an issuer has a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934, or pursuant to Section 15 (d) thereof is an issuer of securities which is required to file reports with the Securities and Exchange Commission, if the person files with the department any information, documents, and reports required by that act to be filed with the Securities and Exchange Commission.

(3) Upon the filing of an application for a license and payment of all applicable fees, the department shall, unless the application is to renew or reactivate an existing license, investigate the facts concerning the applicant's proposed activities. The department shall investigate the facts and shall approve an application and issue to the applicant a license that will evidence the authority to do business under this act if the department finds that the eligibility requirements for the license are satisfied. The license must be prominently displayed at the front desk or counter at the title loan office.

(4) A license that is not renewed by its expiration date shall automatically revert to inactive status. An inactive license may be reactivated upon submission of a completed reactivation application, payment of the annual license fee, and payment of a reactivation fee of $250. A license expires on the date at which it has been inactive for 3 months.

(5) A licensee may not change the place of business maintained under a license without giving prior written notice to the department.

(6) A licensee may make loans within a place of business in which other business is solicited or engaged in, unless the department finds that the conduct of the other business by the licensee results in the evasion of this act or combining such other business activities results in practices that are detrimental, misleading, or unfair to consumers. Upon such a finding, the department shall order the licensee to desist from such evasion or other business activities. A license may not be granted to or renewed for any person or organization engaged in the pawnbroking business.

(7) Licenses are not transferable or assignable. A licensee may invalidate any license by delivering it to the department with written notice of its surrender by certified or registered mail, return receipt requested, but such delivery does not affect any civil or criminal liability or the authority to enforce this act for acts committed in violation thereof.

Section 6. *Suspension, revocation of license.—*

(1) The following acts are violations of this act and constitute grounds for the disciplinary actions specified in subsection (2):

(a) Failure to comply with any provision of this act, any rule or order adopted under this act, or any written agreement entered into with the department;

(b) Fraud, misrepresentation, deceit, or gross negligence in any title loan transaction, regardless of reliance by or damage to the pledgor;

(c) Fraudulent misrepresentation, circumvention, or concealment of any matter required to be stated or furnished to a pledgor under this act, regardless of reliance by or damage to the pledgor;

(d) Willful imposition of illegal or excessive charges in any title loan transaction;

(e) False, deceptive, or misleading advertising by a title loan lender;

(f) Failure to maintain, preserve, and make available for examination, all books, accounts, or other documents required by this act, by any rule or order adopted under this act, or by any agreement entered into with the department;

(g) Aiding, abetting, or conspiring with another person to circumvent or violate this act;

(h) Refusal to permit inspection of books and records in an investigation or examination by the department or refusal to comply with a subpoena issued by the department; or

(i) Criminal conduct in the course of a person's business as a title loan lender.

(2) Upon a finding by the department that a person has committed an act prohibited by subsection (1), the department may:

(a) Issue a notice of noncompliance pursuant to section 120.695, Florida Statutes;

(b) Deny an application for a license;

(c) Revoke or suspend a license;

(d) Place a licensee or an applicant on probation for a period of time and subject to such conditions as the department specifies;

(e) Place permanent restrictions or conditions upon issuance or maintenance of a license;

(f) Issue a reprimand; or

(g) Impose an administrative fine not to exceed $5,000 for each act or violation.

(3) In addition to the acts prohibited by subsection (1), the following acts are grounds for denial of a license or for revocation, suspension, or restriction of a license:

(a) Making a material misstatement of fact in an initial or renewal application for a license;

(b) Having a license, registration, or the equivalent, to practice any profession or occupation denied, suspended, revoked, or otherwise acted against by a licensing authority in any jurisdiction for fraud, dishonest dealing, or any act of moral turpitude;

(c) Having been convicted or found guilty of a crime involving fraud, dishonest dealing, or any act of moral turpitude;

(d) Being insolvent or having demonstrated a lack of honesty or financial responsibility; or

(e) The existence of a fact or condition that, if it had existed or had been known to exist at the time of the original issuance of the license, would have justified the department in refusing a license.

(4) The department may take any action specified in subsection (2) as to any partnership, corporation, or association if the department finds grounds for such action as to any member of the partnership, as to any executive officer or director of the corporation or association, or as to any person who has power to direct the management or policies of the partnership, corporation, or association.

(5) A licensee is responsible for the acts of its employees and agents if, with actual knowledge of such acts, it retained profits, benefits, or advantages accruing from such acts or ratified the conduct of the employee or agent as a matter of law or fact.

(6) The manner of giving notice and conducting a hearing is governed by chapter 120, Florida Statutes.

(7) Any title loan agreement made by an unlicensed person is voidable, in which case the person forfeits the right to collect any moneys, including principal and finance charges, from the pledgor in connection with the agreement and must return to the pledgor the loan property in connection with the agreement or the fair market value of the property.

Section 7. *Title loan transaction form.—*

(1) At the time a title loan lender enters into each title loan agreement, the title loan lender shall complete a title loan transaction form for such transaction, and the pledgor shall sign such completed form. The department shall approve the design and format of the title loan transaction form, which shall elicit the information required under this section. In completing the title loan transaction form, the title loan lender shall record the following information, which must be typed or written indelibly and legibly in English:

(a) The make, model, and year of the titled personal property to which the loan property relates.

(b) The vehicle identification number or other comparable identification number, along with the license plate number, if applicable, of the titled personal property to which the loan property relates.

(c) The name, address, date of birth, physical description, and social security number of the pledgor.

(d) The date of the transaction.

(e) The identification number and the type of identification, including the issuing agency, accepted from the pledgor.

(f) The amount of money advanced, which must be designated as the "amount financed."

(g) The maturity date of the title loan agreement.

(h) The total title loan charge payable on the maturity date, designated as the "finance charge."

(i) The total amount, amount financed plus finance charge, which must be paid to redeem the loan property on the maturity date, designated as the "total amount of all payments."

(j) The annual percentage rate, computed in accordance with regulations adopted by the Federal Reserve Board pursuant to the Federal Truth-in-Lending Act.

(2) The following information must also be printed on title loan transaction forms:

(a) The name and address of the title loan office.

(b) The name and address of the department and a telephone number that consumers may use to make complaints.

(c) A statement in not less than 12-point type that:

1. Your vehicle has been pledged as security for this loan and if you do not repay this loan in full, including the finance charge, YOU WILL LOSE YOUR VEHICLE.

2. You are encouraged to repay this loan at the end of the term, The lender is not required to extend or renew your loan. It is important that you plan your finances so that you can repay this loan as soon as possible.

3. THIS LOAN HAS A VERY HIGH INTEREST RATE. DO NOT COMPLETE THIS LOAN TRANSACTION IF YOU HAVE THE ABILITY TO BORROW FROM ANOTHER SOURCE AT AN ANNUAL PERCENTAGE RATE LOWER THAN THAT SHOWN ON THIS FORM.

(d) The statement that "The pledgor represents and warrants that the titled personal property to which the loan property relates is not stolen, that it has no liens or encumbrances against it, that the pledgor has the right to enter into this transaction, and that the pledgor will not apply for a duplicate certificate of title while the title loan agreement is in effect."

(e) Immediately above the signature of the pledgor, the statement that "I, the pledgor, declare under penalty of perjury that I have read the foregoing document and that to the best of my knowledge and belief the facts contained in it are true and correct."

(f) A blank line for the signature of the pledgor.

(3) At the time of the transaction, the title loan lender shall deliver to the pledgor an exact copy of the completed title loan transaction form.

(4) The pledgor shall agree for the title loan lender to keep possession of the certificate of title. The pledgor shall have the exclusive right to redeem the certificate of title by repaying the loan in full and by complying with the title loan agreement. When the certificate of title is redeemed, the title loan lender shall release the security interest in the titled personal property and shall return the personal property certificate of title to the pledgor. The title loan agreement shall provide that upon failure by the pledgor to redeem the certificate of title at the end of the original agreement period, or at the end of any extension thereof, the title loan lender may take possession of the property. The title loan lender shall retain physical possession of the certificate of title for the duration of the title loan agreement, but may not be required to retain physical possession of the titled personal property at any time. A title loan lender may hold only unencumbered certificates of title for loan.

Section 8. *Recordkeeping; reporting; safekeeping of property.—*

(1) A title loan lender shall maintain, at its principal place of business, such books, accounts, and records of the business conducted under the license issued for such place of business as will enable the department to determine the licensee's compliance with this act. The licensee shall make all such books, accounts, and records of business conducted under the license available at a convenient location in this state upon request of the department.

(2) The department may allow the maintenance of books, accounts, and records at a location other than a principal place of business and may require them to be produced and available at a reasonable and convenient location in this state within a reasonable period of time.

(3) The title loan lender shall maintain the original copy of each completed title loan transaction form, and may not obliterate, discard, or destroy any original copy, for at least 2 years after making the final entry on any loan recorded therein.

(4) All loan property, or property related to the title loan transaction, which is delivered to a title loan lender must be securely stored and maintained at the title loan office unless the title document has been forwarded to the appropriate state agency for the recording or deletion of a lien.

(5) The department may prescribe the minimum information to be shown in the books, accounts, and records of licensees so that the department can determine compliance with this act.

Section 9. *Title loan charges.—*

(1) In a title loan agreement, a title lender may contract for and receive a finance charge. The finance charge under a title loan agreement may not exceed 63 percent simple interest during the first year that the agreement is in effect nor may the amount of interest charged exceed 18 percent in any of the first 3 months or 1 percent in any of the remaining 9 months. In addition, a title loan lender may charge the borrower an application fee of $22 or 10 percent of the loan amount, whichever is less.

(2) Any extension must be executed in writing and must clearly specify the new maturity date, the title loan finance charges paid for the extension, and title loan finance charges owed on the new maturity date, and a copy must be supplied to the pledgor. A title loan lender may not capitalize any unpaid finance charge as part of the amount financed in a subsequent title loan transaction.

(3) Payment by a title loan borrower may not be considered late unless it is received more than 7 working days after the date the payment is due. If a late fee is charged by the title loan lender, the total amount of the late fee may not exceed 10 percent of the amount of the payment that is late.

(4) If a title loan agreement is not satisfied within 1 year after its inception, the title loan lender may receive a finance charge on the outstanding principal balance at a rate not to exceed 18 percent per annum for the period of time that the loan remains outstanding beyond 1 year.

(5) Interest on a Title loan may be charged only on the principal amount of the loan and may not be compounded.

(6) Any finance charge contracted for or received, directly or indirectly, in excess of the amounts authorized under this section are prohibited, may not be collected, and render the title loan agreement voidable, in which case the title loan lender shall forfeit the right to collect any interest or finance charges. Upon the pledgor's written request delivered to the title loan lender by certified mail, return receipt requested, within 30 days after the maturity date, the title loan lender must return to the pledgor the loan property delivered to the title loan lender upon payment of the balance of the principal remaining due; there is no penalty for a violation resulting from an accidental and bona fide error that is corrected upon discovery. Any action to circumvent the limitation on title loan interest or any other amounts collectible under this act is voidable. Any transaction involving a person's delivery of a personal property certificate of title in exchange for the advancement of funds on the condition that the person shall or may redeem or repurchase the certificate of title upon the payment of a sum of money, whether the transaction is characterized as a "buy-sell agreement," "sale-leaseback agreement," or otherwise, is a violation of this act if the sum exceeds the amount that a title loan lender may collect in a title loan agreement or if the terms of the

transaction otherwise conflict with the permitted terms and conditions of a title loan agreement.

(7) Any fees or taxes paid to a governmental agency and directly related to a particular title loan transaction may be collected from the pledgor, in addition to the permitted finance charge.

(8) The title loan lender must require a borrower who is in active military service to sign an affidavit informing the borrower that the borrower has 10 days within which to rescind the contract and repay only the principal without penalty or interest, and the title loan lender shall retain a copy of the affidavit and give a copy to the borrower to take to the military legal officer. However, the lender also is responsible for informing the military legal office or of the loan and recision agreement.

Section 10. *Failure to redeem; default.—*

(1) Upon a pledgor's default under the title loan agreement or failure to redeem the pledged property on or before the maturity date of the title loan agreement, the title loan lender may take possession of the titled personal property.

(2) A title loan lender who takes possession of the titled personal property must comply with the applicable requirements of part V of chapter 679.

Section 11. *Prohibited acts.—A title loan lender, or agent or employee of a title loan lender, may not:*

(1) Falsify or fail to make an entry of any material matter in a title loan lender transaction form.

(2) Refuse to allow the department to inspect completed title loan transaction forms or loan property during the ordinary hours of the title loan lender's business or at other times acceptable to both parties.

(3) Enter into a title loan agreement with a person under the age of 18 years.

(4) Make any agreement requiring or allowing for the personal liability of a pledgor or the waiver of any provision of this act.

(5) Knowingly enter into a title loan agreement with any person who is under the influence of drugs or alcohol when such condition is visible or apparent, or with any person using a name other than his or her own name or the registered name of his or her business.

(6) Fail to exercise reasonable care in the safekeeping of loan property or titled personal property repossessed under this act.

(7) Fail to return loan property or repossessed titled personal property to a pledgor, with the title loan lender's liens on the property properly released, upon payment of the full amount due the title loan lender, unless the property has been seized or impounded by an authorized law enforcement agency, taken into custody by a court, or otherwise disposed of by court order.

(8) Sell or otherwise charge for insurance in connection with a title loan agreement, if the title loan lender realizes a profit thereon.

(9) Charge or receive any finance charge, interest, or fees which are not authorized by this act.

(10) Engage in business as a title loan lender without first securing the license.

(11) Refuse to accept a partial repayment of the amount financed, if all accrued finance charges have been paid.

(12) Charge a prepayment penalty.

(13) Advertise using the words "interest free loans" or "no finance charges."

Section 12. *Right to redeem; lost title loan transaction form.—*

(1) Any person presenting identification as the pledgor and presenting the pledgor's copy of the title loan transaction form to the title loan lender is presumed to be entitled to redeem the loan property described in the title loan lender transaction form. However, if the title loan lender determines that the person is not the pledgor, the title loan lender is not required to allow the redemption of the loan property by such person. The person redeeming the loan property must sign the pledgor's copy of the title loan transaction form, which the title loan lender may retain to evidence such person's receipt of the loan property. A person redeeming the loan property who is not the pledgor must show identification to the title loan lender and written authorization from the pledgor, and the title loan lender must record that person's name and address on the title loan transaction form retained by the title loan lender. In such case, the person redeeming the pledgor's copy of the title loan transaction form must be given a copy of the signed form as evidence of the concerned transaction.

(2) If the pledgor's copy of the title loan transaction form is lost, destroyed, or stolen, the pledgor must notify the title loan lender in writing by certified or registered mail, return receipt requested, or in person evidenced by a signed receipt, and receipt of the notice invalidates the title loan transaction form if the loan property has not previously been redeemed. Before delivering the loan property or issuing a new title loan transaction form, the title loan lender shall require the pledgor to make a written statement of the loss, destruction, or theft of the pledgor's copy of the title loan transaction form. The title loan lender shall record on the written statement the type of identification and the identification number accepted from the pledgor, the date the statement is given, and the number or date of the title loan transaction form lost, destroyed, or stolen. The statement must be signed by the title loan lender or the title loan office employee who accepts the statement from the pledgor.

Section 13. *Title loan lender's lien.—*

(1) The title loan lender may record its security interest in the titled personal property to which the loan property relates by noting the lien on the certificate of title.

(2) The title loan lender is, upon entering into a title loan agreement and taking possession of the borrower's certificate of title, a bona fide lienholder whose interest has been perfected.

Section 14. *Criminal penalties.—*

(1) A person who engages in business as a title loan lender without a license commits a felony of the third degree, punishable as provided in section 775.082, Florida Statutes, section 775.083, Florida Statutes, or section 775.084, Florida Statutes.

(2) In addition to any other penalty, any person who willfully violates this act or who willfully makes a false entry in any record specifically required by this act commits a misdemeanor of the first degree, punishable as provided in section 775.082, Florida Statutes, or section 775.083, Florida Statutes.

(3) The possession of a certificate of title by a title loan lender pursuant to a title loan agreement shall not be considered a bailment of the titled personal property.

Section 15. *Records from the Department of Law Enforcement.—The Department of Law Enforcement, on request, shall supply to the department any arrest and conviction records in its possession of an individual applying for or holding a license under this act.*

Section 16. *Subpoenas; enforcement actions; rules.—*

(1) The department may issue and serve subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records, and other evidence before it in any matter pertaining to this act. The department may administer oaths and affirmations to any person whose testimony is required. If a person refuses to testify, produce books, records, and documents, or otherwise refuses to obey a subpoena issued under this section, the department may enforce the subpoena in the same manner as subpoenas issued under the Administrative Procedure Act. Witnesses are entitled to the same fees and mileage as they are entitled to by law for attending as witnesses in the circuit court, unless the examination or investigation is held at the place of business or residence of the witness.

(2) In addition to other powers to administer this act, the department may:

(a) Bring an action in any court of competent jurisdiction to enforce or administer this act, any rule or order adopted under this act, or any

written agreement entered into with the department. In such action, the department may seek any relief at law or equity, including a temporary or permanent injunction, appointment of a receiver or administrator, or an order of restitution.

(b) Issue and serve upon a person an order requiring that person to cease and desist and take corrective action whenever the department finds that such person is violating, has violated, or is about to violate this act, any rule or order adopted under this act, or any written agreement entered into with the department.

(c) If the department finds that conduct described in paragraph (b) presents an immediate danger to the public health, safety, or welfare requiring an immediate final order, issue an emergency cease and desist order reciting with particularity the facts underlying such findings. The emergency cease and desist order is effective immediately upon service of a copy of the order on the respondent named therein and remains effective for 90 days. If the department begins nonemergency proceedings under paragraph (b), the order remains effective until the conclusion of the proceedings under sections 120.569 and 120.57, Florida Statutes.

(d) Impose and collect an administrative fine against any person found to have violated this act, any rule or order adopted under this act, or any written agreement entered into with the department, in an amount not to exceed $5,000 for each violation.

(3) The department may adopt rules to administer this act.

Section 17. *Investigations and complaints.—*

(1) The department may, at intermittent periods, make investigations and examinations of any licensee or other person to determine compliance with this act. For such purposes, it may examine the books, accounts, records, and other documents or matters of any licensee or other person. It may compel the production of all relevant books, records, and other documents and materials relative to an examination or investigation. Such investigations and examinations shall not be made more often than once during any 12-month period unless the department has good cause to believe that the licensee is not complying with this act.

(2) Any person having reason to believe that this act has been violated may file with the department a written complaint setting forth the details of the alleged violations and the department, upon receipt of the complaint, may inspect the pertinent books, records, letters, and contracts of the licensee and of the seller involved, relating to the complaint.

Section 18. *The sum of $700,000 is appropriated from the General Inspection Trust Fund to the Department of Agriculture and Consumer Services to administer this act and to pay the salaries and other administrative expenses for nine positions to implement this act during the 1999-2000 fiscal year.*

Section 19. *Legislative intent.—It is the intent of the Legislature that title loans shall be regulated by this act. This act supersedes any other law affecting title loans to the extent of the conflict.*

Section 20. Subsection (1) of section 538.03, Florida Statutes, is amended to read:

538.03 Definitions; applicability.—

(1) As used in this part, the term:

(a) "Secondhand dealer" means any person, corporation, or other business organization or entity which is not a secondary metals recycler subject to part II and which is engaged in the business of purchasing, consigning, or pawning secondhand goods ~~or entering into title loan transactions~~. However, secondhand dealers are not limited to dealing only in items defined as secondhand goods in paragraph (g). Except as provided in subsection (2), the term means pawnbrokers, jewelers, precious metals dealers, garage sale operators, secondhand stores, and consignment shops.

(b) "Precious metals dealer" means a secondhand dealer who normally or regularly engages in the business of buying used precious metals for resale. The term does not include those persons involved in the bulk sale of precious metals from one secondhand or precious metals dealer to another.

(c) "Pawnbroker" means any person, corporation, or other business organization or entity which is regularly engaged in the business of making pawns but does not include a financial institution as defined in s. 655.005 or any person who regularly loans money or any other thing of value on stocks, bonds, or other securities.

(d) "Pawn" means either of the following transactions:

1. Loan of money.—A written or oral bailment of personal property as security for an engagement or debt, redeemable on certain terms and with the implied power of sale on default.

2. Buy-sell agreement.—An agreement whereby a purchaser agrees to hold property for a specified period of time to allow the seller the exclusive right to repurchase the property. A buy-sell agreement is not a loan of money.

(e) "Secondhand store" means the place or premises at which a secondhand dealer is registered to conduct business as a secondhand dealer, or conducts business, including pawn shops.

(f) "Consignment shop" means a shop engaging in the business of accepting for sale, on consignment, secondhand goods which, having once been used or transferred from the manufacturer to the dealer, are then received into the possession of a third party.

(g) "Secondhand goods" means personal property previously owned or used, which is not regulated metals property regulated under part II and which is purchased, consigned, or pawned as used property. Such secondhand goods shall be limited to watches; diamonds, gems, and other precious stones; fishing rods, reels, and tackle; audio and video electronic equipment, including television sets, compact disc players, radios, amplifiers, receivers, turntables, tape recorders; video tape recorders; speakers and citizens' band radios; computer equipment; radar detectors; depth finders; trolling motors; outboard motors; sterling silver flatware and serving pieces; photographic equipment, including cameras, video and film cameras, lenses, electronic flashes, tripods, and developing equipment; microwave ovens; animal fur coats; marine equipment; video games and cartridges; power lawn and landscape equipment; office equipment such as copiers, fax machines, and postage machines but excluding furniture; sports equipment; golf clubs; weapons, including knives, swords, and air guns; telephones, including cellular and portable; firearms; tools; calculators; musical instruments, excluding pianos and organs; lawnmowers; bicycles; typewriters; motor vehicles; gold, silver, platinum, and other precious metals excluding coins; and jewelry, excluding costume jewelry.

(h) "Transaction" means any ~~title loan,~~ purchase, consignment, or pawn of secondhand goods by a secondhand dealer.

~~(i) "Title loan" means a loan of money secured by bailment of a certificate of title to a motor vehicle. A title loan is not a pawn if the secondhand dealer does not maintain physical possession of the vehicle throughout the term of the transaction.~~

(i)~~(j)~~ "Precious metals" means any item containing any gold, silver, or platinum, or any combination thereof, excluding:

1. Any chemical or any automotive, photographic, electrical, medical, or dental materials or electronic parts.

2. Any coin with an intrinsic value less than its numismatic value.

3. Any gold bullion coin.

4. Any gold, silver, or platinum bullion that has been assayed and is properly marked as to its weight and fineness.

5. Any coin which is mounted in a jewelry setting.

(j)~~(k)~~ "Department" means the Department of Revenue.

(k)~~(l)~~ "Pledge" means pawn or buy-sell agreement.

Section 21. Subsection (1) of section 538.16, Florida Statutes, is amended to read:

538.16 *Pawnbrokers* ~~Secondhand dealers~~; disposal of property.—

(1) Any personal property pawned with a pawnbroker, whether the pawn is a loan of money or a buy-sell agreement ~~or a motor vehicle which is security for a title loan~~, is subject to sale or disposal if the pawn is a loan of money and the property has not been redeemed or there has been no payment on account made for a period of 90 days, or if the pawn is a buy-sell agreement ~~or if it is a title loan~~ and the property has not been repurchased from the pawnbroker ~~or the title redeemed from the title lender~~ or there has been no payment made on account within 60 days.

Section 22. *Subsection (5) of section 538.06, Florida Statutes, and subsections (4) and (5) of section 538.15, Florida Statutes, are repealed.*

Section 23. *There is established a task force to review the current operation of the title loan industry in this state and to make recommendations to the Florida Legislature based on that review by January 1, 2000. The task force shall consider, among other things, the rates charged by title loan lenders, the duration of such loans, the default rate on such loans, and the impact of such loaning practices on consumers. The task force shall be comprised of 12 members, six members appointed by the President of the Senate and six members appointed by the Speaker of the House of Representatives. Of the six appointments, two members shall be members of the respective legislative house, two members of the title loan industry, and two members of the public. Such appointments shall be made by June 15, 1999, and the appointees shall meet within 15 days to conduct the first meeting of the task force. At that meeting, the task force shall select by majority vote a chair from its members. The task force shall then meet at the call of its chairman or upon a request of the majority of its members. Members shall be reimbursed for travel and lodging costs in accordance with the provisions of section 112.061, Florida Statutes, with such costs being reimbursed from funds collected by the Department of Agriculture and Consumer Services under section 3 or appropriated under section 18 of this act. The department shall provide necessary staffing for the task force.*

Section 24. This act shall take effect October 1, 1999, except that this section and section 23 shall take effect upon becoming a law and section 18 shall take effect July 1, 1999.

And the title is amended as follows:

On page 1, line 30, following the semicolon (;) insert: providing for a study committee and a report;

On motion by Senator Childers, by two-thirds vote **SB 898** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

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

Nays—3

Dyer	Forman	Meek

SB 878—A bill to be entitled An act relating to health care; transferring powers, duties, functions, and funds of the Department of Children and Family Services relating to alcohol, drug abuse, and mental health programs, including mental health institutions, to the Department of Health; authorizing the Department of Health to organize and classify positions transferred; amending s. 20.19, F.S.; removing from the Department of Children and Family Services responsibilities relating to alcohol, drug abuse, and mental health programs; amending s. 20.43, F.S.; establishing within the Department of Health a Division of Mental Health and a Division of Substance Abuse; amending ss. 39.001, 39.502, F.S.; conforming to said transfer provisions relating to services for dependent children; amending ss. 216.0172, 216.136, F.S.; conforming provisions relating to budgetary process; amending s. 322.055, F.S.; conforming provisions relating to driver licenses of drug offenders; amending s. 393.11, F.S.; conforming provisions relating to diagnosis of mental retardation; amending ss. 394.453, 394.455, 394.457, 394.4574, 394.4615, 394.4674, 394.4781, 394.47865, 394.480, 394.493, 394.498, 394.4985, 394.65, 394.66, 394.67, 394.675, 394.73, 394.74, 394.75, 394.76, 394.77, 394.78, 394.79, F.S.; conforming provisions relating to alcohol, drug abuse, and mental health services; amending ss. 397.311, 397.321, 397.481, 397.706, 397.753, 397.754, 397.801, 397.821, 397.901, F.S.; conforming provisions relating to substance abuse programs and services; amending ss. 400.0065, 400.435, 402.165, 402.166, 402.167, 402.175, 402.20, 402.22, 402.33, 408.701, 409.906, F.S.; conforming provisions relating to the State Long-Term Care Ombudsman, the Agency for Health Care Administration, the statewide and district human rights advocacy committees, an umbrella trust fund for developmentally disabled and mentally ill persons, county contracts for mental health services, education programs for students in residential care facilities, and mental health services provided under Medicaid, and relating to departmental authority to charge fees for client services; amending s. 400.4415, F.S.; revising membership on the assisted living facilities advisory committee; amending ss. 411.222, 411.224, 411.232, F.S.; conforming provisions relating to interagency coordination, the family support planning process, and the Children's Early Investment Program; amending s. 414.70, F.S.; conforming provisions relating to a WAGES drug-screening demonstration program; amending s. 458.3165, F.S.; conforming provisions relating to a public psychiatry certificate; amending ss. 561.121, 561.19, F.S.; conforming provisions relating to revenues for alcohol and substance abuse programs; amending ss. 775.16, 877.111, F.S.; conforming provisions relating to rehabilitation of drug offenders; amending s. 817.505, F.S.; conforming provisions relating to a prohibition on patient brokering; amending ss. 893.02, 893.11, 893.12, 893.15, 893.165, F.S.; conforming provisions relating to drug abuse prevention and control; amending s. 895.09, F.S.; conforming provisions relating to disposition of forfeiture funds; amending ss. 916.105, 916.106, 916.107, 916.32, 916.33, 916.37, 916.39, 916.40, 916.49, F.S.; conforming provisions relating to mentally ill and mentally deficient defendants; amending s. 938.23, F.S.; conforming provisions relating to assistance grants for drug abuse programs; amending ss. 944.706, 945.025, 945.12, 945.41, 945.47, 945.49, 947.146, 948.034, F.S.; conforming provisions relating to persons under the jurisdiction of the Department of Corrections; amending ss. 984.225, 985.06, 985.21, 985.223, 985.226, 985.23, 985.233, 985.308, F.S.; conforming provisions relating to juvenile delinquency; providing for a behavioral health care transition advisory committee; providing membership and duties; establishing a commission on mental health and substance abuse; providing membership and duties; providing for an advisory committee; providing for staff and meetings; authorizing the Department of Health to use unit-costing contract payments; authorizing reimbursement of expenditures for start-up contracts; providing for rules; requiring reports; providing effective dates.

—was read the second time by title.

The Committee on Health, Aging and Long-Term Care recommended the following amendments which were moved by Senator Myers and adopted:

Amendment 1 (642006)(with title amendment)—On page 18, delete lines 15-28 and redesignate subsequent sections.

And the title is amended as follows:

On page 1, line 19, delete "ss. 216.0172" and insert: s.

Amendment 2 (651780)(with title amendment)—On page 63, line 22, delete "*Juvenile Justice*" and insert: *Health*

And the title is amended as follows:

On page 2, line 3, delete "397.901,"

Amendment 3 (201406)(with title amendment)—On page 145, between lines 12 and 13, insert:

Section 99. Subsection (36) is added to section 641.31, Florida Statutes, 1998 Supplement, to read:

641.31 Health Maintenance contracts.—

(36) All health maintenance contracts that provide coverage for massage shall also cover the services of persons licensed to practice massage pursuant to chapter 480, if the massage is prescribed by a physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461 as

medically necessary and the prescription specifies the number of treatments. Such massage services shall be subject to the same terms, conditions, and limitations as other contracted providers.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 4, line 4, after "reports" insert: amending s. 641.31, F.S.; providing requirements in health maintenance contracts for coverage of certain services;

On motion by Senator Myers, by two-thirds vote **SB 878** 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	King	Rossin
Bronson	Diaz-Balart	Kirkpatrick	Saunders
Brown-Waite	Dyer	Klein	Scott
Burt	Forman	Kurth	Sebesta
Campbell	Geller	Laurent	Silver
Carlton	Grant	Lee	Sullivan
Casas	Gutman	McKay	Thomas
Childers	Hargrett	Meek	Webster
Clary	Horne	Mitchell	
Cowin	Jones	Myers	

Nays—None

CS for SB 880—A bill to be entitled An act relating to governmental reorganization; amending s. 20.42, F.S.; reassigning the Agency for Health Care Administration to the Department of Health Care; requiring the Executive Director of Health Care Administration to be confirmed by the Senate; making changes in the organizational structure of the agency; amending s. 20.43, F.S.; redesignating the Department of Health as the Department of Health Care; repealing authorization for the Department of Health to contract with the Agency for Health Care Administration for certain services; transferring to the Department of Health Care the powers, duties, functions, and assets that relate to the consumer complaint services, investigations, and prosecutorial services that are performed by the Agency for Health Care Administration under contract with the Department of Health; providing for the appointment of and duties for an organizational efficiency advisory committee; providing for a reviser's bill; providing for the validity of judicial and administrative proceedings; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote **CS for SB 880** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Meek

Consideration of **CS for CS for SB 972** and **CS for SB 264** was deferred.

MOTION

On motion by Senator Webster, **CS for HB 1707** was returned to the House.

The Senate resumed consideration of—

CS for HB 903—A bill to be entitled An act relating to the Employee Health Care Access Act; amending s. 627.6699, F.S.; revising a definition; revising and updating provisions requiring small employer carriers to offer and issue certain health benefit plans; providing additional restrictions on premium rates for certain health benefit plans; providing an effective date.

—with pending **Amendment 2** by Senator Scott which was previously considered April 28.

Senator Scott moved the following substitute amendment which was adopted:

Amendment 3 (940770)(with title amendment)—On page 6, delete line 1 and insert:

Section 2. Section 408.70, Florida Statutes, is amended to read:

408.70 *Health Alliance for Small Business* ~~Community health purchasing~~; legislative ~~findings and~~ intent.—*It is the intent of the Legislature that a nonprofit corporation, to be known as the "Health Alliance for Small Business," be organized for the purpose of pooling by regions groups of individuals employed by small employers and the dependents of such employees into larger groups in order to facilitate the purchase of affordable group health insurance coverage.*

~~(1) The Legislature finds that the current health care system in this state does not provide access to affordable health care for all persons in this state. Almost one in five persons is without health insurance. For many, entry into the health care system is through a hospital emergency room rather than a primary care setting. The availability of preventive and primary care and managed, family-based care is limited. Health insurance underwriting practices have led to the avoidance, rather than to the sharing, of insurance risks, limiting access to coverages for small-sized employer groups and high-risk populations. Spiraling premium costs have placed health insurance policies out of the reach of many small-sized and medium-sized businesses and their employees. Lack of outcome and cost information has forced individuals and businesses to make critical health care decisions with little guidance or leverage. Health care resources have not been allocated efficiently, leading to excess and unevenly distributed capacity. These factors have contributed to the high cost of health care. Rural and other medically underserved areas have too few health care resources. Comprehensive, first-dollar coverages have allowed individuals to seek care without regard to cost. Provider competition and liability concerns have led to a medical technology arms race. Rather than competing on the basis of price and patient outcome, health care providers compete for patients on the basis of service, equipping themselves with the latest and best technologies. Managed care and group purchasing mechanisms are not widely available to small group purchasers. Health care regulation has placed undue burdens on health care insurers and providers, driving up costs, limiting competition, and preventing market-based solutions to cost and quality problems. Health care costs have been increasing at several times the rate of general inflation, eroding employer profits and investments, increasing government revenue requirements, reducing consumer coverages and purchasing power, and limiting public investments in other vital governmental services.~~

~~(2) It is the intent of the Legislature that a structured health care competition model, known as "managed competition," be implemented throughout the state to improve the efficiency of the health care markets in this state. The managed competition model will promote the pooling of purchaser and consumer buying power; ensure informed cost-conscious consumer choice of managed care plans; reward providers for high-quality, economical care; increase access to care for uninsured persons; and control the rate of inflation in health care costs.~~

~~(3) The Legislature intends that state-chartered, nonprofit private purchasing organizations, to be known as "community health purchasing alliances," be established. The community health purchasing alliances shall be responsible for assisting alliance members in securing the~~

~~highest quality of health care, based on current standards, at the lowest possible prices.~~

Section 3. Section 408.701, Florida Statutes, 1998 Supplement, is amended to read:

408.701 *Health Alliance for Small Business* ~~Community health purchasing~~; definitions.—As used in *ss. 408.70-408.7045* ~~ss. 408.70-408.706~~, the term:

~~(1) "Accountable health partnership" means an organization that integrates health care providers and facilities and assumes risk, in order to provide health care services, as certified by the agency under s. 408.704.~~

(1)~~(2)~~ "Agency" means the Agency for Health Care Administration.

(2)~~(3)~~ "Alliance" means *the Health Alliance for Small Business* ~~a community health purchasing alliance~~.

(3)~~(4)~~ "Alliance member" means~~:~~

~~(a)~~ a small employer as defined in s. 627.6699 *who*~~, or~~

~~(b) The state, for the purpose of providing health benefits to state employees and their dependents through the state group insurance program and to Medicaid recipients, participants in the MedAccess program, and participants in the Medicaid buy-in program,~~

~~if such entities~~ voluntarily *elects* ~~choose~~ to join an alliance.

~~(5) "Antitrust laws" means federal and state laws intended to protect commerce from unlawful restraints, monopolies, and unfair business practices.~~

~~(6) "Associate alliance member" means any purchaser who joins an alliance for the purposes of participating on the alliance board and receiving data from the alliance at no charge as a benefit of membership.~~

~~(7) "Benefit standard" means a specified set of health services that are the minimum that must be covered under a basic health benefit plan, as defined in s. 627.6699.~~

~~(8) "Business health coalition" means a group of employers organized to share information about health services and insurance coverage, to enable the employers to obtain more cost-effective care for their employees.~~

~~(9) "Community health purchasing alliance" means a state-chartered, nonprofit organization that provides member purchasing services and detailed information to its members on comparative prices, usage, outcomes, quality, and enrollee satisfaction with accountable health partnerships.~~

~~(10) "Consumer" means an individual user of health care services.~~

~~(11) "Department" means the Department of Insurance.~~

~~(12) "Grievance procedure" means an established set of rules that specify a process for appeal of an organizational decision.~~

(4)~~(13)~~ "Health care provider" or "provider" means a state-licensed or state-authorized facility, a facility principally supported by a local government or by funds from a charitable organization that holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, a licensed practitioner, a county health department established under part I of chapter 154, a prescribed pediatric extended care center defined in s. 400.902, a federally supported primary care program such as a migrant health center or a community health center authorized under s. 329 or s. 330 of the United States Public Health Services Act that delivers health care services to individuals, or a community facility that receives funds from the state under the Community Alcohol, Drug Abuse, and Mental Health Services Act and provides mental health services to individuals.

(5)~~(14)~~ "Health insurer" or "insurer" means *a health insurer or health maintenance organization that is issued a certificate of authority* ~~an organization licensed~~ by the Department *of Insurance* under part III of chapter 624 or part I of chapter 641.

(6)~~(15)~~ "Health plan" *or "health insurance"* means any *health insurance policy or health maintenance organization contract issued by a health insurer* ~~hospital or medical policy or contract or certificate, hospital or medical service plan contract, or health maintenance organization contract as defined in the insurance code or Health Maintenance Organization Act~~. The term does not include accident-only, specific disease, individual hospital indemnity, credit, ~~dental-only, vision-only,~~ Medicare supplement, long-term care, or disability income insurance; coverage issued as a supplement to liability insurance; workers' compensation or similar insurance; or automobile medical-payment insurance.

(7) "Regional board" means the board of directors of each region of the alliance, as established under s. 408.702(1).

(8) "State board" or "board" means the board of directors of the alliance, as established under s. 408.702(2).

~~(16) "Health status" means an assessment of an individual's mental and physical condition.~~

~~(17) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services. Managed-care techniques most often include one or more of the following: prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services; contracts with selected health care providers; financial incentives or disincentives related to the use of specific providers, services, or service sites; controlled access to and coordination of services by a case manager; and payor efforts to identify treatment alternatives and modify benefit restrictions for high-cost patient care.~~

~~(18) "Managed competition" means a process by which purchasers form alliances to obtain information on, and purchase from, competing accountable health partnerships.~~

~~(19) "Medical outcome" means a change in an individual's health status after the provision of health services.~~

~~(20) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals.~~

~~(21) "Purchaser" means an individual, an organization, or the state that makes health benefit purchasing decisions on behalf of a group of individuals.~~

~~(22) "Self-funded plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for all covered services provided to its enrollees.~~

~~(23) "Utilization management" means programs designed to control the overutilization of health services by reviewing their appropriateness relative to established standards or norms.~~

~~(24) "24-hour coverage" means the consolidation of such time-limited health care coverage as personal injury protection under automobile insurance into a general health insurance plan.~~

~~(25) "Agent" means a person who is licensed to sell insurance in this state pursuant to chapter 626.~~

~~(26) "Primary care physician" means a physician licensed under chapter 458 or chapter 459 who practices family medicine, general internal medicine, general pediatrics, or general obstetrics/ gynecology.~~

Section 4. Section 408.702, Florida Statutes, is amended to read:

408.702 *Health Alliance for Small Business* ~~Community health purchasing alliance~~; establishment*; state and regional boards*.—

(1) There is created the Health Alliance for Small Business, which shall operate as a nonprofit corporation organized under chapter 617. The alliance is not a state agency. The alliance shall operate subject to the supervision and approval of a board of directors composed of the chairman of each of the regional boards of the alliance or, in lieu of the chairman, a member of a regional board designated by the chairman of that board.

(2)(a) The board of directors of each community health purchasing alliance is redesignated as a regional board of the Health Alliance for

Small Business. Each regional board shall operate as a nonprofit corporation organized under chapter 617. A regional board is not a state agency.

(b) The regional board replacing such community health purchasing alliance shall assume the rights and obligations of each former community health purchasing alliance as necessary to fulfill the former alliance's contractual obligations existing on the effective date of this act. Nothing in this section shall impair or otherwise affect any such contract.

(3)~~(1) There is created a community health purchasing alliance in each of the 11 health service planning districts established under s. 408.032. Each alliance must be operated as a state-chartered, nonprofit private organization organized pursuant to chapter 617.~~ There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member of the board of directors of *the* ~~a community health purchasing~~ alliance *or of any regional board*, or *their* ~~its~~ employees or agents, for any action taken by *a* ~~the~~ board in the performance of its powers and duties under *ss. 408.70-408.7045* ~~ss. 408.70-408.706~~.

(4)~~(2)~~ *The number and geographical boundaries of alliance districts may be revised by the state board* ~~Three or fewer alliances located in contiguous districts that are not primarily urban may merge into a single alliance~~ upon approval of the agency based *on* ~~upon~~ a showing by the ~~alliance~~ board ~~members~~ that the members of *the* ~~each~~ alliance would be better served ~~under a combined alliance~~. *If the number or boundaries of regional alliances are revised, the members of the new regional boards for the affected regions must be representative of the members of the former regional boards of the affected regions in a method established by the state board which reasonably provides for proportionate representation of former board members.* ~~Board members of each alliance shall serve as the board of the combined alliance.~~

(5)~~(3)~~ *The* ~~An~~ alliance ~~is the only entity that is allowed to operate as an alliance in a particular district and~~ must operate for the benefit of its members who are~~:~~ small employers, as defined in s. 627.6699~~; the state on behalf of its employees and the dependents of such employees; Medicaid recipients; and associate alliance members~~. *The* ~~An~~ alliance is the exclusive entity for the oversight and coordination of alliance member purchases. Any health plan offered through *the* ~~an~~ alliance must be offered by *a health insurer* ~~an accountable health partnership~~ and *the* ~~an~~ alliance may not directly provide insurance; directly contract, for purposes of providing insurance, with a health care provider or provider network; or bear any risk, or form self-insurance plans among its members. ~~An alliance may form a network with other alliances in order to improve services provided to alliance members.~~ Nothing in *ss. 408.70-408.7045* ~~ss. 408.70-408.706~~ limits or authorizes the formation of business health coalitions; however, a person or entity that pools together or assists in purchasing health coverage for small employers, as defined in s. 627.6699, ~~state employees and their dependents, and Medicaid, Medicaid buy-in, and MedAccess recipients~~ may not discriminate in its activities based on the health status or historical or projected claims experience of such employers or recipients.

~~(4) Each alliance shall capitalize on the expertise of existing business health coalitions.~~

(6)~~(5)~~ Membership ~~or associate membership~~ in *the* ~~an~~ alliance *and participation by health insurers are* ~~is~~ voluntary.

(7) The state board of the alliance may:

(a) Establish minimum requirements of alliance membership, consistent with the definition of the term "small employer" in s. 627.6699, including any documentation that an applicant must submit to establish eligibility for membership.

(b) Establish administrative and accounting procedures for its operation and for the operation of the regional boards, and require regional boards to submit program reports to the state board or the agency.

(c) Receive and accept grants, loans, advances, or funds from any public or private agency, and receive and accept, from any source, contributions of money, property, labor, or any other thing of value.

(d) Hire employees or contract with qualified, independent third parties for any service necessary to carry out the regional board's powers and duties, as authorized under ss. 408.70-408.7045. However, the board may not hire an insurance agent who engages in activities on behalf of the alliance for which an insurance agent's license is required by chapter 626.

(8) Each regional board of the alliance may:

(a) Negotiate with health insurers to offer health plans to alliance members under terms and conditions as agreed to between the regional board, as group policyholder, and the health insurer. The regional board and the insurer may negotiate and agree to health plan selection, benefit design, premium rates, and other terms of coverage, subject to the requirements of the Florida Insurance Code.

(b) Establish conditions of alliance membership consistent with the minimum requirements established by the state board.

(c) Provide to alliance members standardized information for comparing health plans offered through the alliance.

(d) Offer health plans to alliance members, subject to the terms and conditions agreed to by the state board and participating health insurers.

(e) Market and publicize the coverage and services offered by the alliance.

(f) Collect premiums from alliance members on behalf of participating health insurers.

(g) Assist members in resolving disputes between health insurers and alliance members, consistent with grievance procedures required by law.

(h) Set reasonable fees for alliance membership, services offered by the alliance, and late payment of premiums by alliance members for which the alliance is responsible.

(i) Receive and accept grants, loans, advances, or funds from any public or private agency, and receive and accept, from any source, contributions of money, property, labor, or any other thing of value.

(j) Hire employees or contract with qualified, independent third parties for any service necessary to carry out the regional board's powers and duties as authorized under ss. 408.70-408.7045. However, a regional board may not hire an insurance agent who engages in activities on behalf of the alliance for which an insurance agent's license is required by chapter 626.

(9) No state agency may expend or provide funds to the Alliance that would subsidize the pricing of health insurance policies for its members or the cost of the alliance's activities, unless the Legislature specifically authorizes such expenditure.

~~(6) Each community health purchasing alliance has the following powers, duties, and responsibilities:~~

~~(a) Establishing the conditions of alliance membership in accordance with ss. 408.70-408.706.~~

~~(b) Providing to alliance members clear, standardized information on each accountable health partnership and each health plan offered by each accountable health partnership, including information on price, enrollee costs, quality, patient satisfaction, enrollment, and enrollee responsibilities and obligations; and providing accountable health partnership comparison sheets in accordance with agency rule to be used in providing members and their employees with information regarding standard, basic, and specialized coverage that may be obtained through the accountable health partnerships.~~

~~(c) Annually offering to all alliance members all accountable health partnerships and health plans offered by the accountable health partnerships which meet the requirements of ss. 408.70-408.706, and which submit a responsive proposal as to information necessary for accountable health partnership comparison sheets, and providing assistance to alliance members in selecting and obtaining coverage through accountable health partnerships that meet those requirements.~~

~~(d) Requesting proposals for the standard and basic health plans, as defined in s. 627.6699, from all accountable health partnerships in the district; providing, in the format required by the alliance in the request for proposals, the necessary information for accountable health partnership comparison sheets; and offering to its members health plans of accountable health partnerships which meet those requirements.~~

~~(e) Requesting proposals from all accountable health partnerships in the district for specialized benefits approved by the alliance board based on input from alliance members, determining if the proposals submitted by the accountable health partnerships meet the requirements of the request for proposals, and offering them as options through riders to standard plans and basic plans. This paragraph does not limit an accountable health partnership's ability to offer other specialized benefits to alliance members.~~

~~(f) Distributing to health care purchasers, placing special emphasis on the elderly, retail price data on prescription drugs and their generic equivalents, durable medical equipment, and disposable medical supplies which is provided by the agency pursuant to s. 408.063(3) and (4).~~

~~(g) Establishing administrative and accounting procedures for the operation of the alliance and members' services, preparing an annual alliance budget, and preparing annual program and fiscal reports on alliance operations as required by the agency.~~

~~(h) Developing and implementing a marketing plan to publicize the alliance to potential members and associate members and developing and implementing methods for informing the public about the alliance and its services.~~

~~(i) Developing grievance procedures to be used in resolving disputes between members and the alliance and disputes between the accountable health partnerships and the alliance. Any member of, or accountable health partnership that serves, an alliance may appeal to the agency any grievance that is not resolved by the alliance.~~

~~(j) Ensuring that accountable health partnerships have grievance procedures to be used in resolving disputes between members and an accountable health partnership. A member may appeal to the alliance any grievance that is not resolved by the accountable health partnership. An accountable health partnership that is a health maintenance organization must follow the grievance procedures established in ss. 408.7056 and 641.31(5).~~

~~(k) Maintaining all records, reports, and other information required by the agency, ss. 408.70-408.706, or other state and local laws.~~

~~(l) Receiving and accepting grants, loans, advances, or funds from any public or private agency; and receiving and accepting contributions, from any source, of money, property, labor, or any other thing of value.~~

~~(m) Contracting, as authorized by alliance members, with a qualified, independent third party for any service necessary to carry out the powers and duties required by ss. 408.70-408.706.~~

~~(n) Developing a plan to facilitate participation of providers in the district in an accountable health partnership, placing special emphasis on ensuring participation by minority physicians in accountable health partnerships if such physicians are available. The use of the term "minority" in ss. 408.70-408.706 is consistent with the definition of "minority person" provided in s. 288.703(3).~~

~~(o) Ensuring that any health plan reasonably available within the jurisdiction of an alliance, through a preferred provider network, a point of service product, an exclusive provider organization, a health maintenance organization, or a pure indemnity product, is offered to members of the alliance. For the purposes of this paragraph, "pure indemnity product" means a health insurance policy or contract that does not provide different rates of reimbursement for a specified list of physicians and a "point of service product" means a preferred provider network or a health maintenance organization which allows members to select at a higher cost a provider outside of the network or the health maintenance organization.~~

~~(p) Petitioning the agency for a determination as to the cost-effectiveness of collecting premiums on behalf of participating accountable health partnerships. If determined by the agency to be cost-effective, the alliance may establish procedures for collecting premiums from members and distribute them to the participating accountable health partnerships. This may include the remittance of the share of the group premium paid by both an employer and an enrollee. If an alliance assumes premium collection responsibility, it shall also assume liability for uncollected premium. This liability may be collected through a bad debt surcharge on alliance members to finance the cost of uncollected premiums. The alliance shall pay participating accountable health partnerships their contracting premium amounts on a prepaid monthly basis, or as otherwise mutually agreed upon.~~

~~(7) Each alliance shall set reasonable fees for membership in the alliance which will finance all reasonable and necessary costs incurred in administering the alliance.~~

(9)~~(8)~~ Each *regional board* ~~alliance~~ shall annually report *to the state board* on the operations of the alliance *in that region*, including program and financial operations, and shall provide for annual internal and independent audits.

(10)~~(9)~~ *The alliance, the state board, and regional boards* ~~A community health purchasing alliance~~ may not engage in any activities for which an insurance agent's license is required *by chapter 626. Any licensed health agent in good standing with the Department of Insurance, who is otherwise appointed to sell health insurance in this state, may place alliance members coverage with an insurer selected to provide such coverage by a regional board without being required to secure an appointment with such insurer. An insurer shall not be liable for the acts of an agent not appointed by it in producing alliance business. This subsection does not prohibit the alliance from requiring minimal training or education related to activities of the alliance.*

(11)~~(10)~~ The powers and responsibilities of *the* ~~a community health purchasing~~ alliance with respect to purchasing *health plans* ~~services~~ from *health insurers* ~~accountable health partnerships~~ do not extend beyond those enumerated in *ss. 408.70-408.7045* ~~ss. 408.70-408.706~~.

(12) The Office of the Auditor General may audit and inspect the operations and records of the alliance.

Section 5. Section 408.703, Florida Statutes, is amended to read:

408.703 Small employer members of *the alliance* ~~community health purchasing alliances~~; eligibility requirements.—

(1) The *board* ~~agency~~ shall establish conditions of participation *in the alliance* for small employers, as defined in s. 627.6699, which must include, but need not be limited to:

(a) Assurance that the group is a valid small employer and is not formed for the purpose of securing health benefit coverage. This assurance must include requirements for sole proprietors and self-employed individuals which must be based on a specified requirement for the time that the sole proprietor or self-employed individual has been in business, required filings to verify employment status, and other requirements to ensure that the individual is working.

(b) Assurance that the individuals in the small employer group are employees and have not been added for the purpose of securing health benefit coverage.

~~(2) The agency may not require a small employer to pay any portion of premiums as a condition of participation in an alliance.~~

(2)~~(3)~~ The *board* ~~agency~~ may require a small employer seeking membership to agree to participate in the alliance for a specified minimum period of time, not to exceed 1 year.

~~(4) If a member small employer offers more than one accountable health partnership or health plan and the employer contributes to coverage of employees or dependents of the employee, the alliance shall require that the employer contribute the same dollar amount for each employee, regardless of the accountable health partnership or benefit plan chosen by the employee.~~

~~(5) An employer that employs 30 or fewer employees must offer at least 2 accountable health partnerships or health plans to its employees, and an employer that employs 31 or more employees must offer 3 or more accountable health partnerships or health plans to its employees.~~

(3)~~(6)~~ Notwithstanding any other law, if a small employer member loses eligibility to purchase health care through *the* ~~a community health purchasing~~ alliance solely because the business of the small employer member expands to more than 50 and less than 75 eligible employees, the small employer member may, at its next renewal date, purchase coverage through the alliance for not more than 1 additional year.

Section 6. Section 408.704, Florida Statutes, 1998 Supplement, is amended to read:

408.704 Agency duties and responsibilities related to *the alliance* ~~community health purchasing alliances.—~~

(1) The agency shall *supervise the operation of the alliance.* ~~assist in developing a statewide system of community health purchasing alliances. To this end, the agency is responsible for:~~

~~(1) Initially and thereafter annually certifying that each community health purchasing alliance complies with ss. 408.70-408.706 and rules adopted pursuant to ss. 408.70-408.706. The agency may decertify any community health purchasing alliance if the alliance fails to comply with ss. 408.70-408.706 and rules adopted by the agency.~~

(2) *The agency shall conduct* ~~Providing administrative startup funds. Each contract for startup funds is limited to $275,000.~~

~~(3) Conducting~~ an annual review of the performance of *the* ~~each~~ alliance to ensure that the alliance is in compliance with *ss. 408.70-408.7045* ~~ss. 408.70-408.706~~. To assist the agency in its review, *the* ~~each~~ alliance shall submit, quarterly, data to the agency, including, but not limited to, employer enrollment by employer size, ~~industry sector,~~ previous insurance status, and count; number of total eligible employers in the alliance district participating in the alliance; number of insured lives by county and insured category, including employees, dependents, and other insured categories, represented by alliance members; profiles of potential employer membership by county; premium ranges for each *health insurer* ~~accountable health partnership~~ for alliance member categories; type and resolution of member grievances; membership fees; and alliance financial statements. A summary of this annual review shall be provided to the Legislature and to each alliance.

~~(4) Developing accountable health partnership comparison sheets to be used in providing members and their employees with information regarding the accountable health partnership.~~

~~(5) Establishing a data system for accountable health partnerships.~~

~~(a) The agency shall establish an advisory data committee comprised of the following representatives of employers, medical providers, hospitals, health maintenance organizations, and insurers:~~

~~1. Two representatives appointed by each of the following organizations: Associated Industries of Florida, the Florida Chamber of Commerce, the National Federation of Independent Businesses, and the Florida Retail Federation;~~

~~2. One representative of each of the following organizations: the Florida League of Hospitals, the Association of Voluntary Hospitals of Florida, the Florida Hospital Association, the Florida Medical Association, the Florida Osteopathic Medical Association, the Florida Chiropractic Association, the Florida Chapter of the National Medical Association, the Association of Managed Care Physicians, the Florida Insurance Council, the Florida Association of Domestic Insurers, the Florida Association of Health Maintenance Organizations; and~~

~~3. One representative of governmental health care purchasers and three consumer representatives, to be appointed by the agency.~~

~~(b) The advisory data committee shall issue a report and recommendations on each of the following subjects as each is completed. A final report covering all subjects must be included in the final Florida Health Plan to be submitted to the Legislature on December 31, 1993. The report shall include recommendations regarding:~~

~~1. Types of data to be collected. Careful consideration shall be given to other data collection projects and standards for electronic data interchanges already in process in this state and nationally, to evaluating and recommending the feasibility and cost-effectiveness of various data collection activities, and to ensuring that data reporting is necessary to support the evaluation of providers with respect to cost containment, access, quality, control of expensive technologies, and customer satisfaction analysis. Data elements to be collected from providers include prices, utilization, patient outcomes, quality, and patient satisfaction. The completion of this task is the first priority of the advisory data committee. The agency shall begin implementing these data collection activities immediately upon receipt of the recommendations, but no later than January 1, 1994. The data shall be submitted by hospitals, other licensed health care facilities, pharmacists, and group practices as defined in s. 455.654(3)(f).~~

~~2. A standard data set, a standard cost-effective format for collecting the data, and a standard methodology for reporting the data to the agency, or its designee, and to the alliances. The reporting mechanisms must be designed to minimize the administrative burden and cost to health care providers and carriers. A methodology shall be developed for aggregating data in a standardized format for making comparisons between accountable health partnerships which takes advantage of national models and activities.~~

~~3. Methods by which the agency should collect, process, analyze, and distribute the data.~~

~~4. Standards for data interpretation. The advisory data committee shall actively solicit broad input from the provider community, carriers, the business community, and the general public.~~

~~5. Structuring the data collection process to:~~

~~a. Incorporate safeguards to ensure that the health care services utilization data collected is reviewed by experienced, practicing physicians licensed to practice medicine in this state;~~

~~b. Require that carrier customer satisfaction data conclusions are validated by the agency;~~

~~c. Protect the confidentiality of medical information to protect the patient's identity and to protect the privacy of individual physicians and patients. Proprietary data submitted by insurers, providers, and purchasers are confidential pursuant to s. 408.061; and~~

~~d. Afford all interested professional medical and hospital associations and carriers a minimum of 60 days to review and comment before data is released to the public.~~

~~6. Developing a data collection implementation schedule, based on the data collection capabilities of carriers and providers.~~

~~(c) In developing data recommendations, the advisory data committee shall assess the cost-effectiveness of collecting data from individual physician providers. The initial emphasis must be placed on collecting data from those providers with whom the highest percentages of the health care dollars are spent: hospitals, large physician group practices, outpatient facilities, and pharmacies.~~

~~(d) The agency shall, to the maximum extent possible, adopt and implement the recommendations of the advisory data committee. The agency shall report all recommendations of the advisory data committee to the Legislature and submit an implementation plan.~~

~~(e) The travel expenses of the participants of the advisory data committee must be paid by the participant or by the organization that nominated the participant.~~

~~(6) Collecting, compiling, and analyzing data on accountable health partnerships and providing statistical information to alliances.~~

~~(7) Receiving appeals by members of an alliance and accountable health partnerships whose grievances were not resolved by the alliance. The agency shall review these appeals pursuant to chapter 120. Records or reports submitted as a part of a grievance proceeding conducted as provided for under this subsection are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Records or reports of patient care quality assurance proceedings obtained or made by any member of a community health purchasing alliance or any member of an accountable health partnership and received by the agency as a part of a proceeding conducted pursuant to this subsection are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Portions of meetings held pursuant to the provisions of this subsection during which records held confidential pursuant to the provisions of this subsection are discussed are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution. All portions of any meeting closed to the public shall be recorded by a certified court reporter. For any portion of a meeting that is closed, the reporter shall record the times of commencement and termination of the meeting, all discussion and proceedings, the names of all persons~~

~~present at any time, and the names of all persons speaking. No portion of the closed meeting shall be off the record. The court reporter's notes shall be fully transcribed and given to the appropriate records custodian within a reasonable time after the meeting. A copy of the original transcript, with information otherwise confidential or exempt from public disclosure redacted, shall be made available for public inspection and copying 3 years after the date of the closed meeting.~~

Section 7. Section 408.7045, Florida Statutes, is amended to read:

408.7045 ~~Community health purchasing~~ Alliance marketing requirements.—

(1) *The* ~~Each~~ alliance shall use appropriate, efficient, and standardized means to notify members of the availability of sponsored health coverage from the alliance.

(2) *The* ~~Each~~ alliance shall make available to members marketing materials that accurately summarize the benefit plans that are offered by its *health insurer* ~~accountable health partnerships~~ and the rates, costs, and accreditation information relating to those plans.

~~(3) Annually, the alliance shall offer each member small employer all accountable health partnerships available in the alliance and provide them with the appropriate materials relating to those plans. The member small employer may choose which health benefit plans shall be offered to eligible employees and may change the selection each year. The employee may be given options with regard to health plans and the type of managed care system under which his or her benefits will be provided.~~

~~(4) An alliance may notify the agency of any marketing practices or materials that it finds are contrary to the fair and affirmative marketing requirements of the program. Upon the request of an alliance, the agency shall request the Department of Insurance to investigate the practices and the Department of Insurance may take any action authorized for a violation of the insurance code or the Health Maintenance Organization Act.~~

Section 8. Paragraph (b) of subsection (6) of section 627.6699, Florida Statutes, 1998 Supplement, is amended to read:

627.6699 Employee Health Care Access Act.—

(6) RESTRICTIONS RELATING TO PREMIUM RATES.—

(b) For all small employer health benefit plans that are subject to this section and are issued by small employer carriers on or after January 1, 1994, premium rates for health benefit plans subject to this section are subject to the following:

1. Small employer carriers must use a modified community rating methodology in which the premium for each small employer must be determined solely on the basis of the eligible employee's and eligible dependent's gender, age, family composition, tobacco use, or geographic area as determined under paragraph *(5)(j)* ~~(5)(k)~~.

2. Rating factors related to age, gender, family composition, tobacco use, or geographic location may be developed by each carrier to reflect the carrier's experience. The factors used by carriers are subject to department review and approval.

3. Small employer carriers may not modify the rate for a small employer for 12 months from the initial issue date or renewal date, unless the composition of the group changes or benefits are changed. *However, a small employer carrier may modify the rate one time prior to 12 months after the initial issue date for a small employer who enrolls under a previously issued group policy that has a common anniversary date for all employers covered under the policy, if the carrier discloses to the employer in a clear and conspicuous manner the date of the first renewal and the fact that the premium may increase on or after that date and if the insurer demonstrates to the department that efficiencies in administration are achieved and reflected in the rates charged to small employers covered under the policy.*

4. *A small employer carrier may issue a policy to a group association with rates that reflect a premium credit for expense savings attributable to administrative activities being performed by the group association, if these expense savings are specifically documented in the carrier's rate filing and are approved by the department. Any such credit may not be based on different morbidity assumptions or on any other factor related to the health status or claims experience of the group or its members.* ~~Carriers participating in the alliance program, in accordance with ss. 408.700-408.707, may apply a different community rate to business written in that program.~~

(c) For all small employer health benefit plans that are subject to this section, that are issued by small employer carriers before January 1, 1994, and that are renewed on or after January 1, 1995, renewal rates must be based on the same modified community rating standard applied to new business.

(d) Notwithstanding s. 627.401(2), this section and ss. 627.410 and 627.411 apply to any health benefit plan provided by a small employer carrier that provides coverage to one or more employees of a small employer regardless of where the policy, certificate, or contract is issued or delivered, if the health benefit plan covers employees or their covered dependents who are residents of this state.

Section 9. *Sections 408.7041, 408.7042, 408.7055, and 408.706, Florida Statutes, are repealed.*

Section 10. This act shall take effect July 1, 1999.

And the title is amended as follows:

On page 1, delete lines 2-9 and insert: An act relating to health insurance for small employers; amending s. 627.6699, F.S.; modifying definitions; requiring small employer carriers to begin to offer and issue all small employer benefit plans on a specified date; deleting the requirement that basic and standard small employer health benefit plans be issued; providing additional requirements for determining premium rates for benefit plans; providing for applicability of the act to plans provided by small employer carriers that are insurers or health maintenance organizations notwithstanding the provisions of certain other specified statutes under specified conditions; amending s. 408.70, F.S.; providing legislative intent for the organization of a nonprofit corporation for providing affordable group health insurance; amending s. 408.701, F.S.; revising definitions; amending s. 408.702, F.S.; creating the Health Alliance for Small Business; deleting authorization for community health purchasing alliances; creating a board of governors for the alliance; specifying organizational requirements; specifying that the alliance is not a state agency; redesignating community health purchasing alliances as regional boards of the alliance; revising provisions related to liability of board members, number and boundary of alliance districts, eligibility for alliance membership, and powers of the state board and regional boards of the alliance; authorizing the Office of the Auditor General to audit and inspect the alliance; prohibiting state agencies from providing certain funds to the alliance without specific legislative approval; amending s. 408.703, F.S.; providing eligibility requirements for small employer members of the alliance; amending s. 408.704, F.S.; providing responsibilities for the Agency for Health Care Administration; amending s. 408.7045, F.S.; revising marketing requirements of the alliance; amending s. 627.6699, F.S.; revising restrictions related to premium rates for small employer health benefit plans; repealing ss. 408.7041, 408.7042, 408.7055, 408.706, F.S., relating to antitrust protection, relating to purchasing coverage for state employees and Medicaid recipients through community health purchasing alliances, relating to the establishment of practitioner advisory groups by the Agency for Health Care Administration, and relating to requirements for accountable health partnerships; providing an effective date.

On motion by Senator Holzendorf, by two-thirds vote **CS for HB 903** 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	Latvala
Bronson	Cowin	Holzendorf	Laurent
Brown-Waite	Dawson-White	Horne	Lee
Burt	Diaz-Balart	Jones	McKay
Campbell	Dyer	King	Meek
Carlton	Forman	Kirkpatrick	Mitchell
Casas	Geller	Klein	Myers
Childers	Grant	Kurth	Rossin

Saunders	Sebesta	Sullivan	Webster
Scott	Silver	Thomas	

Nays—None

Consideration of **CS for SB 1932** was deferred.

SB 2244—A bill to be entitled An act relating to the State University System; designating the baseball field at Florida A & M University the "Oscar A. Moore - Costa Kittles Baseball Field"; designating the tennis courts at Florida A & M University the "Althea Gibson Tennis Courts"; designating a building housing the College of Arts and Sciences and Business at Florida Gulf Coast University the "Charles B. Reed Hall"; designating a building housing Student Services at Florida Gulf Coast University the "Roy E. McTarnaghan Hall"; designating a building at Florida State University the "William A. Tanner Hall"; designating the Seminole Golf Course at Florida State University the "Don A. Veller Seminole Golf Course"; designating a building on the Panama City Campus of Florida State University the "Larson M. Bland Conference Center"; designating the Administration Building at the University of Central Florida the "Millican Hall"; designating the Humanities and Fine Arts Building at the University of Central Florida the "Colburn Hall"; designating The Cancer Center at the University of Florida the "Jerry W. and Judith S. Davis Cancer Center"; designating the University Athletic Center at the University of Florida the "L. Gale Lemerand Athletics Center"; designating the tennis facility at the University of Florida the "Alfred A. Ring Tennis Complex"; designating the Golf Management and Learning Center at the University of North Florida the "John and Geraldine Hayt Golf Management & Learning Center"; authorizing the erection of suitable markers; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **SB 2244** to **HB 1735**.

Pending further consideration of **SB 2244** as amended, on motion by Senator Dyer, by two-thirds vote **HB 1735** was withdrawn from the Committee on Education.

On motion by Senator Dyer—

HB 1735—A bill to be entitled An act relating to the designation of facilities; designating the baseball field at Florida Agricultural and Mechanical University as the "Oscar A. Moore - Costa Kittles Baseball Field"; designating the tennis courts at Florida Agricultural and Mechanical University as the "Althea Gibson Tennis Courts"; designating Building #2 at Florida Gulf Coast University as "Charles B. Reed Hall"; designating Building #5 at Florida Gulf Coast University as "Roy E. McTarnaghan Hall"; designating the Seminole Golf Course at Florida State University as the "Don A. Veller Seminole Golf Course"; designating Building 76 at Florida State University as "William A. Tanner Hall"; designating Building 1012 on the Panama City Campus of Florida State University as the "Larson M. Bland Conference Center"; designating the Administration Building at the University of Central Florida as "Millican Hall"; designating the Humanities and Fine Arts Building at the University of Central Florida as "Colbourn Hall"; designating the Cancer Center at the University of Florida as the "Jerry W. and Judith S. Davis Cancer Center"; designating the University Athletic Center at the University of Florida as the "L. Gale Lemerand Athletics Center"; designating the tennis facility at the University of Florida as the "Alfred A. Ring Tennis Complex"; designating the Golf Management and Learning Center at the University of North Florida as the "John and Geraldine Hayt Golf Management & Learning Center"; designating the new Florida Atlantic University Educational Wing at St. Lucie West as the "I.A. 'Mac' Mascioli Education Building"; authorizing the respective universities to erect suitable markers; designating the State Veterans' Home in Pembroke Pines as the "Alexander 'Sandy' Nininger, Jr., State Veterans' Nursing Home"; directing the erection of a suitable marker; providing an effective date.

—a companion measure, was substituted for **SB 2244** as amended and read the second time by title.

Senator Silver moved the following amendment which was adopted:

Amendment 1 (113820)(with title amendment)—On page 2, line 16, insert:

Section 1. Subsection (23) of section 163.503, Florida Statutes, 1998 Supplement, is amended to read:

163.340 Definitions.—The following terms, wherever used or referred to in this part, have the following meanings:

(23) "Community policing innovation" means a policing technique or strategy designed to reduce crime by reducing opportunities for, and increasing the perceived risks of engaging in, criminal activity through visible presence of police in the community, including, but not limited to, community mobilization, neighborhood block watch, citizen patrol, *university police patrol, as defined in s. 163.503(10),* citizen contact patrol, foot patrol, neighborhood storefront police stations, field interrogation, or intensified motorized patrol.

Section 2. Subsection (1) of section 163.503, Florida Statutes, 1998 Supplement, is amended and a new subsection (10) is added to that section, to read:

163.503 Safe neighborhoods; definitions.—

(1) "Safe neighborhood improvement district," "district," or "neighborhood improvement district" means a district located in an area in which more than 75 percent of the land is used for residential purposes, or in an area in which more than 75 percent of the land is used for commercial, office, business, *postsecondary education,* or industrial purposes, excluding the land area used for public facilities, and where there is a plan to reduce crime through the implementation of crime prevention through environmental design, environmental security, or defensible space techniques, or through community policing innovations *or the use of a university police patrol*. Nothing in this section shall preclude the inclusion of public land in a neighborhood improvement district although the amount of land used for public facilities is excluded from the land use acreage calculations.

(10) "University police patrol" means one that services a safe neighborhood district that is coterminous with the campus boundaries of a nonpublic college or university with an enrollment of more than 10,000 full-time students within the district boundaries and is funded by the institution or otherwise, as authorized by law.

Section 3. Section 163.5035, Florida Statutes, is amended to read:

163.5035 Safe neighborhood improvement districts; compliance with special district provisions.—Any special district created pursuant to this part shall comply with all applicable provisions contained in chapter 189. In cases where a provision contained in this part conflicts with a provision in chapter 189, the provision in chapter 189 shall prevail. *However, notwithstanding any provision in this chapter or chapter 189, a university police patrol, as defined in s. 163.503, created by a safe neighborhood improvement district, may exercise law enforcement powers within the district.*

Section 4. Subsection (3) of section 163.506, Florida Statutes, 1998 Supplement, is amended and a new subsection (5) is added to that section to read:

163.506 Local government neighborhood improvement districts; creation; advisory council; dissolution.—

(3) As an alternative to designating the local governing body as the board of directors, a majority of the local governing body of a city or county may appoint a board of three to seven directors for the district who shall be residents of the proposed area and who are subject to ad valorem taxation in the residential neighborhood improvement district or who are property owners in a commercial neighborhood improvement district. The directors shall be appointed for staggered terms of 3 years. The initial appointments shall be as follows: one director for a 1-year term; one director for a 2-year term; and one director for a 3-year term. If more than three directors are to be appointed, the additional members shall initially be appointed for 3-year terms. Vacancies shall be filled for the unexpired portion of a term in the same manner as the initial appointments were made. Each director shall hold office until his or her successor is appointed and qualified unless the director ceases to be

qualified or is removed from office. Upon appointment and qualification and in January of each year, the directors shall organize by electing from their number a chair and a secretary. *The board of directors of a district that has a university police patrol has the qualifications in the ordinance that creates the district.*

(5) Members of a university police patrol are law enforcement officers with arrest powers and may bear arms. They must meet the standards adopted by the Criminal Justice Standards and Training Commission and be certified as law enforcement officers. Those who are police officers are district employees.

Section 5. Subsection (5) is added to section 163.5151, Florida Statutes, to read:

163.5151 Fiscal management; budget preparation.—

(5) Notwithstanding any provision of this section, budget and fiscal matters of a safe neighborhood district that has a university police patrol may be prescribed by an interlocal agreement between the district and the local governing body.

Section 6. *A safe neighborhood improvement district that has a university police patrol may enter into an interlocal agreement pursuant to section 163.01, Florida Statutes, with the unit of local government that created the district and other units of local government, pertaining to the operation of the district. The agreement may include provisions regarding mutual aid, cooperation, sharing of resources, budgeting, and financial assistance.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete lines 2 and 3 and insert: An act relating to the State University System; amending s. 163.340, F.S.; providing definitions; amending s. 163.503, F.S.; providing a definition; amending s. 163.5035, F.S.; authorizing university police patrols to exercise law enforcement powers in certain districts; amending s. 163.506, F.S.; providing that certain district boards of directors have certain powers; providing that university police patrol members have certain powers and must meet certain standards; amending s. 163.5151, F.S.; authorizing certain safe neighborhood districts to prescribe certain fiscal matters and operation of the district by interlocal agreement; designating the baseball field at

Senator King moved the following amendment which was adopted:

Amendment 2 (680118)(with title amendment)—On page 3, between lines 21 and 22, insert:

Section 7. *For the purposes of intercollegiate athletics, the following are designated as the athletic nickname, colors, and mascot for The Florida State University:*

(1) Nickname: "Seminoles."

(2) Colors: garnet and gold.

(3) Mascot: Chief Osceola riding atop an appaloosa horse named "Renegade."

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 5, after the semicolon (;) insert: providing designations for the athletic nickname, colors, and mascot for the Florida State University;

Senator Forman moved the following amendment which was adopted:

Amendment 3 (152076)(with title amendment)—On page 5, between lines 8 and 9, insert:

Section 17. *(1) The building currently housing the Florida Records Storage Center of the Department of State, located at 4319 Shelfer Road in Tallahassee, is designated the "Jim Smith Building" in honor of former Secretary of State Jim Smith who served as Florida's 21st Secretary of State from August 5, 1987, to January 3, 1995.*

(2) The Department of State shall erect suitable markers bearing the designation made by this section.

Section 18. *(1) The Sawgrass Expressway (SR 869) located in Broward County is designated the "Jerry Thompson Expressway" in honor of the late Broward County Commissioner who served from November 1974 through November 1996.*

(2) The Department of Transportation shall erect suitable markers bearing the designation made by this section.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 12, after the semicolon (;) insert: designating the Florida Records Storage Center of the Department of State as the Jim Smith Building; directing the Department of State to erect suitable markers; designating the Sawgrass Expressway in Broward County as the "Jerry Thompson Expressway"; directing the Department of Transportation to erect markers;

On motion by Senator Dyer, by two-thirds vote **HB 1735** 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	Jones	Rossin
Bronson	Diaz-Balart	King	Saunders
Brown-Waite	Dyer	Kirkpatrick	Scott
Burt	Forman	Klein	Sebesta
Campbell	Geller	Latvala	Silver
Carlton	Grant	Laurent	Sullivan
Casas	Gutman	Lee	Thomas
Childers	Hargrett	McKay	Webster
Clary	Holzendorf	Meek	
Cowin	Horne	Mitchell	

Nays—None

Vote after roll call:

Yea—Kurth

By direction of the President, 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 amended Senate Amendment 1, concurred in same as amended, and passed CS for CS for HB 17 as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for HB 17—A bill to be entitled An act relating to community revitalization; creating ss. 163.2511, 163.2514, 163.2517, 163.2520, 163.2523, and 163.2526, F.S., the Growth Policy Act; providing legislative findings; providing definitions; authorizing counties and municipalities to designate urban infill and redevelopment areas based on specified criteria; providing for community and neighborhood participation; requiring preparation of a plan or designation of an existing plan and providing requirements with respect thereto; providing for amendment of the local comprehensive plan to delineate area boundaries; providing for adoption of the plan by ordinance; providing requirements for continued eligibility for economic and regulatory incentives and providing that such incentives may be rescinded if the plan is not implemented; providing that counties and municipalities that have adopted such plan may issue revenue bonds and employ tax increment financing under the Community Redevelopment Act and exercise powers granted to community redevelopment neighborhood improvement districts; requiring a report by certain state agencies; providing that such areas shall have priority in the allocation of private activity bonds; providing a program

for grants to counties and municipalities with urban infill and redevelopment areas; providing for review and evaluation of the act and requiring a report; amending s. 163.3164, F.S.; revising the definition of "projects that promote public transportation" under the Local Government Comprehensive Planning and Land Development Regulation Act; amending s. 163.3177, F.S.; modifying the date by which local government comprehensive plans must comply with school siting requirements, and the consequences of failure to comply; amending s. 163.3180, F.S.; specifying that the concurrency requirement applies to transportation facilities; providing requirements with respect to measuring level of service for specified transportation modes and multimodal analysis; providing that the concurrency requirement does not apply to public transit facilities; authorizing exemptions from the transportation facilities concurrency requirement for developments located in an urban infill and redevelopment area; specifying the parties that may request certain exemptions from the transportation facilities concurrency requirement; revising requirements for establishment of level-of-service standards for certain facilities on the Florida Intrastate Highway System; providing that a multiuse development of regional impact may satisfy certain transportation concurrency requirements by payment of a proportionate-share contribution for traffic impacts under certain conditions; authorizing establishment of multimodal transportation districts in certain areas under a local comprehensive plan, providing for certain multimodal level-of-service standards, and providing requirements with respect thereto; providing for issuance of development permits; authorizing reduction of certain fees for development in such districts; amending s. 163.3187, F.S.; providing that comprehensive plan amendments to designate urban infill and redevelopment areas are not subject to statutory limits on the frequency of plan amendments; including such areas within certain limitations relating to small scale development amendments; amending s. 187.201, F.S.; including policies relating to urban policy in the State Comprehensive Plan; amending s. 380.06, F.S., relating to developments of regional impact; increasing certain numerical standards for determining a substantial deviation for projects located in certain urban infill and redevelopment areas; amending ss. 163.3220 and 163.3221, F.S.; revising legislative intent with respect to the Florida Local Government Development Agreement Act to include intent with respect to certain assurance to a developer upon receipt of a brownfield designation; amending s. 163.375, F.S.; authorizing acquisition by eminent domain of property in unincorporated enclaves surrounded by a community redevelopment area when necessary to accomplish a community development plan; amending s. 165.041, F.S.; specifying the date for submission to the Legislature of a feasibility study in connection with a proposed municipal incorporation and revising requirements for such study; amending s. 171.0413, F.S., relating to municipal annexation procedures; requiring public hearings; deleting a requirement that a separate referendum be held in the annexing municipality when the annexation exceeds a certain size and providing that the governing body may choose to hold such a referendum; providing procedures by which a county or combination of counties and the municipalities therein may develop and adopt a plan to improve the efficiency, accountability, and coordination of the delivery of local government services; providing for initiation of the process by resolution; providing requirements for the plan; requiring approval by the local governments' governing bodies and by referendum; authorizing municipal annexation through such plan; amending s. 170.201, F.S.; revising provisions which authorize a municipality to exempt property owned or occupied by certain religious or educational institutions or housing facilities from special assessments for emergency medical services; extending application of such provisions to any service; creating s. 196.1978, F.S.; providing that property used to provide housing for certain persons under ch. 420, F.S., and owned by certain nonprofit corporations is exempt from ad valorem taxation; creating ss. 220.185 and 420.5093, F.S.; creating the State Housing Tax Credit Program; providing legislative findings and policy; providing definitions; providing for a credit against the corporate income tax in an amount equal to a percentage of the eligible basis of certain housing projects; providing a limitation; providing for allocation of credits and administration by the Florida Housing Finance Corporation; providing for an annual plan; providing application procedures; providing that neither tax credits nor financing generated thereby shall be considered income for ad valorem tax purposes; providing for recognition of certain income by the property appraiser; amending s. 420.503, F.S.; providing that certain projects shall qualify as housing for the elderly for purposes of certain loans under the State Apartment Incentive Loan Program, and shall qualify as a project targeted for the elderly in connection with allocation of low-income housing tax credits and with the HOME program under certain conditions; amending s. 420.5087, F.S.; directing the Florida Housing Finance Corporation to adopt rules for the equitable distribution of certain unallocated funds under the State Apartment Incentive Loan Program; authorizing the corporation to waive a mortgage limitation under said program for projects in certain areas; creating ss. 420.630, 420.631, 420.632, 420.633, 420.634, and 420.635, F.S., the Urban Homesteading Act; providing definitions; authorizing a local government or its designee to operate a program to make foreclosed single-family housing available for purchase by qualified buyers; providing eligibility requirements; providing application procedures; providing conditions under which such property may be deeded to a qualified buyer; requiring payment of a pro rata share of certain bonded debt under certain conditions and providing for loans to buyers who are required to make such payment; amending s. 235.193, F.S.; providing that the collocation of a new educational facility with an existing educational facility or the expansion of an existing educational facility shall not be deemed inconsistent with local government comprehensive plans under certain circumstances; providing an effective date.

House Amendment 1 (284357) to Senate Amendment 1—On page 47, line 31, through page 48, line 2 remove from the amendment: all of said lines and insert in lieu thereof:

(b) The total amount of tax credits allocated for all projects shall not exceed the amount appropriated for the State Housing Tax Credit Program in the General Appropriations Act. The total tax credits allocated is defined as the total credits pledged over a 5-year period for all projects.

House Amendment 2 (434871)(with title amendment) to Senate Amendment 1—On page 57, lines 10-18, remove from the amendment: all of said lines

And the title is amended as follows:

On page 64, line 9, of the amendment remove: providing appropriations;

House Amendment 3 (601489)(with title amendment) to Senate Amendment 1—On page 58, between lines 5-6, of the amendment insert:

Section 29. Section 170.09, Florida Statutes, is amended to read:

170.09 Priority of lien; interest; and method of payment.—The special assessments shall be payable at the time and in the manner stipulated in the resolution providing for the improvement; shall remain liens, coequal with the lien of all state, county, district, and municipal taxes, superior in dignity to all other liens, titles, and claims, until paid; shall bear interest, at a rate not to exceed 8 percent per year, or, if bonds are issued pursuant to this chapter, at a rate not to exceed 1 percent above the rate of interest at which the improvement bonds authorized pursuant to this chapter and used for the improvement are sold, from the date of the acceptance of the improvement; and may, by the resolution aforesaid and only for capital outlay projects, be made payable in equal installments over a period not to exceed *30* ~~20~~ years *notwithstanding any special act to the contrary*, to which, if not paid when due, there shall be added a penalty at the rate of 1 percent per month, until paid. However, the assessments may be paid without interest at any time within 30 days after the improvement is completed and a resolution accepting the same has been adopted by the governing authority.

Section 30. Subsection (2) of section 189.4031, Florida Statutes, is amended to read:

189.4031 Special districts; creation, dissolution, and reporting requirements; charter requirements.—

(2) Notwithstanding any general law, special act, or ordinance of a local government to the contrary, any independent special district charter enacted after the effective date of this section shall contain the information required by s. 189.404(3). *Recognizing that the exclusive charter for a community development district is the statutory charter contained in ss. 190.006 through 190.041, community development districts established after July 1, 1980, pursuant to the provisions of chapter 190 shall be deemed in compliance with this requirement.*

Section 31. Subsections (5) and (6) of section 189.405, Florida Statutes, 1998 Supplement, are renumbered as subsections (6) and (7), respectively, and a new subsection (5) is added to said section to read:

189.405 Elections; general requirements and procedures.—

(5)(a) The department may provide, contract for, or assist in conducting education programs, as its budget permits, for all newly elected or appointed members of district boards. The eduction programs shall include, but are not limited to, courses on the code of ethics for public officers and employees, public meetings and public records requirements, public finance, and parliamentary procedure. Course content may be offered by means of the following: videotapes, live seminars, workshops, conferences, teleconferences, computer-based training, multimedia presentations, or other available instructional methods.

(b) An individual district board, at its discretion, may bear the costs associated with educating its members. Board members of districts which have qualified for a zero annual fee for the most recent invoicing period pursuant to s. 189.427 shall not be required to pay a fee for any education program the department provides, contracts for, or assists in conducting.

Section 32. Subsection (7) of section 189.412, Florida Statutes, is amended to read:

189.412 Special District Information Program; duties and responsibilities.—The Special District Information Program of the Department of Community Affairs is created and has the following special duties:

(7) The provision of assistance related to and appropriate in the performance of requirements specified in this chapter, *including assisting with an annual conference sponsored by the Florida Association of Special Districts or its successor.*

Section 33. Subsection (1) of section 189.417, Florida Statutes, is amended to read:

189.417 Meetings; notice; required reports.—

(1) The governing body of each special district shall file quarterly, semiannually, or annually a schedule of its regular meetings with the local governing authority or authorities. The schedule shall include the date, time, and location of each scheduled meeting. The schedule shall be published quarterly, semiannually, or annually in a newspaper of general paid circulation in the manner required in this subsection. The governing body of an independent special district shall advertise the day, time, place, and purpose of any meeting other than a regular meeting or any recessed and reconvened meeting of the governing body, at least 7 days prior to such meeting, in a newspaper of general paid circulation in the county or counties in which the special district is located, unless a bona fide emergency situation exists, in which case a meeting to deal with the emergency may be held as necessary, with reasonable notice, so long as it is subsequently ratified by the board. No approval of the annual budget shall be granted at an emergency meeting. The advertisement shall be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall appear in a newspaper that is published at least 5 days a week, unless the only newspaper in the county is published fewer than 5 days a week. The newspaper selected must be one of general interest and readership in the community and not one of limited subject matter, pursuant to chapter 50. *Any other provision of law to the contrary notwithstanding, and except in the case of emergency meetings, water management districts may provide reasonable notice of public meetings held to evaluate responses to solicitations issued by the water management district, by publication in a newspaper of general paid circulation in the county where the principal office of the water management district is located, or in the county or counties where the public work will be performed, no less than 7 days before such meeting.*

(2) All meetings of the governing body of the special district shall be open to the public and governed by the provisions of chapter 286.

(3) Meetings of the governing body of the special district shall be held in a public building when available within the district, in a county courthouse of a county in which the district is located, or in a building in the county accessible to the public.

Section 34. Subsection (3) of section 190.004, Florida Statutes, is amended, and subsection (4) is added to said section, to read:

190.004 Preemption; sole authority.—

(3) The *establishment* ~~creation~~ of an independent community development district as provided in this act is not a development order within the meaning of chapter 380. All governmental planning, environmental, and land development laws, regulations, and ordinances apply to all development of the land within a community development district. Community development districts do not have the power of a local government to adopt a comprehensive plan, building code, or land development code, as those terms are defined in the Local Government Comprehensive Planning and Land Development Regulation Act. A district shall take no action which is inconsistent with applicable comprehensive plans, ordinances, or regulations of the applicable local general-purpose government.

(4) The exclusive charter for a community development district shall be the uniform community development district charter as set forth in ss. 190.006 through 190.041, including the special powers provided by s. 190.012.

Section 35. Paragraph (e) of subsection (1) and subsection (3) of section 190.005, Florida Statutes, 1998 Supplement, are amended to read:

190.005 Establishment of district.—

(1) The exclusive and uniform method for the establishment of a community development district with a size of 1,000 acres or more shall be pursuant to a rule, adopted under chapter 120 by the Florida Land and Water Adjudicatory Commission, granting a petition for the establishment of a community development district.

(e) The Florida Land and Water Adjudicatory Commission shall consider the entire record of the local hearing, the transcript of the hearing, resolutions adopted by local general-purpose governments as provided in paragraph (c), and the following factors and make a determination to grant or deny a petition for the establishment of a community development district:

1. Whether all statements contained within the petition have been found to be true and correct.

2. Whether the *establishment* ~~creation~~ of the district is inconsistent with any applicable element or portion of the state comprehensive plan or of the effective local government comprehensive plan.

3. Whether the area of land within the proposed district is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.

4. Whether the district is the best alternative available for delivering community development services and facilities to the area that will be served by the district.

5. Whether the community development services and facilities of the district will be incompatible with the capacity and uses of existing local and regional community development services and facilities.

6. Whether the area that will be served by the district is amenable to separate special-district government.

(3) The governing body of any existing special district, created to provide one or more of the public improvements and community facilities authorized by this act, may petition~~, pursuant to this act,~~ for reestablishment of the existing district as a community development district pursuant to this act. *The petition shall contain the information specified in subparagraphs (1)(a)1., 3., 4., 5., 6., and 7. and shall not require payment of a fee pursuant to paragraph (1)(b).* In such case, the new district so formed shall assume the existing obligations, indebtedness, and guarantees of indebtedness of the district so subsumed, and the existing district shall be terminated.

Section 36. Paragraph (b) of subsection (2) and subsection (7) of section 190.006, Florida Statutes, are amended to read:

190.006 Board of supervisors; members and meetings.—

(2)(a) Within 90 days following the effective date of the rule or ordinance establishing the district, there shall be held a meeting of the landowners of the district for the purpose of electing five supervisors for the district. Notice of the landowners' meeting shall be published once a week for 2 consecutive weeks in a newspaper which is in general circulation in the area of the district, the last day of such publication to be not fewer than 14 days or more than 28 days before the date of the election. The landowners, when assembled at such meeting, shall organize by electing a chair who shall conduct the meeting.

(b) At such meeting, each landowner shall be entitled to cast one vote per acre of land owned by him or her and located within the district for each person to be elected. A landowner may vote in person or by proxy in writing. A fraction of an acre shall be treated as 1 acre, entitling the landowner to one vote with respect thereto. The two candidates receiving the highest number of votes shall be elected for a period of 4 years, and the three candidates receiving the next largest number of votes shall be elected for a period of 2 years. The members of the first board elected by landowners shall serve their respective 4-year or 2-year terms; however, the next election by landowners shall be held on the first Tuesday in November. Thereafter, there shall be an election of supervisors for the district every 2 years ~~on the first Tuesday~~ in November *on a date established by the board and noticed pursuant to paragraph (a).* The two candidates receiving the highest number of votes shall be elected to serve for a 4-year period, and the remaining candidate elected shall serve for a 2-year period.

(7) The board shall keep a permanent record book entitled "Record of Proceedings of __(name of district)__ Community Development District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and any and all corporate acts. The record book shall at reasonable times be opened to inspection in the same manner as state, county, and municipal records pursuant to chapter 119. The record book shall be kept at the office or other regular place of business maintained by the board in the county or municipality in which the district is located *or within the boundaries of a development of regional impact or Florida Quality Development, or combination of a development of regional impact and Florida Quality Development, which includes the district.*

Section 37. Subsection (1) of section 190.009, Florida Statutes, is amended to read:

190.009 Disclosure of public financing.—

(1) The district shall take affirmative steps to provide for the full disclosure of information relating to the public financing and maintenance of improvements to real property undertaken by the district. Such information shall be made available to all existing residents, and to all prospective residents, of the district. The district shall furnish each developer of a residential development within the district with sufficient copies of that information to provide each prospective *initial* purchaser of property in that development with a copy, and any developer of a residential development within the district, when required by law to provide a public offering statement, shall include a copy of such information relating to the public financing and maintenance of improvements in the public offering statement.

Section 38. Subsection (6) of section 190.011, Florida Statutes, is amended to read:

190.011 General powers.—The district shall have, and the board may exercise, the following powers:

(6) To maintain an office at such place or places as it may designate within a county in which the district is located *or within the boundaries of a development of regional impact or a Florida Quality Development, or a combination of a development of regional impact and a Florida Quality Development, which includes the district,* which office must be reasonably accessible to the landowners. *Meetings pursuant to s. 189.417(3) of a district within the boundaries of a development of regional impact or Florida Quality Development, or a combination of a development of regional impact and a Florida Quality Development, may be held at such office.*

Section 39. Subsection (1) of section 190.012, Florida Statutes, is amended to read:

190.012 Special powers; public improvements and community facilities.—The district shall have, and the board may exercise, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any area included therein, any or all of the following special powers relating to public improvements and community facilities authorized by this act:

(1) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems, ~~and~~ facilities, *and basic infrastructures* for the following ~~basic infrastructures~~:

(a) Water management and control for the lands within the district and to connect some or any of such facilities with roads and bridges.

(b) Water supply, sewer, and wastewater management, reclamation, and reuse or any combination thereof, and to construct and operate connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or ways, and to dispose of any effluent, residue, or other byproducts of such system or sewer system.

(c) Bridges or culverts that may be needed across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over levees and embankments, and to construct any and all of such works and improvements across, through, or over any public right-of-way, highway, grade, fill, or cut.

(d)*1.* District roads equal to or exceeding the specifications of the county in which such district roads are located, and street lights.

2. Buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, and related signage.

(e) Conservation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property.

(f)~~(e)~~ Any other project within or without the boundaries of a district when a local government issued a development order pursuant to s. 380.06 or s. 380.061 approving or expressly requiring the construction or funding of the project by the district, or when the project is the subject of an agreement between the district and a governmental entity and is consistent with the local government comprehensive plan of the local government within which the project is to be located.

Section 40. Subsections (8) and (9) are added to section 190.021, Florida Statutes, to read:

190.021 Taxes; non-ad valorem assessments.—

(8) STATUS OF ASSESSMENTS.—Benefit special assessments, maintenance special assessments, and special assessments are non-ad valorem assessments as defined by s. 197.3632.

(9) ASSESSMENTS CONSTITUTE LIENS; COLLECTION.—Benefit special assessments and maintenance special assessments authorized by this section, and special assessments authorized by s. 190.022, shall constitute a lien on the property against which assessed from the date of imposition thereof until paid, co-equal with the lien of state, county, municipal, and school board taxes. These non-ad valorem assessments may be collected, at the district's discretion, by the tax collector pursuant to the provisions of s. 197.363 or s. 197.3632, or in accordance with other collection measures provided by law.

Section 41. Section 190.022, Florida Statutes, is amended to read:

190.022 Special assessments.—

(1) The board may levy special assessments for the construction, reconstruction, acquisition, or maintenance of district facilities authorized under this chapter using the procedures for levy and collection provided in chapter 170 *or chapter 197.*

(2) Notwithstanding the provisions of s. 170.09, district assessments may be made payable in *no more than 30* ~~20~~ yearly installments.

Section 42. Subsections (1) and (3) of section 190.033, Florida Statutes, are amended to read:

190.033 Bids required.—

(1) No contract shall be let by the board for ~~the construction of any project authorized by this act, nor shall~~ any goods, supplies, or materials *to* be purchased~~,~~ when the amount thereof to be paid by the district shall exceed *the amount provided in s. 287.017 for category four* ~~$10,000~~, unless notice of bids shall be advertised once in a newspaper in general circulation in the county and in the district. *Any board seeking to construct or improve a public building, structure, or other public works shall*

comply with the bidding procedures of s. 255.20 and other applicable general law. In each case, the bid of the lowest responsive and responsible bidder shall be accepted unless all bids are rejected because the bids are too high, or the board determines it is in the best interests of the district to reject all bids. The board may require the bidders to furnish bond with a responsible surety to be approved by the board. Nothing in this section shall prevent the board from undertaking and performing the construction, operation, and maintenance of any project or facility authorized by this act by the employment of labor, material, and machinery.

(3) Contracts for maintenance services for any district facility or project shall be subject to competitive bidding requirements when the amount thereof to be paid by the district exceeds the amount provided in s. 287.017~~(1) and (2)~~ for category *four* ~~two~~. The district shall adopt rules, *policies, or procedures* establishing competitive bidding procedures for maintenance services. Contracts for other services shall not be subject to competitive bidding unless the district adopts a rule, *policy, or procedure* applying competitive bidding procedures to said contracts.

Section 43. Paragraphs (e) and (f) of subsection (1) and subsection (3) of section 190.046, Florida Statutes, are amended to read:

190.046 Termination, contraction, or expansion of district.—

(1) The board may petition to contract or expand the boundaries of a community development district in the following manner:

(e) In all cases, written consent of all the landowners whose land is to be added to or deleted from the district shall be required. *The filing of the petition for expansion or contraction by the district board of supervisors shall constitute consent of the landowners within the district other than of landowners whose land is proposed to be added to or removed from the district.*

(f)*1.* During the existence of *a* ~~the~~ district *initially established by administrative rule*, petitions to amend the boundaries of the district pursuant to paragraphs (a)-(e) shall be limited to a cumulative total of no more than 10 percent of the land in the initial district, and in no event shall all such petitions to amend the boundaries ever encompass more than a total of 250 acres.

2. For districts initially established by county or municipal ordinance, the limitation provided by this paragraph shall be a cumulative total of no more than 50 percent of the land in the initial district, and in no event shall all such petitions to amend the boundaries ever encompass more than a total of 500 acres.

3. Boundary expansions for districts initially established by county or municipal ordinance shall follow the procedure set forth in paragraph (b) or paragraph (c).

(3) The district may merge with other community development districts upon filing a petition for establishment of a community development district pursuant to s. 190.005 or may merge with any other special districts upon filing a petition for establishment of a community development district pursuant to s. 190.005. The government formed by a merger involving a community development district pursuant to this section shall assume all indebtedness of, and receive title to, all property owned by the preexisting special districts. Prior to filing said petition, the districts desiring to merge shall enter into a merger agreement and shall provide for the proper allocation of the indebtedness so assumed and the manner in which said debt shall be retired. *The approval of the merger agreement by the board of supervisors elected by the electors of the district shall constitute consent of the landowners within the district.*

Section 44. Section 190.048, Florida Statutes, is amended to read:

190.048 Sale of real estate within a district; required disclosure to purchaser.—Subsequent to the *establishment* ~~creation~~ of a district under this chapter, each contract for the *initial* sale of *a parcel of* real *property and each contract for the initial sale of a residential unit* ~~estate~~ within the district shall include, immediately prior to the space reserved in the contract for the signature of the purchaser, the following *disclosure* statement in boldfaced and conspicuous type which is larger than the type in the remaining text of the contract: "THE __(Name of District)__ *COMMUNITY DEVELOPMENT* DISTRICT *MAY IMPOSE AND LEVY* ~~IMPOSES~~ TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY ~~THROUGH A SPECIAL TAXING DISTRICT~~. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES *AND SERVICES* OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY *AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS* AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW."

Section 45. Section 190.0485, Florida Statutes, is created to read:

190.0485 Notice of establishment.—Within 30 days after the effective date of a rule or ordinance establishing a community development district under this act, the district shall cause to be recorded in the property records in the county in which it is located a "Notice of Establishment of the ____ Community Development District." The notice shall, at a minimum, include the legal description of the district and a copy of the disclosure statement specified in s. 190.048.

Section 46. *Each community development district in existence on the effective date of this act shall record a notice of establishment as specified in s. 190.0485, Florida Statutes, as created by this act, within 90 days after that date, unless the district has previously recorded a notice that meets the requirements set forth in that section.*

Section 47. (1) Section 190.049, Florida Statutes, is amended to read:

190.049 Special acts prohibited.—Pursuant to s. 11(a)(21), Art. III of the State Constitution, there shall be no special law or general law of local application creating an independent special district which has the powers enumerated in two or more of the paragraphs contained in s. 190.012, *unless such district is created pursuant to the provisions of s. 189.404*.

(2) This section shall take effect upon this act becoming a law, if passed by a three-fifths vote of the membership of each house.

And the title is amended as follows:

On page 64, line 14, of the amendment after the semicolon insert: amending s. 170.09, F.S.; providing an increased period for payment of special assessments; amending s. 189.4031, F.S.; providing that community development districts established pursuant to ch. 190, F.S., shall be deemed in compliance with certain charter requirements; 189.405, F.S.; authorizing the Department of Community Affairs to provide education programs for district board members; authorizing a district board, at its discretion, to pay such education costs and providing for fee waiver; amending s. 189.412, F.S.; authorizing the Special District Information Program to provide assistance for certain conferences; amending s. 189.417, F.S.; authorizing water management districts to provide certain notice of public meetings held to evaluate responses to solicitations issued by the water management district by publication in certain newspapers; amending s. 190.004, F.S.; specifying requirements for the charter of a community development district; amending s. 190.005, F.S.; providing requirements for the petition to reestablish an existing special district as a community development district; revising language with respect to establishment of such districts; amending ss. 190.006 and 190.011, F.S.; revising requirements relating to the date of the election for the board of supervisors of such districts; revising requirements relating to the location of the office of such a district; authorizing the holding of meetings at such office for certain districts; amending s. 190.009, F.S.; revising requirements relating to provision of the disclosure of public financing by such districts to prospective purchasers of real property; amending s. 190.012, F.S.; revising and expanding the powers of such districts; amending s. 190.021, F.S.; specifying the status of special assessments imposed by such districts; specifying that such assessments constitute a lien against the property; providing for collection thereof; amending s. 190.022, F.S.; revising requirements relating to special assessments for construction, acquisition, or maintenance of district facilities; amending s. 190.033, F.S.; revising bid requirements for the purchase of goods and the construction or improvement of public works and for contracts for maintenance services; amending s. 190.046, F.S.; revising requirements relating to consent to a change in the boundaries of such districts and limitations on such boundary changes; providing that approval of a proposed merger of community development districts by an elected board of supervisors constitutes approval by the

landowners of the district; amending s. 190.048, F.S.; revising requirements relating to the required disclosure to purchasers of real estate within a district; creating s. 190.0485, F.S.; requiring such districts to record a notice of establishment; providing for application to existing districts; amending s. 190.049, F.S.; providing an exception to the prohibition against special laws or general laws of local application creating an independent special district having two or more of a community development district's special powers enumerated in s. 190.012, F.S.;

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

Senate Amendment 1 (911794)(with title amendment) to House Amendment 2 to Senate Amendment 1—On page 1, between lines 16 and 17, insert:

Section 26. *The sum of $2.5 million is appropriated from the General Revenue Fund to the Department of Community Affairs for the purpose of funding the state housing tax credit as provided in section 220.185, Florida Statutes.*

Section 27. *The sum of $2.5 million is appropriated from nonrecurring general revenue to the Department of Community Affairs for the purpose of funding the Urban Infill and Redevelopment Grant Program under section 163.2523, Florida Statutes.*

And the title is amended as follows:

On page 1, delete lines 20-22

On motion by Senator Carlton, the Senate concurred in **House Amendment 2 to Senate Amendment 1** as amended and requested the House to concur in the Senate amendment to the House amendment; and concurred in **House Amendments 1** and **3 to Senate Amendment 1**.

CS for CS for HB 17 passed as amended and 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 SB 2522, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 2522—A bill to be entitled An act relating to insurance; amending s. 624.610, F.S.; setting the conditions for the allowance of credit for reinsurance; providing definitions; providing for grounds for denial or revocation of an assuming insurer's accreditation; providing criteria for the disallowance of credit for reinsurance for a ceding insurer; providing for the payment of costs and expenses; providing conditions for the allowance or disallowance of credit for reinsurance for assuming insurers maintaining trust funds in qualified United States financial institutions; providing intent that there is no conflict with arbitration agreements; providing for security; providing for the inclusion of certain health maintenance organizations within the term "ceding insurer"; providing conditions for the disallowance of credit with respect to a ceding domestic insurer; providing conditions for credit for reinsurance in cases of insolvency; providing for rights against a reinsurer; providing prohibitions applying to authorized insurers, other than certain surplus lines insurance; providing procedures and information required for a summary statement of each treaty; providing for exemptions from requirement of summary statements; providing for waiver; providing for cancellation; providing that there is no credit when there is no transfer of risk; granting authority to the Department of Insurance for rulemaking; providing an effective date for the application of cessions; amending ss. 626.923, 626.930, 626.931, 626.932, 626.933, 626.935, 626.936, and 626.9361, F.S.; revising the requirements for surplus lines insurance to provide the same authority to the Florida Surplus Lines Service Office that is currently provided to the Department of Insurance; amending s. 627.4035, F.S.; providing for payment of insurance claims by debit card or other form of electronic funds transfer; amending s. 628.903, F.S.; revising the definition of "insured" and "industrial insured captive insurer"; amending s. 626.022, F.S.; providing an exception from certain insurance licensing requirements for certified public accountants acting within the scope of their profession; amending s. 627.171, F.S.; allowing insurers to increase the number of policies the rates of which are subject to the consent of the insured; providing an effective date.

House Amendment 2 (741351)(with title amendment)—On page 29, between lines 4 & 5, of the bill insert:

Section 14. Subsection (2) of section 624.4071, Florida Statutes, is amended to read:

624.4071 Special purpose homeowner insurance company.—

(2) A special purpose homeowner insurance company must have a parent company, and both companies must meet the requirements of this subsection in order for the subsidiary to qualify for and maintain a certificate of authority under this section.

(a) The parent company must be an admitted insurer in at least one state in the United States and must have over $50 million in capital and surplus.

(b) The parent company must have and maintain at least 51 percent of the equity and at least 51 percent of the control of the special purpose homeowner insurance company.

(c) An insurer not authorized to transact business in this state, but that otherwise meets the requirements of this section, may apply as a special purpose homeowner insurance company.

(d) The special purpose homeowner insurance company must:

1. Have and maintain at least $10 million in surplus and otherwise satisfy the requirements of s. 624.4095.

2. Be a member of the Florida Insurance Guaranty Association and the Florida Hurricane Catastrophe Fund, and be subject to any of their required assessments and premium charges. However, a special purpose homeowner insurance company may not be a member of the Florida Windstorm Underwriting Association or the Florida Residential Property and Casualty Joint Underwriting Association, and neither the company nor its policyholders are subject to any assessments by these associations except for emergency assessments collected from policyholders pursuant to s. 627.351(2)(b)2.d.(III) and (6)(b)3.d. For the sole purpose of levying and collecting emergency assessments and determining the statewide written premium for property insurance, special purpose homeowner insurance companies shall be considered member insurers of the Florida Windstorm Underwriting Association and the Florida Residential Property and Casualty Joint Underwriting Association. *For the sole purpose of reimbursement under s. 215.555(4)(e)3., a special purpose homeowner insurance company shall be considered a limited apportionment company as defined under s. 627.351(2)(b)3.*

3. Offer coverage for all perils, including windstorm, in providing residential coverage as defined in s. 627.4025. A special purpose homeowner insurance company's rates must be filed with the department. After a period of 1 year from the date a company receives a certificate of authority, the company's rates are subject to department approval under s. 627.062.

Section 15. Paragraph (f) is added to subsection (1) of section 628.715, Florida Statutes, and paragraph (b) of subsection (2) of said section, is amended to read:

628.715 Merger and acquisitions.—Subject to applicable requirements of this chapter, a mutual insurance holding company may:

(1)

(f) Merge or consolidate with, or acquire the assets of, a foreign mutual insurance company which redomesticates pursuant to s. 628.520. The members of the foreign mutual insurance company may approve the redomestication plan, as well as the plan and agreement for merger and reorganization as provided in subsection (2), in a contemporaneous vote.

(2) A reorganization pursuant to this section is subject to the applicable procedures prescribed by the laws of this state applying to corporations formed for profit, except as otherwise provided in this subsection.

(b) No such merger shall be effectuated unless in advance thereof, the plan and agreement therefor have been filed with the department and approved by it. *The department may retain outside consultants to evaluate each merger. The domestic mutual insurance holding company shall pay reasonable costs associated with retaining such consultants. Such payments shall be made directly to the consultant.* The department shall give such approval unless it finds such plan or agreement:

1. Is inequitable to the policyholders of any domestic insurer involved in the merger or the members of any domestic mutual insurance holding company involved in the merger; or

2. Would substantially reduce the security of and service to be rendered to policyholders of a domestic insurer in this state.

Section 16. Subsection (5) is added to section 628.231, Florida Statutes, to read:

628.231 Directors; number, election.—

(5) In discharging his or her duties, a director may consider such factors as the directors deem relevant, including, but not limited to, the long-term prospects and interests of the corporation and its shareholders, the social, economic, legal, or other effects of any action on the employees, suppliers, or policyholders of the corporation or its subsidiaries, the communities and society in which the corporation or its subsidiaries operate, and the economy of the state and the nation. The director may also consider the short-term and long-term interests of the insurer, including, but not limited to, benefits that may accrue to the insured from the insurer's long-term plans, the possibility that such interests may be best served by the continued independence of the insurer, the resources, intent, and past, present, and potential conduct of any person seeking to acquire control of the insurer, and any other relevant factors.

Section 17. Subsection (5) is added to section 628.723, Florida Statutes, to read:

628.723 Directors; number; election.—

(5) In discharging his or her duties, a director may consider such factors as the directors deem relevant, including, but not limited to, the long-term prospects and interests of the corporation and its shareholders, the social, economic, legal, or other effects of any action on the employees, suppliers, or policyholders of the corporation or its subsidiaries, the communities and society in which the corporation or its subsidiaries operate, and the economy of the state and the nation. The director may also consider the short-term and long-term interests of the insurer, including, but not limited to, benefits that may accrue to the insured from the insurer's long-term plans, the possibility that such interests may be best served by the continued independence of the insurer, the resources, intent, and past, present, and potential conduct of any person seeking to acquire control of the insurer, and any other relevant factors.

Section 18. Subsection (1) of section 628.729, Florida Statutes, is amended to read:

628.729 Member's share of assets on voluntary dissolution.—

(1) Upon any voluntary dissolution of a domestic mutual insurance holding company, its assets remaining after discharge of its indebtedness, if any, and expenses of administration, shall be distributed to existing persons who were its members at any time within the 3-year period preceding the date such liquidation was authorized or ordered, or date of last termination of the insurer's certificate of authority, whichever date is earlier; except, if the department has reason to believe that those in charge of the management of the mutual insurance holding company have caused or encouraged the reduction of the number of members of the insurer in anticipation of liquidation and for the purpose of reducing thereby the number of persons who may be entitled to share in distribution of the insurer's assets, the department may enlarge the *3-year* ~~5-year~~ qualification period by such additional time as the department may deem to be reasonable.

Section 19. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 2, line 22, after the semicolon, insert: amending s. 624.4071, F.S.; providing qualifications for special purpose homeowner insurance companies; amending s. 628.715, F.S.; authorizing a mutual insurance holding company to merge or consolidate with, or acquire the assets of, a foreign mutual insurance company under certain circumstances; providing for the use of consultants; amending ss. 628.231 and 628.723, F.S.; authorizing directors of domestic insurers and mutual insurance holding companies to consider certain factors while taking corporate action in discharging their duties; amending s. 628.729, F.S.; revising the qualification period; providing an effective date.

House Amendment 3 (620241)(with title amendment)—On page 29, between lines 4 & 5, insert:

(4) The provisions allowing for reduced rates in subsections (1), (2), and (3) do not apply to workers compensation or medical malpractice rates.

House Amendment 5 (121637)(with title amendment)—On page 29, between lines 4 and 5, insert:

Section 14. Section 627.6474, Florida Statutes, is created to read:

627.6474 Point of service policies; purpose; definitions; authority; standards; reporting; application.—

(1) PURPOSE.—It is the purpose of this section to encourage the issuance to persons coverage that provides an option, at the time medical services are secured, of accessing benefits provided by a licensed health maintenance organization or by a licensed health insurer. By authorizing the issuance of such coverage, the Legislature intends to maximize health care options for consumers of health care policies.

(2) SCOPE.—Point of service coverage may be issued on an individual or group basis.

(3) DEFINITIONS.—As used in this section:

(a) "Point of service agreement" is the contractual means by which a health insurer and health maintenance organization jointly offer point of service coverage.

(b) "Point of service policy" is a policy providing comprehensive health benefits under which a covered person has:

1. A health insurance policy issued by an authorized health insurer in conjunction with a health maintenance contract issued by a licensed health maintenance organization, under which the covered person may choose at each time of service to access indemnity benefits under the health insurance policy or benefits under the health maintenance contract, but not both; or

2. A single contract issued by a health maintenance organization or a single policy issued by a health insurer, pursuant to a point of service agreement between the health insurer and the health maintenance organization, under which the covered person may choose at each time of service to access indemnity benefits under the health insurance portion of the policy or benefits under the health maintenance portion or the policy, but not both.

(c) "Covered person" means the policyholder or subscriber of an individual point of service policy, or the subscriber or certificateholder under a group point of service policy.

(4) AUTHORITY TO ISSUE.—Subject to the requirements contained in this section, nothing in this code, including chapter 641, and rules adopted under the code and such chapter, shall be deemed to prohibit an authorized health insurer and a licensed health maintenance organization, in conjunction, from soliciting, offering, or providing point of service coverage either in a separate policy issued by the health insurer jointly

with a separate health maintenance contract issued by the health maintenance organization or in a single contract issued by the health maintenance organization or in a single policy issued by the health insurer.

(5) PROVISIONS OF POINT OF SERVICE POLICIES.—Each point of service policy shall contain, in addition to all others required under this code, chapter 641, and rules adopted under the code and such chapter, a provision:

(a) Clearly identifying both the health insurer and the health maintenance organization and, in the instance of a group policy, a provision in the member handbook or certificate of coverage clearly identifying the health insurer and the health maintenance organization.

(b) Stating that a covered person covered under a point of service policy must elect either indemnity benefits or health maintenance organization coverage at the time of service.

(c) Stating that whenever coverage has been paid or provided with respect to a given medical service by either the health insurer or the health maintenance organization pursuant to a filed and approved point of service policy, the provisions of s. 627.4235 shall not apply with respect to the point of service policy but shall apply as to other policies, plans, or contracts of the covered person.

(d) Stating that 60 days prior to the termination of a point of service agreement, the terminating company must provide each covered person who has a policy under the agreement notice in writing of the termination.

(e) That, if a point of service agreement is terminated, the policyholder in an individual contract or the contract holder in a group contract may, within 60 days after receiving notice of the termination, elect to continue coverage for the remainder of the contract period on the form and at the rate approved by the department pursuant to subsection (6) with either the health maintenance organization or the health insurer that was a party to the point of service agreement. Point of service policies and contracts issued pursuant to this section are exempt from the notice requirements of s. 641.31074(3)(a)1. and 2. and s. 627.6571(3)(a) 1. and 2.

(f) That, if the covered person is entitled to a conversion plan, the covered person is entitled to a choice of either an indemnity plan from the health insurer or a health maintenance organization contract, without prejudice.

(6) FILING AND REPORTING REQUIREMENTS.—

(a) The following requirements apply to point of service policy forms and rate filings.

1. All point of service policy form and rate filings shall be made jointly, whether or not separate or combined forms are used.

2. The point of service policy form and rate filing shall include all forms and rates required by this section. However, if forms and rates which have been previously approved are used to satisfy the required separate health benefit policies and the conversion policies to be used in conjunction with such point of service policy, it shall be sufficient to identify the form number and date of approval of these forms and related rates.

3. The point of service policy form and rate filing shall contain certification from an officer of the health insurer and an officer of the health maintenance organization that each company agrees, as a condition precedent to termination of the point of service agreement, to provide the department with notice of its intention to terminate the point of service arrangement no less than 90 days prior to the effective date of termination. Further, each company agrees to notify the department within 48 hours after a material breach by either company.

4. All point of service policy filings shall contain an authorization from the health insurer and the health maintenance organization, either as joint signatories or an original letter of authorization from each company to the other, to make the combined filing whenever a single policy will be used and that each company will be responsible for the accuracy of the information which it provided for the combined filing. The insurer or health maintenance organization that issues the single policy shall be primarily responsible for insuring that the benefits specified in the contract are provided in the manner specified in the contact.

5. All point of service policy forms and rates shall be filed and approved prior to use. All form and rate changes to such policy shall be filed and approved prior to use.

6. The health insurer and the health maintenance organization shall each file and have approved a policy form and rate to be made available to the covered person when the point of service agreement is terminated during an existing contract period. The filing shall:

a. Contain levels of indemnity benefits or other health benefit coverage no less than that provided by the insurer under the point of service policy for the insurer's policy form or by the health maintenance organization under the point of service policy for the health maintenance organization contract.

b. Comply in all respects with the requirements of the insurance code or chapter 641 as related to the product being filed.

c. Clearly identify that the policy is intended for use as a replacement for a point of service policy.

7. The health insurer or the health maintenance organization shall make, at a minimum, an annual rate filing for each point of service policy form offered in this state. Annual periodic rate adjustments shall be made to reflect the actual premium split based on experience and compared with the assumed split at the beginning of the contract. Except as so described, no other experience adjustments shall be made on a retrospective basis without approval by the department.

8. All rate filings for a point of service policy shall contain the following terms and conditions, in addition to all others required by law or rule:

a. The health insurer and the health maintenance organization shall each perform its own pricing on a net claim basis.

b. The health insurer and the health maintenance organization shall each calculate its own expenses and profit margins.

c. Expenses shall be itemized and shall clearly identify which entity is performing which duty relative to each expense item noted.

d. Minimum loss ratios, as defined in the code or in any applicable rule adopted under the code, shall be met by each company.

(b) Each health insurer and health maintenance organization shall maintain separate records relating to any point of service policy. The annual actuarial certification shall contain a specific actuarial certification that the rates charged for this product are not inadequate, excessive, or discriminatory.

(7) APPLICABILITY.—

(a) Any health insurer entering into a point of service arrangement pursuant to this section, in addition to the requirements of this section, shall be subject to all provisions of the insurance code and other laws, and rules adopted under the code or such laws, applicable to health insurers generally. However, an agent that sells or solicits a product issued as a single policy or contract by either the health maintenance organization or the insurer shall be appointed by the entity issuing the policy or contract and shall not be required to be appointed by both carriers.

(b) Any health maintenance organization entering into a point of service arrangement pursuant to this section, in addition to the requirements of this section, shall be subject to all provisions of chapter 641, and rules adopted under such chapter, and to all other provisions of this code and other laws and rules adopted under such code and laws applicable to health maintenance organizations generally.

(c) The health insurance portion of a point of service arrangement policy shall be subject to the provisions of part III of chapter 631. The health maintenance portion of a point of service arrangement shall be subject to part IV of chapter 631.

(d) Any health maintenance organization entering into a point of service arrangement pursuant to this section shall not be subject to part VII of chapter 626 when administering a point of service policy.

(8) RULEMAKING.—The department may adopt any rule necessary to implement the intent and provisions of this section. In adopting such

rule, the department shall consider requirements to ensure that experience adjustments and other adjustments are reasonable, fair, and equitable; that point of service policies, advertisements, solicitation materials, and other statements or related documents are clear and understandable; that point of service policies are provided to the insurance buying public in a fashion that meets the purposes of this section and are provided in a fair and equitable fashion; and that point of service policies provide for a proper triggering of the conversion plan policies.

And the title is amended as follows:

On page 2, line 22, after the semicolon, insert: creating s. 627.6474, F.S.; providing for point of service policies; providing purpose and scope; providing definitions; providing authority to issue point of service policies; specifying required provisions in such policies; providing filing and reporting requirements; specifying applicability; authorizing the Department of Insurance to adopt rules;

House Amendment 6 (250411)(with title amendment)—On page 2, line 25 and insert in lieu thereof:

Section 1. Paragraph (n) of subsection (3), paragraph (c) of subsection (5) and paragraphs (b) and (d) of subsection (6) of section 627.6699, Florida Statutes, 1998 Supplement, are amended to read:

627.6699 Employee Health Care Access Act.—

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

(n) "Modified community rating" means a method used to develop carrier premiums which spreads financial risk across a large population and allows adjustments for age, gender, family composition, tobacco usage, ~~and~~ geographic area as determined under paragraph *(5)(j), claims experience, health status, or duration of coverage as permitted under subparagraph (6)(b)5. and administrative and acquisition expenses as permitted under subparagraph (6)(b)6* ~~(5)(k)~~.

(5) AVAILABILITY OF COVERAGE.—

(c) Every small employer carrier must, as a condition of transacting business in this state:

1. Beginning *July* ~~January~~ 1, *1999* ~~1994~~, offer and issue all small employer health benefit plans on a guaranteed-issue basis to every eligible small employer, with *2* ~~3~~ to 50 eligible employees, that elects to be covered under such plan, agrees to make the required premium payments, and satisfies the other provisions of the plan. A rider for additional or increased benefits may be medically underwritten and may only be added to the standard health benefit plan. The increased rate charged for the additional or increased benefit must be rated in accordance with this section.

2. Beginning *August 1, 1999* ~~April 15, 1994~~, offer and issue basic and standard small employer health benefit plans on a guaranteed-issue basis*, during a 31-day open enrollment period of August 1 through August 31 of each year,* to every eligible small employer, with *less than* ~~one or~~ two eligible employees, *which small employer is not formed primarily for the purposes of buying health insurance,* which elects to be covered under such plan, agrees to make the required premium payments, and satisfies the other provisions of the plan. *Coverage provided pursuant to this subparagraph shall begin on October 1 of the same year as the date of enrollment, unless the small employer carrier and the small employer mutually agree to a different date.* A rider for additional or increased benefits may be medically underwritten and may only be added to the standard health benefit plan. The increased rate charged for the additional or increased benefit must be rated in accordance with this section. *For purposes of this subparagraph, a person, his or her spouse, and his or her dependent children shall constitute a single eligible employee if such person and spouse are employed by the same small employer.*

~~3. Offer to eligible small employers the standard and basic health benefit plans.~~

This *paragraph* ~~subparagraph~~ does not limit a carrier's ability to offer other health benefit plans to small employers if the standard and basic health benefit plans are offered and rejected.

(6) RESTRICTIONS RELATING TO PREMIUM RATES.—

(b) For all small employer health benefit plans that are subject to this section and are issued by small employer carriers on or after January 1, 1994, premium rates for health benefit plans subject to this section are subject to the following:

1. Small employer carriers must use a modified community rating methodology in which the premium for each small employer must be determined solely on the basis of the eligible employee's and eligible dependent's gender, age, family composition, tobacco use, or geographic area as determined under paragraph *(5)(j) and in which the premium may be adjusted as permitted by subparagraphs 6. and 7* ~~(5)(k)~~.

2. Rating factors related to age, gender, family composition, tobacco use, or geographic location may be developed by each carrier to reflect the carrier's experience. The factors used by carriers are subject to department review and approval.

3. Small employer carriers may not modify the rate for a small employer for 12 months from the initial issue date or renewal date, unless the composition of the group changes or benefits are changed.

4. Carriers participating in the alliance program, in accordance with ss. 408.700-408.707, may apply a different community rate to business written in that program.

5. Any adjustments in rates for claims experience, health status, and duration of coverage may not be charged to individual employees or dependents. For a small employer's policy, such adjustments may not result in a rate for the small employer which deviates more than 15 percent from the carrier's approved rate. Any such adjustment must be applied uniformly to the rates charged for all employees and dependents of the small employer. A small employer carrier may make an adjustment to a small employer's renewal premium, not to exceed 10 percent annually, due to the claims experience, health status, or duration of coverage of the employees or dependents of the small employer. A small employer carrier may not make an adjustment which exceeds 5 percent to a small employer's renewal premium due to health status. Semiannually, small group carriers shall report information on forms adopted by rules by the department to enable the department to monitor the relationship of aggregate adjusted premiums actually charged policyholders by each carrier to the premiums that would have been charged by application of the carrier's approved modified community rates. If the aggregate premium resulting from the application of such adjustment exceeds the premium that would have been charged by application of the approved modified community rate by 5 percent for the current reporting period, the carrier shall limit the application of such adjustments to only minus adjustments beginning not more than 60 days after the report is sent to the department. For any subsequent reporting period, if the total aggregate adjusted premium actually charged does not exceed by 5 percent the premium that would have been charged by application of the approved modified community rate, the carrier may apply both plus and minus adjustments.

6. A small employer carrier may provide a credit to a small employer's premium based on administrative and acquisition expense differences resulting from the size of the group. Group size administrative and acquisition expense factors may be developed by each carrier to reflect the carrier's experience and are subject to department review and approval.

7. A small employer carrier rating methodology may include separate rating categories for one dependent child, for two dependent children, and three or more dependent children for family coverage of employees having a spouse and dependent children or employees having dependent children only. A small employer carrier may have fewer, but not greater, numbers of categories for dependent children than those specified in this subparagraph.

8. Small employer carriers may not use a composite rating methodology to rate a small employer with fewer than 10 employees. For the purposes of this subparagraph a "composite rating methodology" means a rating methodology that averages the impact of the rating factors for age and gender in the premiums charged to all of the employees of a small employer.

(d) Notwithstanding s. 627.401(2), this section and ss. 627.410 and 627.411 apply to any health benefit plan provided by a small employer carrier *that is an insurer, and this section and s. 641.31 apply to any health benefit provided by a small employer carrier that is a health maintenance organization,* that provides coverage to one or more employees of a small employer regardless of where the policy, certificate,

or contract is issued or delivered, if the health benefit plan covers employees or their covered dependents who are residents of this state.

Section 2. This act shall take effect July 1, 1999.

And the title is amended as follows:

On page 1, line 2, after the semicolon insert: to the Employee Health Care Access Act; amending s. 627.6699, F.S.; revising a definition; revising and updating provisions requiring small employer carriers to offer and issue certain health benefit plans; providing additional restrictions on premium rates for certain health benefit plans;

Senator Scott moved the following amendment which was adopted:

Senate Amendment 1 (970490)(with title amendment) to House Amendment 2—On page 1, line 17 through page 3, line 4, delete section 14 and redesignate subsequent sections.

And the title is amended as follows:

On page 6, delete lines 11-13 and insert: amending s. 628.715, F.S.;

On motion by Senator Holzendorf, the Senate concurred in **House Amendment 2** as amended and requested the House to concur in the Senate amendment to the House amendment; and refused to concur in **House Amendments 3, 5** and **6** and the House was requested to recede.

CS for SB 2522 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Madam President	Dawson-White	King	Myers
Bronson	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	
Clary	Horne	Meek	
Cowin	Jones	Mitchell	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed SB 40, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 40—A bill to be entitled An act relating to the City of Tallahassee; providing for the relief of Warren Weathington and his father, Carl Weathington, for injuries sustained as a result of the negligent conduct of tennis pros employed by the City of Tallahassee; providing for an appropriation by the City of Tallahassee; providing an effective date.

House Amendment 1 (712065)(with title amendment)—On page 2, lines 13 through 30, remove from the bill:

All of said lines and insert in lieu thereof:

WHEREAS, on October 16, 1998, the City of Tallahassee paid the claimant $100,000, pursuant to the limits of liability set forth in s. 768.28, Florida Statutes, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. *The facts stated in the preamble to this act are found and declared to be true.*

Section 2. *The City of Tallahassee is authorized and directed to appropriate from funds of the city not otherwise appropriated and to draw a warrant in the sum of $750,000 payable to Warren Weathington. After payment of attorneys' fees and costs, the remaining amount shall be used to purchase an annuity for the lifetime of Warren Weathington, such annuity to be guaranteed for 25 years.*

And the title is amended as follows:

On page 1, lines 4 through 7 remove from the title of the bill:

All of said lines and insert in lieu thereof: for injuries sustained as a result of the negligent conduct of employees of the City of Tallahassee; providing for an appropriation by

On motion by Senator Campbell, the Senate concurred in the House amendment.

SB 40 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 Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed SB 906, 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 906—A bill to be entitled An act relating to the Florida Forever Trust Fund; creating s. 375.046, F.S.; creating the Florida Forever Trust Fund; providing its purposes; providing a contingent effective date.

House Amendment 1 (734925)(with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Section 259.1051, Florida Statutes, is created to read:

259.1051 Florida Forever Trust Fund.—

(1) There is created the Florida Forever Trust Fund to carry out the purposes of ss. 259.032, 259.105, and 375.031. The Florida Forever Trust Fund shall be held and administered by the Department of Environmental Protection. Proceeds from the sale of bonds, except proceeds of refunding bonds, issued under s. 215.618 and payable from moneys transferred to the Land Acquisition Trust Fund under s. 201.15(1)(a), not to exceed $3 billion, must be deposited into this trust fund to be distributed and used as provided in s. 259.105(3). The bond resolution adopted by the governing board of the Division of Bond Finance of the State Board of Administration may provide for additional provisions that govern the disbursement of the bond proceeds.

(2) The Department of Environmental Protection shall distribute revenues from the Florida Forever Trust Fund only to programs of state agencies or local governments as set out in s. 259.105(3). The distributions shall be spent by the recipient within 90 days after the date on which the Department of Environmental Protection initiates the transfer.

(3) The Department of Environmental Protection shall ensure that the proceeds from the sale of bonds issued under s. 215.618 and payable from moneys transferred to the Land Acquisition Trust Fund under s. 201.15(1)(a) shall be administered and expended in a manner that ensures compliance of each issue of bonds that are issued on the basis that interest thereon will be excluded from gross income for federal income tax purposes, with the applicable provisions of the United States Internal Revenue Code and the regulations promulgated thereunder, to the extent necessary to preserve the exclusion of interest on the bonds from gross

income for federal income tax purposes. The Department of Environmental Protection shall administer the use and disbursement of the proceeds of such bonds or require that the use and disbursement thereof be administered in a manner to implement strategies to maximize any available benefits under the applicable provisions of the United States Internal Revenue Code or regulations promulgated thereunder, to the extent not inconsistent with the purposes identified in s. 259.105(3).

Section 2. This act shall take effect on the effective date of Committee Substitute for Committee Substitute for Senate Bill 908, or similar legislation, but it shall not take effect unless it is enacted by a three-fifths vote of the membership of each house of the Legislature and unless Committee Substitute for Committee Substitute for SB 908, 1999 Regular Session, or similar legislation, becomes 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 Florida Forever Trust Fund; creating s. 259.1051, F.S.; creating the Florida Forever Trust Fund; providing sources of moneys; providing purposes and requirements; providing duties of the Department of Environmental Protection; providing a contingent effective date.

On motion by Senator Latvala, the Senate concurred in the House amendment.

SB 906 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	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Thomas
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 908, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 908—A bill to be entitled An act relating to the Florida Forever Program; creating s. 259.202, F.S.; creating the Florida Forever Act; providing legislative findings; prohibiting the use of certain funds in the Conservation and Recreation Lands and Water Management Lands Trust Funds for land acquisition; providing for the proceeds of bond sales to be deposited into the Florida Forever Trust Fund; providing for the distribution and use of funds; providing project criteria for land acquisition under the Florida Forever Program; requiring increased priority for the acquisition of lands providing protection of certain threatened or endangered species; providing procedures for determining the priority of projects; establishing procedures for the disposition of lands; authorizing alternate uses of acquired lands; providing a limitation on alternate uses; encouraging and requiring the use of alternatives to fee simple acquisition of lands; requiring increased priority for a project if matching funds are available; requiring increased priority if the project is priced below appraised value; amending s. 201.15, F.S.; authorizing the use of revenues for the debt service on bonds; revising the distribution of proceeds from the excise tax on documents; creating s. 215.618, F.S.; providing for the issuance of Florida Forever bonds; providing limitations; providing procedures and legislative intent; amending s. 253.027, F.S.; providing for the reservation of funds; revising the criteria for expenditures for archaeological property to include lands on the acquisition list for the Florida Forever Program; amending s. 253.034, F.S., relating to uses of state-owned lands; authorizing additional uses of state lands under specified circumstances; conforming cross-references to changes made by the act; conforming provisions; amending s. 259.032, F.S.; authorizing the Florida Forever Commission to allocate funds for land acquisition; emphasizing protection of endangered and threatened species; conforming a cross-reference; conforming provisions; requiring the adoption of a management plan within a specified period after the acquisition of a parcel under the Florida Forever Program; providing a restriction on funding for an agency with overdue management plans; providing a formula and funding source for funding management, maintenance, capital improvements, and payments in lieu of taxes; providing funds for the control of exotic species; providing funds for lake restoration from the State Game Trust Fund; specifying eligible lands; providing for the distribution of funds; revising the criteria and eligibility for payments in lieu of taxes; limiting the total consecutive years of such payments; providing for the deletion of certain property from an acquisition list; deleting obsolete provisions; amending s. 259.035, F.S.; revising the membership of the Land Acquisition and Management Advisory Council and renaming the council as the Florida Forever Commission; revising its duties; requiring the development of goals and a report; amending s. 259.036, F.S.; conforming provisions; providing a cross-reference; amending s. 338.250, F.S.; providing for certain mitigation funds to be used in coordination with funds from the Florida Forever Trust Fund; amending s. 373.59, F.S.; requiring a report to the Florida Forever Commission; providing a process for releasing funds for water resource development and land acquisition projects; deleting provisions authorizing the use of specified funds for debt service on bonds issued pursuant to s. 373.584, F.S.; requiring payment of debt service before other uses of funds; providing due dates for required management plans; revising the criteria and eligibility for payments in lieu of taxes; requiring that payments by made in consecutive years; amending s. 380.503, F.S.; providing definitions; amending s. 380.504, F.S.; revising the membership of the governing body of the Florida Communities Trust within the Department of Community Affairs; conforming outdated provisions; amending s. 380.507, F.S.; authorizing the development of rules; amending ss. 420.5092, 420.9073, F.S., relating to affordable housing programs; conforming cross-references to changes made by the act; repealing s. 373.584, F.S., relating to revenue bonds; providing that the repeal of s. 373.584, F.S., does not impair the validity of certain bonds outstanding on the effective date of the act; requiring reinstitution of payments in lieu of taxes in specified circumstances; providing an educational program; creating the Florida Forever Advisory Council on Ecosystem Restoration Education; providing an effective date.

House Amendment 1 (814753)(with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Section 201.15, Florida Statutes, 1998 Supplement, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter shall be *distributed as follows and shall be* subject to the service charge imposed in s. 215.20(1), *except that such service charge shall not be levied against any portion of taxes pledged to debt service on bonds to the extent that the amount of the service charge is required to pay any amounts relating to the bonds* ~~and shall be distributed as follows~~:

(1) Sixty-two and sixty-three hundredths percent of the remaining taxes collected under this chapter shall be used for the following purposes:

(a) *Amounts* ~~Subject to the maximum amount limitations set forth in this paragraph, an amount~~ as shall be necessary to pay the debt service on, or fund debt service reserve funds, rebate obligations, or other amounts *payable* with respect to *Preservation 2000 bonds issued pursuant to s. 375.051 and Florida Forever bonds issued pursuant to s. 215.618,* ~~bonds issued pursuant to s. 375.051 and payable from moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph~~ shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund to be used for such purposes. The amount transferred to the Land Acquisition Trust Fund *for such purposes* shall not exceed ~~$90 million in fiscal year 1992-1993, $120 million in fiscal year 1993-1994, $150 million in fiscal year 1994-1995, $180 million in fiscal year 1995-1996, $210 million in fiscal year 1996-1997, $240 million in fiscal year 1997-1998, $270 million in fiscal year 1998-1999, and~~ $300 million in fiscal year 1999-2000 and thereafter *for Preservation 2000 bonds and bonds issued to refund Preservation 2000 bonds, and $300 million in fiscal year 2000-2001 and thereafter for Florida Forever bonds.*

The annual amount transferred to the Land Acquisition Trust Fund for Florida Forever bonds shall not exceed $30 million in the first fiscal year in which bonds are issued. The limitation on the amount transferred shall be increased by an additional $30 million in each subsequent fiscal year in which bonds are authorized to be issued, but shall not exceed a total of $300 million in any fiscal year for all bonds issued. It is the intent of the Legislature that all bonds issued to fund the Florida Forever Act be retired by December 31, 2030. Except for bonds issued to refund previously issued bonds, no ~~individual~~ series of bonds may be issued pursuant to this paragraph unless *such bonds are approved and* the first year's debt service for such bonds is specifically appropriated in the General Appropriations Act. *For purposes of refunding Preservation 2000 bonds, amounts designated within this section for Preservation 2000 and Florida Forever bonds may be transferred between the two programs to the extent provided for in the documents authorizing the issuance of the bonds. The Preservation 2000 bonds and Florida Forever bonds shall be equally and ratably secured by moneys distributable to the Land Acquisition Trust Fund pursuant to this section, except to the extent specifically provided otherwise by the documents authorizing the issuance of the bonds.* No moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph, or earnings thereon, shall be used or made available to pay debt service on the Save Our Coast revenue bonds.

(b) The remainder of the moneys distributed under this subsection, after the required payment under paragraph (a), shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund and may be used for any purpose for which funds deposited in the Land Acquisition Trust Fund may lawfully be used. Payments made under this paragraph shall continue until the cumulative amount credited to the Land Acquisition Trust Fund for the fiscal year under this paragraph and paragraph (2)(b) equals 70 percent of the current official forecast for distributions of taxes collected under this chapter pursuant to subsection (2). As used in this paragraph, the term "current official forecast" means the most recent forecast as determined by the Revenue Estimating Conference. If the current official forecast for a fiscal year changes after payments under this paragraph have ended during that fiscal year, no further payments are required under this paragraph during the fiscal year.

(c) The remainder of the moneys distributed under this subsection, after the required payments under paragraphs (a) and (b), shall be paid into the State Treasury to the credit of the General Revenue Fund of the state to be used and expended for the purposes for which the General Revenue Fund was created and exists by law or to the Ecosystem Management and Restoration Trust Fund as provided in subsection (8).

(2) Seven and fifty-six hundredths percent of the remaining taxes collected under this chapter shall be used for the following purposes:

(a) Beginning in the month following the final payment for a fiscal year under paragraph (1)(b), available moneys shall be paid into the State Treasury to the credit of the General Revenue Fund of the state to be used and expended for the purposes for which the General Revenue Fund was created and exists by law or to the Ecosystem Management and Restoration Trust Fund as provided in subsection (8). Payments made under this paragraph shall continue until the cumulative amount credited to the General Revenue Fund for the fiscal year under this paragraph equals the cumulative payments made under paragraph (1)(b) for the same fiscal year.

(b) The remainder of the moneys distributed under this subsection shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Sums deposited in the fund pursuant to this subsection may be used for any purpose for which funds deposited in the Land Acquisition Trust Fund may lawfully be used.

(3) One and ninety-four hundredths percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Moneys deposited in the trust fund pursuant to this section shall be used for the following purposes:

(a) Sixty percent of the moneys shall be used to acquire coastal lands or to pay debt service on bonds issued to acquire coastal lands; and

(b) Forty percent of the moneys shall be used to develop and manage lands acquired with moneys from the Land Acquisition Trust Fund.

(4) Five and eighty-four hundredths percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the Water Management Lands Trust Fund. Sums deposited in that fund may be used for any purpose authorized in s. 373.59.

(5) Five and eighty-four hundredths percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the Conservation and Recreation Lands Trust Fund to carry out the purposes set forth in s. 259.032.

(6) Seven and fifty-three hundredths percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:

(a) Half of that amount shall be used for the purposes for which the State Housing Trust Fund was created and exists by law.

(b) Half of that amount shall be paid into the State Treasury to the credit of the Local Government Housing Trust Fund and shall be used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.

(7) Eight and sixty-six hundredths percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:

(a) Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and be expended by the Department of Community Affairs and by the Florida Housing Finance Agency for the purposes for which the State Housing Trust Fund was created and exists by law.

(b) Eighty-seven and one-half percent of that amount shall be distributed to the Local Government Housing Trust Fund and shall be used for the purposes for which the Local Government Housing Trust Fund was created and exists by law. Funds from this category may also be used to provide for state and local services to assist the homeless.

(8) From the moneys specified in paragraphs (1)(c) and (2)(a) and prior to deposit of any moneys into the General Revenue Fund, $10 million shall be paid into the State Treasury to the credit of the Ecosystem Management and Restoration Trust Fund in fiscal year 1998-1999, $20 million in fiscal year 1999-2000, and $30 million in fiscal year 2000-2001 and each fiscal year thereafter, to be used for the preservation and repair of the state's beaches as provided in ss. 161.091-161.212.

(9) The Department of Revenue may use the payments credited to trust funds pursuant to paragraphs (1)(b) and (2)(b) and subsections (3), (4), (5), (6), and (7) to pay the costs of the collection and enforcement of the tax levied by this chapter. The percentage of such costs which may be assessed against a trust fund is a ratio, the numerator of which is payments credited to that trust fund under this section and the denominator of which is the sum of payments made under paragraphs (1)(b) and (2)(b) and subsections (3), (4), (5), (6), and (7).

Section 2. Effective July 1, 2001, section 201.15, Florida Statutes, 1998 Supplement, as amended by this act, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter shall be distributed as follows and shall be subject to the service charge imposed in s. 215.20(1), except that such service charge shall not be levied against any portion of taxes pledged to debt service on bonds to the extent that the amount of the service charge is required to pay any amounts relating to the bonds:

(1) Sixty-two and sixty-three hundredths percent of the remaining taxes collected under this chapter shall be used for the following purposes:

(a) Amounts as shall be necessary to pay the debt service on, or fund debt service reserve funds, rebate obligations, or other amounts payable with respect to Preservation 2000 bonds issued pursuant to s. 375.051 and Florida Forever bonds issued pursuant to s. 215.618, shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund to be used for such purposes. The amount transferred to the Land Acquisition Trust Fund for such purposes shall not exceed $300 million in fiscal year 1999-2000 and thereafter for Preservation 2000 bonds and bonds issued to refund Preservation 2000 bonds, and $300 million in fiscal year 2000-2001 and thereafter for Florida Forever bonds. The annual amount transferred to the Land Acquisition Trust Fund for Florida Forever bonds shall not exceed $30 million in the first fiscal year in

which bonds are issued. The limitation on the amount transferred shall be increased by an additional $30 million in each subsequent fiscal year in which bonds are authorized to be issued, but shall not exceed a total of $300 million in any fiscal year for all bonds issued. It is the intent of the Legislature that all bonds issued to fund the Florida Forever Act be retired by December 31, 2030. Except for bonds issued to refund previously issued bonds, no series of bonds may be issued pursuant to this paragraph unless such bonds are approved and the first year's debt service for such bonds is specifically appropriated in the General Appropriations Act. For purposes of refunding Preservation 2000 bonds, amounts designated within this section for Preservation 2000 and Florida Forever bonds may be transferred between the two programs to the extent provided for in the documents authorizing the issuance of the bonds. The Preservation 2000 bonds and Florida Forever bonds shall be equally and ratably secured by moneys distributable to the Land Acquisition Trust Fund pursuant to this section, except to the extent specifically provided otherwise by the documents authorizing the issuance of the bonds. No moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph, or earnings thereon, shall be used or made available to pay debt service on the Save Our Coast revenue bonds.

(b) The remainder of the moneys distributed under this subsection, after the required payment under paragraph (a), shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund and may be used for any purpose for which funds deposited in the Land Acquisition Trust Fund may lawfully be used. Payments made under this paragraph shall continue until the cumulative amount credited to the Land Acquisition Trust Fund for the fiscal year under this paragraph and paragraph (2)(b) equals 70 percent of the current official forecast for distributions of taxes collected under this chapter pursuant to subsection (2). As used in this paragraph, the term "current official forecast" means the most recent forecast as determined by the Revenue Estimating Conference. If the current official forecast for a fiscal year changes after payments under this paragraph have ended during that fiscal year, no further payments are required under this paragraph during the fiscal year.

(c) The remainder of the moneys distributed under this subsection, after the required payments under paragraph (a), shall be paid into the State Treasury to the credit of the General Revenue Fund of the state to be used and expended for the purposes for which the General Revenue Fund was created and exists by law or to the Ecosystem Management and Restoration Trust Fund as provided in subsection *(11)* ~~(8)~~.

(2) Seven and fifty-six hundredths percent of the remaining taxes collected under this chapter shall be used for the following purposes:

(a) Beginning in the month following the final payment for a fiscal year under paragraph (1)(b), available moneys shall be paid into the State Treasury to the credit of the General Revenue Fund of the state to be used and expended for the purposes for which the General Revenue Fund was created and exists by law or to the Ecosystem Management and Restoration Trust Fund as provided in subsection *(11)* ~~(8)~~. Payments made under this paragraph shall continue until the cumulative amount credited to the General Revenue Fund for the fiscal year under this paragraph equals the cumulative payments made under paragraph (1)(b) for the same fiscal year.

(b) The remainder of the moneys distributed under this subsection shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Sums deposited in the fund pursuant to this subsection may be used for any purpose for which funds deposited in the Land Acquisition Trust Fund may lawfully be used.

(3) One and ninety-four hundredths percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Moneys deposited in the trust fund pursuant to this section shall be used for the following purposes:

(a) Sixty percent of the moneys shall be used to acquire coastal lands or to pay debt service on bonds issued to acquire coastal lands; and

(b) Forty percent of the moneys shall be used to develop and manage lands acquired with moneys from the Land Acquisition Trust Fund.

(4) *Four and two-tenths* ~~Five and eighty-four hundredths~~ percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the Water Management Lands Trust Fund. Sums deposited in that fund may be used for any purpose authorized in s. 373.59.

(5) *Four and two-tenths* ~~Five and eighty-four hundredths~~ percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the Conservation and Recreation Lands Trust Fund to carry out the purposes set forth in s. 259.032. *Nine and one-half percent of the amount credited to the Conservation and Recreation Lands Trust Fund pursuant to this subsection shall be transferred to the State Game Trust Fund and used for land management activities.*

(6) Two and twenty-eight hundredths percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the Aquatic Plant Control Trust Fund to carry out the purposes set forth in ss. 369.22 and 369.252.

(7) One-half of one percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the State Game Trust Fund to be used exclusively for the purpose of implementing the Lake Restoration 2020 Program.

(8) One-half of one percent of the remaining taxes collected under this chapter shall be paid into the State Treasury and divided equally to the credit of the Department of Environmental Protection Grants and Donations Trust Fund to address water quality impacts associated with nonagricultural nonpoint sources and to the credit of the Department of Agriculture and Consumer Services General Inspection Trust Fund to address water quality impacts associated with agricultural nonpoint sources, respectively. These funds shall be used for research, development, demonstration, and implementation of suitable best management practices or other measures used to achieve water quality standards in surface waters and water segments identified pursuant to ss. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. Implementation of best management practices and other measures may include cost-share grants, technical assistance, implementation tracking, and conservation leases or other agreements for water quality improvement.

(9)~~(6)~~ Seven and fifty-three hundredths percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:

(a) Half of that amount shall be used for the purposes for which the State Housing Trust Fund was created and exists by law.

(b) Half of that amount shall be paid into the State Treasury to the credit of the Local Government Housing Trust Fund and shall be used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.

(10)~~(7)~~ Eight and sixty-six hundredths percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:

(a) Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and be expended by the Department of Community Affairs and by the Florida Housing Finance Agency for the purposes for which the State Housing Trust Fund was created and exists by law.

(b) Eighty-seven and one-half percent of that amount shall be distributed to the Local Government Housing Trust Fund and shall be used for the purposes for which the Local Government Housing Trust Fund was created and exists by law. Funds from this category may also be used to provide for state and local services to assist the homeless.

(11)~~(8)~~ From the moneys specified in paragraphs (1)(c) and (2)(a) and prior to deposit of any moneys into the General Revenue Fund, $10 million shall be paid into the State Treasury to the credit of the Ecosystem Management and Restoration Trust Fund in fiscal year 1998-1999, $20 million in fiscal year 1999-2000, and $30 million in fiscal year 2000-2001 and each fiscal year thereafter, to be used for the preservation and repair of the state's beaches as provided in ss. 161.091-161.212.

(12)~~(9)~~ The Department of Revenue may use the payments credited to trust funds pursuant to paragraphs (1)(b) and (2)(b) and subsections (3), (4), (5), (6), ~~and~~ (7), *(8), (9), and (10)* to pay the costs of the collection

and enforcement of the tax levied by this chapter. The percentage of such costs which may be assessed against a trust fund is a ratio, the numerator of which is payments credited to that trust fund under this section and the denominator of which is the sum of payments made under paragraphs (1)(b) and (2)(b) and subsections (3), (4), (5), (6), ~~and~~ (7), *(8), (9), and (10).*

(13) The distribution of proceeds deposited into the Water Management Lands Trust Fund and the Conservation and Recreation Lands Trust Fund, pursuant to subsections (4) and (5), shall not be used for land acquisition, but may be used for preacquisition costs associated with land purchases. The Legislature intends that the Florida Forever program supplant the acquisition programs formerly authorized under ss. 259.032 and 373.59. Prior to the 2005 Regular Session of the Legislature, the Acquisition and Restoration Council shall review and make recommendations to the Legislature concerning the need to repeal this provision. Based on these recommendations, the Legislature shall review the need to repeal this provision during the 2005 Regular Session.

(14) Amounts distributed pursuant to subsections (5), (6), (7) and (8) are subject to the payment of debt service on outstanding Conservation and Recreation Lands revenue bonds.

Section 3. Effective July 1, 2001, subsection (1) of section 161.05301, Florida Statutes, 1998 Supplement, is amended to read:

161.05301 Beach erosion control project staffing; coastal construction building codes review.—

(1) There are hereby appropriated to the Department of Environmental Protection six positions and $449,918 for fiscal year 1998-1999 from the Ecosystem Management and Restoration Trust Fund from revenues provided by this act pursuant to s. 201.15*(11)*~~(8)~~. These positions and funding are provided to assist local project sponsors, and shall be used to facilitate and promote enhanced beach erosion control project administration. Such staffing resources shall be directed toward more efficient contract development and oversight, promoting cost-sharing strategies and regional coordination or projects among local governments, providing assistance to local governments to ensure timely permit review, and improving billing review and disbursement processes.

Section 4. Subsection (2) of section 161.085, Florida Statutes, is amended to read:

161.085 Rigid coastal armoring structures.—

(2) In order to allow state and federal agencies, political subdivisions of the state, and municipalities to preplan for emergency response for the protection of private structures and public infrastructure, the department, pursuant to s. 161.041 or s. 161.053, may issue permits for the present or future installation of rigid coastal armoring structures or other emergency response measures to protect private structures, ~~and~~ public infrastructure *and private and public property*.

(a) Permits for present installations may be issued if it is determined that private structures or public infrastructure is vulnerable to damage from frequent coastal storms.

(b) Permits for future installations of coastal armoring structures may be issued contingent upon the occurrence of specified changes to the coastal system which would leave upland structures vulnerable to damage from frequent coastal storms. The department may assist agencies, political subdivisions of the state, or municipalities, at their request, in identifying areas within their jurisdictions which may require permits for future installations of rigid coastal armoring structures.

(c) Permits for present installations of coastal armoring may be issued where such installation is between and adjoins at both ends rigid coastal armoring structures, follows a continuous and uniform armoring structure construction line with existing coastal armoring structures, and is no more than 250 feet in length.

Structures built pursuant to permits granted under this subsection may be ordered removed by the department only if such structures are determined to be unnecessary or to interfere with the installation of a beach restoration project.

Section 5. Effective July 1, 2001, subsection (3) of section 161.091, Florida Statutes, 1998 Supplement, is amended to read:

161.091 Beach management; funding; repair and maintenance strategy.—

(3) In accordance with the intent expressed in s. 161.088 and the legislative finding that erosion of the beaches of this state is detrimental to tourism, the state's major industry, further exposes the state's highly developed coastline to severe storm damage, and threatens beach-related jobs, which, if not stopped, could significantly reduce state sales tax revenues, funds deposited into the State Treasury to the credit of the Ecosystem Management and Restoration Trust Fund, in the annual amounts provided in s. 201.15*(11)*~~(8)~~, shall be used, for a period of not less than 15 years, to fund the development, implementation, and administration of the state's beach management plan, as provided in ss. 161.091-161.212, prior to the use of such funds deposited pursuant to s. 201.15*(11)*~~(8)~~ in that trust fund for any other purpose.

Section 6. Section 215.618, Florida Statutes, is created to read:

215.618 Bonds for acquisition and improvement of land, water areas, and related property interests and resources.—

(1) The issuance of Florida Forever bonds, not to exceed $3 billion, to finance or refinance the cost of acquisition and improvement of land, water areas, and related property interests and resources, in urban and rural settings, for the purposes of restoration, conservation, recreation, water resource development, or historical preservation, and for capital improvements to lands and water areas that accomplish environmental restoration, enhance public access and recreational enjoyment, promote long-term management goals, and facilitate water resource development is hereby authorized, subject to the provisions of s. 259.105 and pursuant to s. 11(e), Art. VII of the State Constitution. Florida Forever bonds may also be issued to refund Preservation 2000 bonds issued pursuant to s. 375.051. The duration of each series of Florida Forever bonds issued may not exceed 20 annual maturities. Preservation 2000 bonds and Florida Forever bonds shall be equally and ratably secured by moneys distributable to the Land Acquisition Trust Fund pursuant to s. 201.15(1)(a), except to the extent specifically provided otherwise by the documents authorizing the issuance of the bonds.

(2) The state does hereby covenant with the holders of Florida Forever bonds and Preservation 2000 bonds that it will not take any action which will materially and adversely affect the rights of such holders so long as such bonds are outstanding, including, but not limited to, a reduction in the portion of documentary stamp taxes distributable to the Land Acquisition Trust Fund for payment of debt service on Preservation 2000 bonds or Florida Forever bonds.

(3) Bonds issued pursuant to this section shall be payable from taxes distributable to the Land Acquisition Trust Fund pursuant to s. 201.15(1)(a). Bonds issued pursuant to this section shall not constitute a general obligation of, or a pledge of the full faith and credit of, the state.

(4) The Department of Environmental Protection shall request the Division of Bond Finance of the State Board of Administration to issue the Florida Forever bonds authorized by this section. The Division of Bond Finance shall issue such bonds pursuant to the State Bond Act.

(5) The proceeds from the sale of bonds issued pursuant to this section, less the costs of issuance, the costs of funding reserve accounts, and other costs with respect to the bonds, shall be deposited into the Florida Forever Trust Fund. The bond proceeds deposited into the Florida Forever Trust Fund shall be distributed by the Department of Environmental Protection as provided in s. 259.105.

(6) Pursuant to authority granted by s. 11(e), Art. VII of the State Constitution, there is hereby continued and recreated the Land Acquisition Trust Fund which shall be a continuation of the Land Acquisition Trust Fund which exists for purposes of s. 9(a)(1), Art. XII of the State Constitution. The Land Acquisition Trust Fund shall continue beyond the termination of bonding authority provided for in s. 9(a)(1), Art. XII of the State Constitution, pursuant to the authority provided by s. 11(e), Art. VII of the State Constitution and shall continue for so long as Preservation 2000 bonds or Florida Forever bonds are outstanding and secured by taxes distributable thereto.

(7) There shall be no sale, disposition, lease, easement, license, or other use of any land, water areas, or related property interests acquired or improved with proceeds of Florida Forever bonds which would cause

all or any portion of the interest of such bonds to lose the exclusion from gross income for federal income tax purposes.

(8) The initial series of Florida Forever bonds shall be validated in addition to any other bonds required to be validated pursuant to s. 215.82. Any complaint for validation of bonds issued pursuant to this section shall be filed only in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending.

Section 7. Section 216.331, Florida Statutes, is amended to read:

216.331 Disbursement of state moneys.—Except as provided in s. 17.076, s. 253.025(14), s. 259.041*(18)*~~(17)~~, s. 717.124(5), s. 732.107(6), or s. 733.816(5), all moneys in the State Treasury shall be disbursed by state warrant, drawn by the Comptroller upon the State Treasury and payable to the ultimate beneficiary. This authorization shall include electronic disbursement.

Section 8. Subsection (4) and paragraph (a) of subsection (5) of section 253.027, Florida Statutes, are amended to read:

253.027 Emergency archaeological property acquisition.—

(4) EMERGENCY ARCHAEOLOGICAL ACQUISITION.—The sum of $2 million shall be *reserved annually* ~~segregated in an account~~ within the *Florida Forever* ~~Conservation and Recreation Lands~~ Trust Fund for the purpose of emergency archaeological acquisition ~~for fiscal year 1988-1989, and each year thereafter~~. Any portion of *that amount* ~~the account~~ not spent or obligated by the end of the third quarter of the fiscal year may be *used for approved acquisitions pursuant to s. 259.105(3)(b)* ~~spent for other purposes specified in s. 259.032, upon approval of the Board of Trustees of the Internal Improvement Trust Fund~~.

(5) ACCOUNT EXPENDITURES.—

(a) No moneys shall be spent for the acquisition of any property, including title works, appraisal fees, and survey costs, unless:

1. The property is an archaeological property of major statewide significance.

2. The structures, artifacts, or relics, or their historic significance, will be irretrievably lost if the state cannot acquire the property.

3. The site is presently on *an acquisition list for* ~~the~~ Conservation and Recreation Lands *or for Florida Forever lands,* ~~acquisition list~~ or complies with the criteria for inclusion on *any such* ~~the~~ list but has yet to be included on the list.

4. No other source of immediate funding is available to purchase or otherwise protect the property.

5. The site is not otherwise protected by local, state, or federal laws.

6. The acquisition is not inconsistent with the state comprehensive plan and the state land acquisition program.

Section 9. Paragraph (c) of subsection (7) of section 253.03, Florida Statutes, 1998 Supplement, is amended and paragraph (d) is added to said section to read:

253.03 Board of trustees to administer state lands; lands enumerated.—

(7)

(c) Structures which are listed in or are eligible for the National Register of Historic Places or the State Inventory of Historic Places *which are over the waters of the State of Florida* and which have a submerged land lease, or have been grandfathered-in to use sovereignty submerged lands until January 1, 1998, pursuant to chapter 18-21.00405, Florida Administrative Code, *shall have the right to continue such submerged land leases* ~~shall be allowed to apply for an extension of such lease~~, regardless of the fact that the present landholder is not an adjacent riparian landowner, *so long as the lessee maintains the structure in a good state of repair consistent with the guidelines for listing. If the structure is damaged or destroyed, the lessee shall be allowed to reconstruct, so long as the reconstruction is consistent with the integrity of the listed structure and does not increase the footprint of the structure. If a structure so listed falls into disrepair and the lessee is not willing to repair and maintain it consistent with its listing, the state may cancel the submerged lease and either repair and maintain the property or require that the structure be removed from sovereignty submerged lands.*

(d) By January 1, 2000, the owners of habitable structures built on or before January 1, 1998, located in conservation areas 2 or 3, on district or state-owned lands, the existence or use which will not impede the restoration of the Everglades, whether pursuant to a submerged lease or not, must provide written notification to the South Florida Water Management District of their existence and location, including an identification of the footprint of the structure. This notification will grant the leaseholders an automatic 20 year lease at a reasonable fee established by the district, or the Department of Environmental Protection, as appropriate, to expire on January 1, 2020. Where the structures are located on state owned lands, the South Florida Water Management District shall submit this notification to the Department of Environmental Protection on the owner's behalf. At the expiration of this 20 year lease, the South Florida Water Management District or the Department of Environmental Protection, as appropriate, shall have the right to require that the leaseholder remove the structure if the district determines that the structures or their use are causing harm to the water or land resources of the district, or to renew the lease agreement. The structure of any owner who does not provide notification to the South Florida Water Management District as required under this subsection, shall be considered illegal and subject to immediate removal. Any structure built in any water conservation area after May 1, 1999, without necessary permits from the South Florida Water Management District, or the Department of Environmental Protection, as appropriate, shall be considered illegal and subject to removal.

Section 10. Subsections (3), (4), (5), (6), and (8) of section 253.034, Florida Statutes, 1998 Supplement, are amended, and subsections (10), (11), and (12) are added to said section, to read:

253.034 State-owned lands; uses.—

(3) In recognition that recreational trails purchased with rails-to-trails funds pursuant to s. 259.101(3)(g) *or s. 259.105(3)(g)* have had historic transportation uses and that their linear character may extend many miles, the Legislature intends that when the necessity arises to serve public needs, after balancing the need to protect trail users from collisions with automobiles and a preference for the use of overpasses and underpasses to the greatest extent feasible and practical, transportation uses shall be allowed to cross recreational trails purchased pursuant to s. 259.101(3)(g) *or s. 259.105(3)(g).* When these crossings are needed, the location and design should consider and mitigate the impact on humans and environmental resources, and the value of the land shall be paid based on fair market value.

(4) No management agreement, lease, or other instrument authorizing the use of lands owned by the Board of Trustees of the Internal Improvement Trust Fund shall be executed for a period greater than is necessary to provide for the reasonable use of the land for the existing or planned life cycle or amortization of the improvements, except that an easement in perpetuity may be granted by the Board of Trustees of the Internal Improvement Trust Fund if the improvement is a transportation facility. An agency managing or leasing state-owned lands from the Board of Trustees of the Internal Improvement Trust Fund may not sublease such lands without prior review by the division and by the Land Acquisition and Management Advisory Council created in s. 259.035 *or its successor* and approval by the board. The Land Acquisition and Management Advisory Council is not required to review subleases of parcels which are less than 160 acres in size.

(5) Each state agency managing lands owned by the Board of Trustees of the Internal Improvement Trust Fund shall submit to the Division of State Lands a land management plan at least every 5 years in a form and manner prescribed by rule by the board. All management plans, whether for single-use or multiple-use properties, shall specifically describe how the managing agency plans to identify, locate, protect and preserve, or otherwise use fragile nonrenewable resources, such as archaeological and historic sites, as well as other fragile resources, including endangered plant and animal species, and provide for the conservation of soil and water resources and for the control and prevention of soil erosion. Land management plans submitted by an agency shall include reference to appropriate statutory authority for such use or uses and

shall conform to the appropriate policies and guidelines of the state land management plan. All land management plans for parcels larger than 1,000 acres shall contain an analysis of the multiple-use potential of the parcel, which analysis shall include the potential of the parcel to generate revenues to enhance the management of the parcel. Additionally, the land management plan shall contain an analysis of the potential use of private land managers to facilitate the restoration or management of these lands. In those cases where a newly acquired property has a valid conservation plan, the plan shall be used to guide management of the property until a formal land management plan is completed.

(a) The Division of State Lands shall make available to the public a copy of each land management plan for parcels which exceed 160 acres in size. The council *or its successor* shall review each plan for compliance with the requirements of this subsection and with the requirements of the rules established by the board pursuant to this subsection. The council *or its successor* shall also consider the propriety of the recommendations of the managing agency with regard to the future use of the property, the protection of fragile or nonrenewable resources, the potential for alternative or multiple uses not recognized by the managing agency, and the possibility of disposal of the property by the board. After its review, the council *or its successor* shall submit the plan, along with its recommendations and comments, to the board. The council *or its successor* shall specifically recommend to the board whether to approve the plan as submitted, approve the plan with modifications, or reject the plan.

(b) The Board of Trustees of the Internal Improvement Trust Fund shall consider the land management plan submitted by each state agency and the recommendations of the council *or its successor* and the Division of State Lands and shall approve the plan with or without modification or reject such plan. The use or possession of any such lands which is not in accordance with an approved land management plan is subject to termination by the board.

(6) The Board of Trustees of the Internal Improvement Trust Fund shall determine which lands, the title to which is vested in the board, *may be surplused* ~~are of no benefit to the public and shall dispose of such lands pursuant to law~~. *Notwithstanding s. 253.111, for those lands designated as acquired for conservation purposes, the board shall make a determination that the lands are no longer needed for conservation purposes and may dispose of them by a two-thirds vote. For all other lands, the board shall make a determination that the lands are no longer needed and may dispose of them by majority vote.*

(a) For the purposes of this subsection, all lands acquired by the state prior to July 1, 1999, using proceeds from the Preservation 2000 bonds, the Conservation and Recreation Lands Trust Fund, the Water Management Lands Trust Fund, Environmentally Endangered Lands Program, and the Save Our Coast Program and titled to the board, which lands are identified as core parcels or within original project boundaries, shall be deemed to have been acquired for conservation purposes.

(b) For any lands purchased by the state on or after July 1, 1999, a determination shall be made by the board prior to acquisition as to those parcels that shall be designated as having been acquired for conservation purposes. No lands acquired for use by the Department of Corrections, the Department of Management Services for use as state offices, the Department of Transportation, except those specifically managed for conservation or recreation purposes or the State University System or state community college system shall be designated as having been purchased for conservation purposes.

(c)~~(a)~~ At least every *3* ~~5~~ years, in a form and manner prescribed by rule by the board, each state agency shall indicate to the board those lands which the agency manages which are not being used for the purpose for which they were originally leased. Such lands shall be reviewed by the council *or its successor* for its recommendation as to whether such lands should be disposed of by the board.

(d)~~(b)~~ Lands owned by the board which are not actively managed by any state agency or for which a land management plan has not been completed pursuant to subsection *(5)* ~~(4)~~ shall be reviewed by the council *or its successor* for its recommendation as to whether such lands should be disposed of by the board.

(e) Prior to any decision by the board to surplus lands, the Acquisition and Restoration Council shall review and make recommendations to the board concerning the request for surplusing. The council shall determine whether the request for surplusing is compatible with the resource values of and management objectives for such lands.

(f)~~(c)~~ In reviewing lands owned by the board ~~pursuant to paragraphs (a) and (b)~~, the council *or its successor* shall consider whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located. The council *or its successor* shall recommend to the board whether a sale, lease, or other conveyance to a local government would be in the best interests of the state and local government. The provisions of this paragraph in no way limit the provisions of ss. 253.111 and 253.115. *Such lands shall be offered to the county or local government for a period of 90 days. Permittable uses for such surplus lands may include public schools, public libraries, fire or law enforcement substations, and governmental, judicial, or recreational centers. County or local government requests for surplus lands shall be expedited throughout the surplusing process. State agencies shall have the subsequent opportunity to acquire the surplus lands for a period not to exceed 30 days after the offer to a county or local government expires. Surplus properties in which governmental agencies have expressed no interest shall then be available for sale on the private market.*

(g) Lands determined to be surplus pursuant to this subsection shall be sold for fair market value or the price paid by the state or a water management district to originally acquire the lands, whichever is greater, except that the price of lands sold as surplus to any unit of government shall not exceed the price paid by the state or a water management district to originally acquire the lands. A unit of government which acquires title to lands hereunder for less than fair market value may not sell or transfer title to all or any portion of the lands to any private owner for a period of 10 years. Any unit of government seeking to transfer or sell lands pursuant to this paragraph shall first allow the board of trustees to reacquire such lands. The board of trustees may reacquire such lands for the price at which they sold such lands.

(h)~~(d)~~ After reviewing the recommendations of the council *or its successor,* the board shall determine whether lands identified *for surplus* ~~in paragraphs (a) and (b)~~ are to be held for other public purposes or whether such lands are *no longer needed* ~~of no benefit to the public~~. The board may require an agency to release its interest in such lands. ~~Lands determined to be of no benefit to the public shall be disposed of pursuant to law. Each fiscal year, up to $500,000 of the proceeds from the disposal of such lands shall be placed in the Internal Improvement Trust Fund to be used to pay the costs of any administration, appraisal, management, conservation, protection, sales, or real estate sales services; any such proceeds in excess of $500,000 shall be placed in the Conservation and Recreation Lands Trust Fund.~~

(i) Requests for surplusing may be made by any public or private entity or person. All requests shall be submitted to the lead managing agency for review and recommendation to the council or its successor. Lead managing agencies shall have 90 days to review such requests and make recommendations. Any surplusing requests that have not been acted upon within the 90-day time period shall be immediately scheduled for hearing at the next regularly scheduled meeting of the council or its successor. Requests for surplusing pursuant to this paragraph shall not be required to be offered to local or state governments as provided in paragraph (f).

(j) Proceeds from any sale of surplus lands pursuant to this subsection shall be deposited into the fund from which such lands were acquired. However, if the fund from which the lands were originally acquired no longer exists, such proceeds shall be deposited into an appropriate account for use by the lead managing agency for land management.

(k) Notwithstanding the provisions of this subsection, no such disposition of land shall be made if such disposition would have the effect of causing all or any portion of the interest on any revenue bonds issued to lose the exclusion from gross income for federal income tax purposes.

(l)~~(e)~~ The sale of filled, formerly submerged land that does not exceed 5 acres in area is not subject to review by the council *or its successor*.

(8) Land management plans required to be submitted by the Department of Corrections or the Department of Education shall not be subject to the ~~council review~~ provisions *for review by the council or its successor* described in subsection (5). Management plans filed by these agencies shall be made available to the public for a period of 90 days at the

administrative offices of the parcel or project affected by the management plan and at the Tallahassee offices of each agency. Any plans not objected to during the public comment period shall be deemed approved. Any plans for which an objection is filed shall be submitted to the Board of Trustees of the Internal Improvement Trust Fund for consideration. The Board of Trustees of the Internal Improvement Trust Fund shall approve the plan with or without modification, or reject the plan. The use or possession of any such lands which is not in accordance with an approved land management plan is subject to termination by the board.

(10) The following additional uses of lands acquired pursuant to the Florida Forever program and other state-funded land purchase programs shall be authorized, upon a finding by the board of trustees, if they meet the criteria specified in paragraphs (a)-(e): water resource development projects, water supply development projects, stormwater management projects, linear facilities, and sustainable agriculture and forestry. Such additional uses are authorized where:

(a) Not inconsistent with the management plan for such lands;

(b) Compatible with the natural ecosystem and resource values of such lands;

(c) The proposed use is appropriately located on such lands and where due consideration is given to the use of other available lands;

(d) The using entity reasonably compensates the titleholder for such use based upon an appropriate measure of value; and

(e) The use is consistent with the public interest.

A decision by the board of trustees pursuant to this subsection shall be given a presumption of correctness. Moneys received from the use of state lands pursuant to this subsection shall be returned to the lead managing agency in accordance with the provisions of s. 259.032(11)(d).

(11) Lands listed as projects for acquisition may be managed for conservation pursuant to s. 259.032, on an interim basis by a private party in anticipation of a state purchase in accordance with a contractual arrangement between the acquiring agency and the private party that may include management service contracts, leases, cost share arrangements or resource conservation agreements. Lands designated as eligible under this subsection shall be managed to maintain or enhance the resources the state is seeking to protect by acquiring the land. Funding for these contractual arrangements may originate from the documentary stamp tax revenue deposited into the Conservation and Recreation Lands Trust Fund and Water Management Lands Trust Fund. No more than five percent of funds allocated under the trust funds shall be expended for this purpose.

(12) Any lands available to governmental employees, including water management district employees, for hunting or other recreational purposes shall also be made available to the general public for such purposes.

Section 11. Paragraph (a) of subsection (4) of section 253.7825, Florida Statutes is amended to read:

253.7825 Recreational uses.—

(4)(a) A horse park-agricultural center may be constructed by or on behalf of the Florida Department of Agriculture and Consumer Services on not more than *500* ~~250~~ acres of former canal lands ~~which meet the criteria for surplus lands and which lie outside the greenways boundary~~.

Section 12. Section 259.03, Florida Statutes, is amended to read:

259.03 Definitions.—The following terms and phrases when used in *this chapter* ~~ss. 259.01-259.06~~ shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Council" means that council established pursuant to s. 259.035.

~~(2) "State capital projects for environmentally endangered lands" means a state capital project, as required by s. 11(a), Art. VII of the State Constitution, which shall have as its purpose the conservation and protection of environmentally unique and irreplaceable lands as valued ecological resources of this state.~~

~~(3) "State capital project for outdoor recreation lands" means a state capital project, as required by s. 11(a), Art. VII of the State Constitution, which shall be for the purposes set out in chapter 375.~~

(2)~~(4)~~ "Board" means the Governor and Cabinet, as the Board of Trustees of the Internal Improvement Trust Fund.

(3) "Capital improvement" means those activities relating to the acquisition, restoration, public access, and recreational uses of such lands, water areas, and related resources deemed necessary to accomplish the purposes of this chapter. Eligible activities include, but are not limited to: the initial removal of invasive plants; the construction, improvement, enlargement or extension of facilities' signs, firelanes, access roads, and trails; or any other activities that serve to restore, conserve, protect, or provide public access, recreational opportunities, or necessary services for land or water areas. Such activities shall be identified prior to the acquisition of a parcel or the approval of a project. The continued expenditures necessary for a capital improvement approved under this subsection shall not be eligible for funding provided in this chapter.

(4) "Department" means the Department of Environmental Protection.

(5) "Division" means the Division of Bond Finance of the State Board of Administration.

(6) "Water resource development project" means a project eligible for funding pursuant to s. 259.105 that increases the amount of water available to meet the needs of natural systems and the citizens of the state by enhancing or restoring aquifer recharge, facilitating the capture and storage of excess flows in surface waters, or promoting reuse. The implementation of eligible projects under s. 259.105 includes land acquisition, land and water body restoration, aquifer storage and recovery facilities, surface water reservoirs, and other capital improvements. The term does not include construction of treatment, transmission, or distribution facilities.

Section 13. Subsections (1), (2), (3), (7), (8), (9), (10), (11), (12), and (16) of section 259.032, Florida Statutes, is amended to read:

259.032 Conservation and Recreation Lands Trust Fund; purpose.—

(1) It is the policy of the state that the citizens of this state shall be assured public ownership of natural areas for purposes of maintaining this state's unique natural resources; protecting air, land, and water quality; *promoting water resource development to meet the needs of natural systems and citizens of this state; promoting restoration activities on public lands;* and providing lands for natural resource based recreation. In recognition of this policy, it is the intent of the Legislature to provide such public lands for the people residing in urban and metropolitan areas of the state, as well as those residing in less populated, rural areas.~~;~~ It is the further intent of the Legislature, with regard to the lands described in paragraph (3)(c), that a high priority be given to the acquisition of such lands in or near counties exhibiting the greatest concentration of population and, with regard to the lands described in subsection (3), that a high priority be given to acquiring lands or rights or interests in lands within any area designated as an area of critical state concern under s. 380.05 which, in the judgment of the advisory council established pursuant to s. 259.035, *or its successor,* cannot be adequately protected by application of land development regulations adopted pursuant to s. 380.05. *Finally, it is the Legislature's intent that lands acquired through this program and any successor programs be managed in such a way as to protect or restore their natural resource values, and provide the greatest benefit, including public access, to the citizens of this state.*

(2)(a) The Conservation and Recreation Lands Trust Fund is established within the Department of Environmental Protection. The fund shall be used as a nonlapsing, revolving fund exclusively for the purposes of this section. The fund shall be credited with proceeds from the following excise taxes:

1. The excise taxes on documents as provided in s. 201.15; and

2. The excise tax on the severance of phosphate rock as provided in s. 211.3103.

The Department of Revenue shall credit to the fund each month the proceeds from such taxes as provided in this paragraph.

(b) There shall annually be transferred from the Conservation and Recreation Lands Trust Fund to the Land Acquisition Trust Fund that amount, not to exceed $20 million annually, as shall be necessary to pay the debt service on, or fund debt service reserve funds, rebate obligations, or other amounts with respect to bonds issued pursuant to s. 375.051 to acquire lands on the established priority list *developed pursuant to this section* ~~as determined by the advisory council pursuant to s. 259.035~~; however, no moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph, or earnings thereon, shall be used or made available to pay debt service on the Save Our Coast revenue bonds. Amounts transferred annually from the Conservation and Recreation Lands Trust Fund to the Land Acquisition Trust Fund pursuant to this paragraph shall have the highest priority over other payments or transfers from the Conservation and Recreation Lands Trust Fund, and no other payments or transfers shall be made from the Conservation and Recreation Lands Trust Fund until such transfers to the Land Acquisition Trust Fund have been made. *Effective July 1, 2001, moneys in the Conservation and Recreation Lands Trust Fund also shall be used to manage lands and to pay for related costs, activities, and functions pursuant to the provisions of this section.*

(3) The Governor and Cabinet, sitting as the Board of Trustees of the Internal Improvement Trust Fund, may allocate moneys from the fund in any one year to acquire the fee or any lesser interest in lands for the following public purposes:

(a) To conserve and protect environmentally unique and irreplaceable lands that contain native, relatively unaltered flora and fauna representing a natural area unique to, or scarce within, a region of this state or a larger geographic area;

(b) To conserve and protect lands within designated areas of critical state concern, if the proposed acquisition relates to the natural resource protection purposes of the designation;

(c) To conserve and protect native species habitat or endangered or threatened species, *emphasizing long-term protection for endangered or threatened species designated G-1 or G-2 by the Florida Natural Areas Inventory, and especially those areas that are special locations for breeding and reproduction*;

(d) To conserve, protect, manage, or restore important ecosystems, landscapes, and forests, if the protection and conservation of such lands is necessary to enhance or protect significant surface water, groundwater, coastal, recreational, timber, or fish or wildlife resources which cannot otherwise be accomplished through local and state regulatory programs;

(e) To promote water resource development that benefits natural systems and citizens of the state;

(f) To facilitate the restoration and subsequent health and vitality of the Florida Everglades;

(g)~~(e)~~ To provide areas, including recreational trails, for natural resource based recreation and other outdoor recreation on any part of any site compatible with conservation purposes;

(h)~~(f)~~ To preserve significant archaeological or historic sites; or

(i)~~(g)~~ To conserve urban open spaces suitable for greenways or outdoor recreation which are compatible with conservation purposes.

(7) The board of trustees may enter into any contract necessary to accomplish the purposes of this section. The lead land managing agencies *designated by the board of trustees* also are directed by the Legislature to enter into contracts or interagency agreements with other governmental entities, including local soil and water conservation districts, or private land managers who have the expertise to perform specific management activities which a lead agency lacks, or which would cost more to provide in-house. Such activities shall include, but not be limited to, controlled burning, road and ditch maintenance, mowing, and wildlife assessments.

(8) Lands to be considered for purchase under this section are subject to the selection procedures of s. 259.035 and related rules and shall be acquired in accordance with acquisition procedures for state lands provided for in s. 259.041, except as otherwise provided by the Legislature. An inholding or an addition to a project selected for purchase pursuant to this chapter ~~or s. 259.035~~ is not subject to the selection procedures of s. 259.035 if the estimated value of such inholding or addition does not exceed $500,000. When at least 90 percent of the acreage of a project has been purchased pursuant to this chapter ~~or s. 259.035~~, the project may be removed from the list and the remaining acreage may continue to be purchased. Moneys from the fund may be used for title work, appraisal fees, environmental audits, and survey costs related to acquisition expenses for lands to be acquired, donated, or exchanged which qualify under the categories of this section, at the discretion of the board. When the Legislature has authorized the Department of Environmental Protection to condemn a specific parcel of land and such parcel has already been approved for acquisition under this section, the land may be acquired in accordance with the provisions of chapter 73 or chapter 74, and the fund may be used to pay the condemnation award and all costs, including a reasonable attorney's fee, associated with condemnation.

(9)~~(a)~~ All lands managed under this *chapter and s. 253.034* ~~section~~ shall be:

(a)~~1.~~ Managed in a manner that will provide the greatest combination of benefits to the public and to the resources.

(b)~~2.~~ Managed for public outdoor recreation which is compatible with the conservation and protection of public lands. *Such management may include, but not be limited to, the following public recreational uses: fishing, hunting, camping, bicycling, hiking, nature study, swimming, boating, canoeing, horseback riding, diving, model hobbyist activities, birding, sailing, jogging, and other related outdoor activities compatible with the purposes for which the lands were acquired.*

(c)~~3.~~ Managed for the purposes for which the lands were acquired, consistent with paragraph (11)(a).

~~Management may include the following public uses: fishing, hunting, camping, bicycling, hiking, nature study, swimming, boating, canoeing, horseback riding, diving, birding, sailing, jogging, and other related outdoor activities.~~

(d)~~(b)1.~~ Concurrent with its adoption of the annual Conservation and *Recreation* ~~Recreational~~ Lands list of acquisition projects pursuant to s. 259.035, the board of trustees shall adopt a management prospectus for each project. The management prospectus shall delineate:

1. The management goals for the property;

2. The conditions that will affect the intensity of management;

3. An estimate of the revenue-generating potential of the property, if appropriate;

4. A timetable for implementing the various stages of management and for providing access to the public, if applicable;

5. A description of potential multiple-use activities as described in this section and s. 253.034;

6. Provisions for protecting existing infrastructure and for ensuring the security of the project upon acquisition;

7. The anticipated costs of management and projected sources of revenue, including legislative appropriations, to fund management needs; *and*

8. Recommendations as to how many employees will be needed to manage the property,~~;~~ and recommendations as to whether local governments, volunteer groups, the former landowner, or other interested parties can be involved in the management.

(e)~~2.~~ Concurrent with the approval of the acquisition contract pursuant to s. 259.041(3)(c) for any interest in lands, the board of trustees shall designate an agency or agencies to manage such lands and shall evaluate and amend, as appropriate, the management policy statement for the project as provided by s. 259.035, consistent with the purposes for which the lands are acquired. For any fee simple acquisition of a parcel which is or will be leased back for agricultural purposes, or any acquisition of a less-than-fee interest in land that is or will be used for agricultural purposes, the Board of Trustees of the Internal Improvement Trust Fund shall first consider having a soil and water conservation district, created pursuant to chapter 582, manage and monitor such interests.

(f)~~3.~~ State agencies designated to manage lands acquired under this chapter may contract with local governments and soil and water conservation districts to assist in management activities, including the responsibility of being the lead land manager. Such land management contracts may include a provision for the transfer of management funding to the local government or soil and water conservation district from the Conservation and Recreation Lands Trust Fund in an amount adequate for the local government or soil and water conservation district to perform its contractual land management responsibilities and proportionate to its responsibilities, and which otherwise would have been expended by the state agency to manage the property.

(g)~~4.~~ Immediately following the acquisition of any interest in lands under this chapter, the Department of Environmental Protection, acting on behalf of the board of trustees, may issue to the lead managing entity an interim assignment letter to be effective until the execution of a formal lease.

(10)*(a)* State, regional, or local governmental agencies or private entities designated to manage lands under this section shall develop and adopt, with the approval of the board of trustees, an individual management plan for each project designed to conserve and protect such lands and their associated natural resources. Private sector involvement in management plan development may be used to expedite the planning process.

(b) ~~Beginning fiscal year 1998-1999,~~ Individual management plans required by s. 253.034*(5)*~~(4)~~, *for parcels over 160 acres,* shall be developed with input from an advisory group. Members of this advisory group shall include, at a minimum, representatives of the lead land managing agency, comanaging entities, local private property owners, the appropriate soil and water conservation district, a local conservation organization, and a local elected official. The advisory group shall conduct at least one public hearing within the county in which the parcel or project is located. *For those parcels or projects that are within more than one county, at least one areawide public hearing shall be acceptable and the lead managing agency shall invite a local elected official from each county. The areawide public hearing shall be held in the county in which the core parcels are located.* Notice of such public hearing shall be posted on the parcel or project designated for management, advertised in a paper of general circulation, and announced at a scheduled meeting of the local governing body before the actual public hearing. The management prospectus required pursuant to paragraph (9)*(d)*~~(b)~~ shall be available to the public for a period of 30 days prior to the public hearing.

(c) Once a plan is adopted, the managing agency or entity shall update the plan at least every 5 years in a form and manner prescribed by rule of the board of trustees. *Such updates, for parcels over 160 acres, shall be developed with input from an advisory group.* Such plans may include transfers of leasehold interests to appropriate conservation organizations *or governmental entities* designated by the Land *Acquisition and* Management Advisory Council *or its successor,* for uses consistent with the purposes of the organizations and the protection, preservation, *conservation, restoration,* and proper management of the lands and their resources. Volunteer management assistance is encouraged, including, but not limited to, assistance by youths participating in programs sponsored by state or local agencies, by volunteers sponsored by environmental or civic organizations, and by individuals participating in programs for committed delinquents and adults.

(d) For each project for which lands are acquired after July 1, 1995, an individual management plan shall be adopted and in place no later than 1 year after the essential parcel or parcels identified in the annual Conservation and Recreation Lands report prepared pursuant to s. 259.035(2)(a) have been acquired. Beginning in fiscal year 1998-1999, the Department of Environmental Protection shall distribute only 75 percent of the acquisition funds to which a budget entity or water management district would otherwise be entitled from the Preservation 2000 Trust Fund to any budget entity or any water management district that has more than one-third of its management plans overdue.

(e)~~(a)~~ Individual management plans shall conform to the appropriate policies and guidelines of the state land management plan and shall include, but not be limited to:

1. A statement of the purpose for which the lands were acquired, the projected use or uses as defined in s. 253.034, and the statutory authority for such use or uses.

2. Key management activities necessary to preserve and protect natural resources and restore habitat, and for controlling the spread of nonnative plants and animals, and for prescribed fire and other appropriate resource management activities.

3. A specific description of how the managing agency plans to identify, locate, protect, and preserve, or otherwise use fragile, nonrenewable natural and cultural resources.

4. A priority schedule for conducting management activities, based on the purposes for which the lands were acquired.

5. A cost estimate for conducting priority management activities, to include recommendations for cost-effective methods of accomplishing those activities.

6. A cost estimate for conducting other management activities which would enhance the natural resource value or public recreation value for which the lands were acquired. The cost estimate shall include recommendations for cost-effective methods of accomplishing those activities.

7. A determination of the public uses *and public access* that would be consistent with the purposes for which the lands were acquired.

(f)~~(b)~~ The Division of State Lands shall submit a copy of each individual management plan for parcels which exceed 160 acres in size to each member of the Land *Acquisition and* Management Advisory Council *or its successor, which shall:*~~.~~

1. ~~The council shall,~~ Within 60 days after receiving a plan from the division, review each plan for compliance with the requirements of this subsection and with the requirements of the rules established by the board pursuant to this subsection.

2. ~~The council shall also~~ Consider the propriety of the recommendations of the managing agency with regard to the future use or protection of the property.

3. After its review, ~~the council shall~~ submit the plan, along with its recommendations and comments, to the board of trustees, *with recommendations as to.* ~~The council shall specifically recommend to the board of trustees~~ whether to approve the plan as submitted, approve the plan with modifications, or reject the plan.

(g)~~(c)~~ The board of trustees shall consider the individual management plan submitted by each state agency and the recommendations of the Land *Acquisition and* Management Advisory Council, *or its successor,* and the Division of State Lands and shall approve the plan with or without modification or reject such plan. The use or possession of any lands owned by the board of trustees which is not in accordance with an approved individual management plan is subject to termination by the board of trustees.

By July 1 of each year, each governmental agency, including the water management districts, and each private entity designated to manage lands shall report to the Secretary of Environmental Protection on the progress of funding, staffing, and resource management of every project for which the agency or entity is responsible.

(11)(a) The Legislature recognizes that acquiring lands pursuant to this chapter serves the public interest by protecting land, air, and water resources which contribute to the public health and welfare, providing areas for natural resource based recreation, and ensuring the survival of unique and irreplaceable plant and animal species. The Legislature intends for these lands to be managed and maintained for the purposes for which they were acquired and for the public to have access to *and use of* these lands where it is consistent with acquisition purposes and would not harm the resources the state is seeking to protect on the public's behalf.

(b) An amount up to 1.5 percent of the cumulative total of funds ever deposited into the Florida Preservation 2000 Trust Fund *and the Florida Forever Trust Fund* shall be made available for the purposes of management, maintenance, and capital improvements *not eligible for funding pursuant to s. 11(e), Art. VII of the State Constitution,* and for associated contractual services, for lands acquired pursuant to this section, ~~and~~ s. 259.101, *s. 259.105, or previous programs for the acquisition of lands for conservation and recreation, including state forests,* to which title is vested in the board of trustees. *Of this amount, $250,000 shall be transferred annually to the Plant Industry Trust Fund within the Department*

of Agriculture and Consumer Services for the purpose of implementing the Endangered or Threatened Native Flora Conservation Grants Program pursuant to s. 581.185(11). Each agency with management responsibilities shall annually request from the Legislature funds sufficient to fulfill such responsibilities. *For the purposes of this paragraph,* capital improvements shall include, but need not be limited to, perimeter fencing, signs, firelanes, access roads and trails, and minimal public accommodations, such as primitive campsites, garbage receptacles, and toilets. *Any equipment purchased with funds provided pursuant to this paragraph may be used for the purposes described in this paragraph on any conservation and recreation lands managed by a state agency.*

(c) In requesting funds provided for in paragraph (b) for long-term management of all acquisitions pursuant to this chapter and for associated contractual services, the managing agencies shall recognize the following categories of land management needs:

1. Lands which are low-need tracts, requiring basic resource management and protection, such as state reserves, state preserves, state forests, and wildlife management areas. These lands generally are open to the public but have no more than minimum facilities development.

2. Lands which are moderate-need tracts, requiring more than basic resource management and protection, such as state parks and state recreation areas. These lands generally have extra restoration or protection needs, higher concentrations of public use, or more highly developed facilities.

3. Lands which are high-need tracts, with identified needs requiring unique site-specific resource management and protection. These lands generally are sites with historic significance, unique natural features, or very high intensity public use, or sites that require extra funds to stabilize or protect resources, *such as lands with heavy infestations of nonnative, invasive plants.*

In evaluating the management funding needs of lands based on the above categories, the lead land managing agencies shall include in their considerations the impacts of, and needs created or addressed by, multiple-use management strategies.

(d) All revenues generated through multiple-use management *or compatible secondary-use management* shall be returned to the *lead* agency responsible for such management and shall be used to pay for management activities on all conservation, preservation, and recreation lands under the agency's jurisdiction. In addition, such revenues shall be segregated in an agency trust fund and shall remain available to the agency in subsequent fiscal years to support land management appropriations. *For the purposes of this paragraph, compatible secondary-use management shall be those activities described in subsection (9) undertaken on parcels designated as single use pursuant to s. 253.034(2)(b).*

(e) Up to one-fifth of the funds provided for in paragraph (b) shall be reserved by the board of trustees for interim management of acquisitions and for associated contractual services, to ensure the conservation and protection of natural resources on project sites and to allow limited public recreational use of lands. Interim management activities may include, but not be limited to, resource assessments, control of invasive, *nonnative* ~~exotic~~ species, habitat restoration, fencing, law enforcement, controlled burning, and public access consistent with preliminary determinations made pursuant to paragraph (9)*(g)*~~(b)~~. The board of trustees shall make these interim funds available immediately upon purchase.

(f) The department shall set long-range and annual goals for the control and removal of nonnative, ~~upland,~~ invasive plant species on public lands. Such goals shall differentiate between aquatic plant species and upland plant species. In setting such goals, the department may rank, in order of adverse impact, species *that* ~~which~~ impede or destroy the functioning of natural systems. Notwithstanding paragraph (a), up to one-fourth of the funds provided for in paragraph (b) *may* ~~shall~~ be *used by the agencies receiving those funds* ~~reserved~~ for control and removal of nonnative, ~~upland,~~ invasive species on public lands.

(12)(a) Beginning *July 1, 1999* ~~in fiscal year 1994-1995~~, *the Legislature shall make available sufficient funds annually from* ~~not more than 3.75 percent of~~ the Conservation and Recreation Lands Trust Fund ~~shall be made available annually~~ to the department for payment in lieu of taxes to qualifying counties~~, cities,~~ and local governments as defined in paragraph (b) for all actual tax losses incurred as a result of board of trustees acquisitions for state agencies under the *Florida Forever program or the* Florida Preservation 2000 program during any year. Reserved funds not used for payments in lieu of taxes in any year shall revert to the fund to be used for land acquisition in accordance with the provisions of this section.

(b) Payment in lieu of taxes shall be available:

1. *To all counties that have a population of 150,000 or less and in which the amount of the tax loss from all completed Preservation 2000 and Florida Forever acquisitions in the county exceeds 0.01 percent of the county's total taxable value. Population levels shall be determined pursuant to s. 11.031.* ~~To counties which levy an ad valorem tax of at least 8.25 mills or the amount of the tax loss from all completed Preservation 2000 acquisitions in the county exceeds 0.01 percent of the county's total taxable value, and have a population of 75,000 or less.~~

2. *To all local governments located in eligible counties.* ~~To counties with a population of less than 100,000 which contain all or a portion of an area of critical state concern designated pursuant to chapter 380 and to local governments within such counties.~~

3. To Glades county, where a privately owned and operated prison leased to the state has recently been opened and where privately owned and operated juvenile justice facilities leased to the state have recently been constructed and opened, a payment in lieu of taxes, in an amount that offsets the loss of property tax revenue, which funds have already been appropriated and allocated from the Department of Correction's budget for the purpose of reimbursing amounts equal to lost ad valorem taxes.

~~3. For the 1997-1998 fiscal year only, and notwithstanding the limitations of paragraph (a), to Glades County, where a privately owned and operated prison leased to the state has been opened within the last 2 years for which no other state moneys have been allocated to the county to offset ad valorem revenues. This subparagraph expires July 1, 1998.~~

~~For the purposes of this paragraph, "local government" includes municipalities, the county school board, mosquito control districts, and any other local government entity which levies ad valorem taxes, with the exception of a water management district.~~

~~(c) Payment in lieu of taxes shall be available to any city which has a population of 10,000 or less and which levies an ad valorem tax of at least 8.25 mills or the amount of the tax loss from all completed Preservation 2000 acquisitions in the city exceeds 0.01 percent of the city's total taxable value.~~

(c)~~(d)~~ If insufficient funds are available in any year to make full payments to all qualifying counties~~, cities,~~ and local governments, such counties~~, cities,~~ and local governments shall receive a pro rata share of the moneys available.

(d)~~(e)~~ The payment amount shall be based on the average amount of actual taxes paid on the property for the 3 years preceding acquisition. Applications for payment in lieu of taxes shall be made no later than January 31 of the year following acquisition. No payment in lieu of taxes shall be made for properties which were exempt from ad valorem taxation for the year immediately preceding acquisition. If property which was subject to ad valorem taxation was acquired by a tax-exempt entity for ultimate conveyance to the state under this chapter, payment in lieu of taxes shall be made for such property based upon the average amount of taxes paid on the property for the 3 years prior to its being removed from the tax rolls. The department shall certify to the Department of Revenue those properties that may be eligible under this provision. *Once eligibility has been established, that county or local government shall receive 10 consecutive annual payments for each tax loss, and no further eligibility determination shall be made during that period.* ~~Payment in lieu of taxes shall be limited to a total of 10 consecutive years of annual payments, beginning the year a local government becomes eligible.~~

(e)~~(f)~~ Payment in lieu of taxes pursuant to this *subsection* ~~paragraph~~ shall be made annually to qualifying counties~~, cities,~~ and local governments after certification by the Department of Revenue that the amounts applied for are reasonably appropriate, based on the amount of actual taxes paid on the eligible property, and after the Department of Environmental Protection has provided supporting documents to the Comptroller and has requested that payment be made in accordance with the requirements of this section.

(f)~~(g)~~ If the board of trustees conveys to a local government title to any land owned by the board, any payments in lieu of taxes on the land made to the local government shall be discontinued as of the date of the conveyance.

For the purposes of this subsection, "local government" includes municipalities, the county school board, mosquito control districts, and any other local government entity which levies ad valorem taxes, with the exception of a water management district.

(16) Within *90* ~~180~~ days after receiving a certified letter from the owner of a property on the Conservation and Recreation Lands list *or the priority list established pursuant to s. 259.105* objecting to the property being included in an acquisition project, where such property is a project or part of a project which has not been listed for purchase in the current year's land acquisition work plan, the board of trustees shall delete the property from the list or from the boundary of an acquisition project on the list.

Section 14. Section 259.0345, Florida Statutes, is created to read:

259.0345 Florida Forever Advisory Council.—

(1)(a) There is hereby created the Florida Forever Advisory Council, consisting of seven residents of this state who shall be appointed by the Governor. The appointments shall include one member from within the geographic boundaries of each water management district who has resided in the district for at least 1 year. The remaining appointments shall come from the state at large. The membership of the council shall be representative of agriculture, the development community, local government, the environmental community, and the scientific and technical community who have substantial experience in areas of land, water, and wildlife management and other related areas.

(b) The members appointed by the Governor shall serve 4-year terms, except that, initially, to provide for staggered terms, three of the appointees shall serve 2-year terms. No appointee shall serve more than 6 years. The Governor may at any time fill a vacancy for the unexpired term of a member appointed under paragraph (a).

(c) Additionally, the President of the Senate and the Speaker of the House of Representatives shall each appoint one ad hoc nonvoting member from their respective chambers. Such members shall be appointed from a standing committee that has a jurisdictional responsibility for the Department of Environmental Protection. These appointees shall serve for the duration of the term of the appointing President or Speaker.

(d) No person who is or has been a lobbyist as defined in s. 112.3148, at any time during the 24 months preceding appointment to the council, for any entity whose interests could be affected by actions or decisions of the council, shall be appointed to the council.

(e) Appointments shall be made by August 15, 1999, and the council's first meeting shall be held by September 15, 1999. Beginning, January 1, 2000, the council shall, at a minimum, meet twice a year.

(2) The Governor shall appoint the chair of the council, and a vice chair shall be elected from among the voting members.

(3) Each member of the council shall receive $75 per day while engaged in the business of the council, as well as expenses and per diem for travel, including attendance at meetings, as provided in s. 112.061.

(4) The department shall provide primary staff support to the council and shall ensure that council meetings are electronically recorded. Such recordings shall be preserved pursuant to chapters 119 and 257. The department may adopt any rule or form necessary to implement this section.

(5) The department shall execute a contract with the Florida Natural Areas Inventory for the scientific assistance necessary to fulfill the requirements of this section.

(6) The department may request the assistance of other state agencies, water management districts, or universities to provide information or expertise to the council.

(7) The council shall provide a report, by November 1, 2000, to the Secretary of Environmental Protection, who shall forward the report to the board of trustees for their approval. After approval by the board of trustees the secretary shall forward the approved report to the President of the Senate and the Speaker of the House of Representatives, at least 30 days prior to the 2001 Regular Legislative Session, for review by the appropriate legislative committees with jurisdiction over the department. The Legislature may reject, modify, or take no action relative to the goals and performance measures established by the report. If no action is taken the goals and performance measures shall be implemented. The report shall meet the following requirements:

(a) Establish specific goals for those identified in s. 259.105(4).

(b) Provide recommendations expanding or refining the goals identified in s. 259.105(4).

(c) Provide recommendations for the development and identification of performance measures to be used for analyzing the progress made towards the goals established pursuant to s. 259.105(4).

(d) Provide recommendations for the process by which projects are to be submitted, reviewed, and approved by the Acquisition and Restoration Council. The advisory council is to specifically examine ways to streamline the process created by the Florida Forever Act.

(8) The council shall provide a report, at least 30 days prior to the regular legislative sessions in the following years: 2002, 2004, 2006 and 2008. The report shall be provided to the Secretary of Environmental Protection, who shall forward the report to the board of trustees for their approval. After approval by the board of trustees, the secretary shall forward the approved report to the President of the Senate and the Speaker of the House of Representatives. The report shall provide: recommendations for adjusting or expanding the goals detailed in s. 259.105(4); recommendations for adjusting the percentage distributions detailed in s. 259.105(3); and recommendations concerning other aspects of the Florida Forever Act.

(9) The reports required pursuant to subsections (7) and (8) are to be based upon and developed through:

(a) Comments received during public hearings, in different areas of the state, held for the purpose of gathering public input and recommendations.

(b) Evaluations of Florida's existing public land acquisition programs for conservation, preservation, and recreational purposes, including those administered by the water management districts and the Department of Community Affairs, to determine the extent of Florida's unmet needs for restoration, acquisition, and management of public lands and water areas and for acquisition of privately owned lands and water areas.

(c) Material and data developed by the Florida Natural Areas Inventory concerning Florida's conservation lands.

Section 15. *There is hereby appropriated the sum of $150,000 from the Conservation and Recreation Lands Trust Fund and the sum of $150,000 from the Water Management Lands Trust Fund to the Department of Environmental Protection for fiscal year 1999-2000 to fund the expenses of the Florida Forever Advisory Council. Of this appropriation the Florida Natural Areas Inventory shall receive no less than $50,000 for the contractual services required under s. 259.035(5), Florida Statutes.*

Section 16. Effective March 1, 2000, section 259.035, Florida Statutes, 1998 Supplement, is amended to read:

(Substantial rewording of section. See s. 259.035, F.S., 1998 Supp., for present text.)

259.035 Acquisition and Restoration Council.—

(1) There is created, effective March 1, 2000, the Acquisition and Restoration Council.

(a) The council shall be composed of nine voting members, four of whom shall be appointed by the Governor. These four appointees shall be from scientific disciplines related to land, water or environmental sciences. They shall serve 4-year terms, except that, initially, to provide for staggered terms, two of the appointees shall serve 2-year terms. All subsequent appointments shall be for 4-year terms. No appointee shall serve

more than 6 years. The Governor may at any time fill a vacancy for the unexpired term of a member appointed under this paragraph.

(b) The five remaining appointees shall be composed of the secretary of the department, the director of the Division of Forestry of the Department of Agriculture and Consumer Services, the executive director of the Fish and Wildlife Conservation Commission, the director of the Division of Historial Resources of the Department of State, and the Secretary of Department of Community Affairs, or their respective designees.

(c) The Governor shall appoint the chair of the council, and a vice chair shall be elected from among the members.

(d) The council shall hold periodic meetings at the request of the chair.

(e) The Department of Environmental Protection shall provide primary staff support to the council and shall ensure that council meetings are electronically recorded. Such recording shall be preserved pursuant to chapters 119 and 257.

(f) The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

(2) The four members of the council appointed by the Governor shall receive $75 per day while engaged in the business of the council, as well as expenses and per diem for travel, including attendance at meetings, as allowed state officers and employees while in the performance of their duties, pursuant to s. 112.061.

(3) The council shall provide assistance to the board of trustees in reviewing the recommendations and plans for state-owned lands required under s. 253.034. The council shall, in reviewing such recommendations and plans, consider the optimization of multiple-use and conservation strategies to accomplish the provisions funded pursuant to s. 259.101(3)(a). Such funds shall only be used to acquire lands identified in the annual Conservation and Recreation Lands list approved by the board of trustees in the year 2000.

Section 17. Subsection (2) of section 259.036, Florida Statutes, is amended to read:

259.036 Management review teams.—

(2) The land management review team shall review select parcels of managed land prior to the date the managing agency is required to submit its 5-year land management plan update. A copy of the review shall be provided to the managing agency, the Division of State Lands, and the Land Acquisition and Management Advisory Council *or its successor*. The managing agency shall consider the findings and recommendations of the land management review team in finalizing the required 5-year update of its management plan.

Section 18. Subsection (1) of section 259.04, Florida Statutes, is amended to read:

259.04 Board; powers and duties.—

(1) For ~~state capital~~ projects *and acquisitions* selected for purchase pursuant to ss. *259.034,* 259.035, ~~and~~ 259.101*, and 259.105*:

(a) The board is given the responsibility, authority, and power to develop and execute a comprehensive, statewide *5-year* plan to conserve, *restore,* and protect environmentally endangered lands, ecosystems, *lands necessary for outdoor recreational needs,* and other lands as identified in ss. 259.032, ~~and~~ 259.101*, and 259.105*. This plan shall be kept current through continual reevaluation and revision. The advisory council *or its successor* shall assist the board in the development, reevaluation, and revision of the plan.

(b) The board may enter into contracts with the government of the United States or any agency or instrumentality thereof; the state or any county, municipality, district authority, or political subdivision; or any private corporation, partnership, association, or person providing for or relating to the conservation or protection of certain lands in accomplishing the purposes of *this chapter* ~~ss. 259.01-259.06~~.

(c) Within 45 days after the advisory council *or its successor* submits *the lists of* ~~either list of acquisition~~ projects to the board, the board shall approve, in whole or in part, the *lists of* ~~list of acquisition~~ projects in the order of priority in which such projects are presented. To the greatest extent practicable, projects on the *lists* ~~list~~ shall be acquired in their approved order of priority.

(d) The board is authorized to acquire, by purchase, gift, or devise or otherwise, the fee title or any lesser interest of lands, water areas, and related resources ~~sufficient to meet the purposes specified in s. 259.03(2)~~ for environmentally endangered lands.

(2) For state capital projects for outdoor recreation lands, the provisions of chapter 375 and s. 253.025 shall also apply.

Section 19. Subsections (1) and (3), paragraph (e) of subsection (7), and present subsection (14) of section 259.041, Florida Statutes, 1998 Supplement, are amended, subsections (11) through (18) are renumbered as subsections (12) through (19), respectively, and a new subsection (11) is added to said section, to read:

259.041 Acquisition of state-owned lands for preservation, conservation, and recreation purposes.—

(1) Neither the Board of Trustees of the Internal Improvement Trust Fund nor its duly authorized agent shall commit the state, through any instrument of negotiated contract or agreement for purchase, to the purchase of lands with or without appurtenances unless the provisions of this section have been fully complied with. However, the board of trustees may waive any requirement of this section, except the requirements of subsections (3), ~~(13), and~~ (14)*, and (15)*; or, notwithstanding chapter 120, may waive any rules adopted pursuant to this section, except rules adopted pursuant to subsections (3), ~~(13), and~~ (14)*, and (15)*; or may substitute other reasonably prudent procedures, provided the public's interest is reasonably protected. The title to lands acquired pursuant to this section shall vest in the board of trustees as provided in s. 253.03(1), unless otherwise provided by law. All such lands, title to which is vested in the board of trustees pursuant to this section, shall be administered pursuant to the provisions of s. 253.03.

(3) No agreement to acquire real property for the purposes described in this chapter, chapter 260, or chapter 375, title to which will vest in the board of trustees, may bind the state unless and until the agreement has been reviewed and approved by the Department of Environmental Protection as complying with the requirements of this section and any rules adopted pursuant to this section. ~~However, review and approval of agreements for acquisitions for Florida Greenways and Trails Program properties pursuant to chapter 260 may be waived by the department in any contract with nonprofit corporations who have agreed to assist the department with this program.~~ Where any of the following conditions exist, the agreement shall be submitted to and approved by the board of trustees:

(a) The purchase price agreed to by the seller exceeds the value as established pursuant to the rules of the board of trustees;

(b) The contract price agreed to by the seller and acquiring agency exceeds $1 million;

(c) The acquisition is the initial purchase in a project; or

(d) Other conditions that the board of trustees may adopt by rule. Such conditions may include, but not be limited to, projects where title to the property being acquired is considered nonmarketable or is encumbered in such a way as to significantly affect its management.

Where approval of the board of trustees is required pursuant to this subsection, the acquiring agency must provide a justification as to why it is in the public's interest to acquire the parcel or project. Approval of the board of trustees also is required for projects the department recommends acquiring pursuant to subsections *(14)* ~~(13)~~ and *(15)* ~~(14)~~. *Review and approval of agreements for acquisitions for Florida Greenways and Trails Program properties pursuant to chapter 260 may be waived by the department in any contract with nonprofit corporations that have agreed to assist the department with this program.*

(7) Prior to approval by the board of trustees or, when applicable, the Department of Environmental Protection, of any agreement to purchase land pursuant to this chapter, chapter 260, or chapter 375, and prior to negotiations with the parcel owner to purchase any other land, title to which will vest in the board of trustees, an appraisal of the parcel shall be required as follows:

(e) Generally, appraisal reports are confidential and exempt from the provisions of s. 119.07(1), for use by the agency and the board of trustees, until an option contract is executed or, if no option contract is executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. However, the department has the authority, at its discretion, to disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple techniques, if the department determines that disclosure of such reports will bring the proposed acquisition to closure. The Division of State Lands may also disclose appraisal information to public agencies or nonprofit organizations that agree to maintain the confidentiality of the reports or information when joint acquisition of property is contemplated, or when a public agency or nonprofit organization enters into a written *multiparty* agreement with the division to purchase and hold property for subsequent resale to the division. In addition, the division may use, as its own, appraisals obtained by a public agency or nonprofit organization, provided the appraiser is selected from the division's list of appraisers and the appraisal is reviewed and approved by the division. For the purposes of this chapter, "nonprofit organization" means an organization whose *purposes include* ~~purpose is~~ the preservation of natural resources, and which is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The agency may release an appraisal report when the passage of time has rendered the conclusions of value in the report invalid or when the acquiring agency has terminated negotiations.

Notwithstanding the provisions of this subsection, on behalf of the board and before the appraisal of parcels approved for purchase under this chapter, the Secretary of Environmental Protection or the director of the Division of State Lands may enter into option contracts to buy such parcels. Any such option contract shall state that the final purchase price is subject to approval by the board or, when applicable, the secretary and that the final purchase price may not exceed the maximum offer allowed by law. The consideration for such an option may not exceed $1,000 or 0.01 percent of the estimate by the department of the value of the parcel, whichever amount is greater.

(11)(a) The Legislature finds that, with the increasing pressures on the natural areas of this state and on open space suitable for recreational use, the state must develop creative techniques to maximize the use of acquisition and management funds. The Legislature also finds that the state's conservation and recreational land acquisition agencies should be encouraged to augment their traditional, fee simple acquisition programs with the use of alternatives to fee simple acquisition techniques. Additionally, the Legislature finds that generations of private landowners have been good stewards of their land, protecting or restoring native habitats and ecosystems to the benefit of the natural resources of this state, its heritage, and its citizens. The Legislature also finds that using alternatives to fee simple acquisition by public land acquisition agencies will achieve the following public policy goals:

1. Allow more lands to be brought under public protection for preservation, conservation, and recreational purposes with less expenditure of public funds.

2. Retain, on local government tax rolls, some portion of or interest in lands which are under public protection.

3. Reduce long-term management costs by allowing private property owners to continue acting as stewards of their land, where appropriate.

Therefore, it is the intent of the Legislature that public land acquisition agencies develop programs to pursue alternatives to fee simple acquisition and to educate private landowners about such alternatives and the benefits of such alternatives. It is also the intent of the Legislature that a portion of the shares of Preservation 2000 and Florida Forever bond proceeds be used to purchase eligible properties using alternatives to fee simple acquisition.

(b) All project applications shall identify, within their acquisition plans, those projects which require a full fee simple interest to achieve the public policy goals, together with the reasons full title is determined to be necessary. The state agencies and the water management districts may use alternatives to fee simple acquisition to bring the remaining projects in their acquisition plans under public protection. For the purposes of this subsection, the term "alternatives to fee simple acquisition" includes, but is not limited to: purchase of development rights; obtaining conservation easements; obtaining flowage easements; purchase of timber rights, mineral rights, or hunting rights; purchase of agricultural interests or silvicultural interests; entering into land protection agreements as defined in s. 380.0677(5); fee simple acquisitions with reservations; creating life estates; or any other acquisition technique which achieves the public policy goals listed in paragraph (a). It is presumed that a private landowner retains the full range of uses for all the rights or interests in the landowner's land which are not specifically acquired by the public agency. The lands upon which hunting rights are specifically acquired pursuant to this paragraph shall be available for hunting in accordance with the management plan or hunting regulations adopted by the Florida Fish and Wildlife Conservation Commission, unless the hunting rights are purchased specifically to protect activities on adjacent lands.

(c) When developing the acquisition plan pursuant to s. 259.105 the Acquisition and Restoration Council may give preference to those less than fee simple acquisitions that provide any public access. However, the Legislature recognizes that public access is not always appropriate for certain less than fee simple acquisitions; therefore no proposed less than fee simple acquisition shall be rejected simply because public access would be limited.

(d) Beginning in fiscal year 1999-2000, the department and each water management district shall implement initiatives to use alternatives to fee simple acquisition and to educate private landowners about such alternatives. The department and the water management districts may enter into joint acquisition agreements to jointly fund the purchase of lands using alternatives to fee simple techniques.

(e) The Legislature finds that the lack of direct sales comparison information has served as an impediment to successful implementation of alternatives to fee simple acquisition. It is the intent of the Legislature that, in the absence of direct comparable sales information, appraisals of alternatives to fee simple acquisitions be based on the difference between the full fee simple valuation and the value of the interests remaining with the seller after acquisition.

(f) The public agency which has been assigned management responsibility shall inspect and monitor any less than fee simple interest according to the terms of the purchase agreement relating to such interest.

(15)~~(14)~~ The board of trustees, by an affirmative vote of five members, may direct the department to purchase lands on an immediate basis using up to 15 percent of the funds allocated to the department pursuant to *ss.* ~~s.~~ 259.101(3)(a) *and 259.105* for the acquisition of lands that:

(a) Are listed or placed at auction by the Federal Government as part of the Resolution Trust Corporation sale of lands from failed savings and loan associations;

(b) Are listed or placed at auction by the Federal Government as part of the Federal Deposit Insurance Corporation sale of lands from failed banks; or

(c) Will be developed or otherwise lost to potential public ownership, or for which federal matching funds will be lost, by the time the land can be purchased under the program within which the land is listed for acquisition.

For such acquisitions, the board of trustees may waive or modify all procedures required for land acquisition pursuant to this chapter and all competitive bid procedures required pursuant to chapters 255 and 287. Lands acquired pursuant to this subsection must, at the time of purchase, be on one of the acquisition lists established pursuant to this chapter, *or be essential for water resource development, protection, or restoration,* or a significant portion of the lands must contain natural communities or plant or animal species which are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare, or as excellent quality occurrences of natural communities.

Section 20. Paragraphs (a) and (b) of subsection (6) and paragraph (f) of subsection (9) of section 259.101, Florida Statutes, 1998 Supplement, are amended to read:

259.101 Florida Preservation 2000 Act.—

(6) DISPOSITION OF LANDS.—

(a) Any lands acquired pursuant to paragraph (3)(a), paragraph (3)(c), paragraph (3)(d), paragraph (3)(e), paragraph (3)(f), or paragraph (3)(g), if title to such lands is vested in the Board of Trustees of the

Internal Improvement Trust Fund, may be disposed of by the Board of Trustees of the Internal Improvement Trust Fund in accordance with the provisions and procedures set forth in s. 253.034*(6)*~~(5)~~, and lands acquired pursuant to paragraph (3)(b) may be disposed of by the owning water management district in accordance with the procedures and provisions set forth in ss. 373.056 and 373.089 provided such disposition also shall satisfy the requirements of paragraphs (b) and (c).

(b) Before land *may be surplused* ~~can be determined to be of no further benefit to the public~~ as required by s. 253.034*(6)*~~(5)~~, or determined to be no longer required for its purposes under s. 373.056(4), whichever may be applicable, there shall first be a determination by the Board of Trustees of the Internal Improvement Trust Fund, or, in the case of water management district lands, by the owning water management district, that such land no longer needs to be preserved in furtherance of the intent of the Florida Preservation 2000 Act. Any lands eligible to be disposed of under this procedure also may be used to acquire other lands through an exchange of lands, provided such lands obtained in an exchange are described in the same paragraph of subsection (3) as the lands disposed.

(9)

(f)1. Pursuant to subsection (3) and beginning in fiscal year 1999-2000, that portion of the unencumbered balances of each program described in paragraphs (3)(c), (d), (e), (f), and (g) which has been on deposit in such program's Preservation 2000 account for more than *3* ~~two~~ fiscal years shall be redistributed equally to the Department of Environmental Protection, Division of State Lands P2000 sub account for the purchase of State Lands as described in s. 259.032 and Water Management District P2000 sub account for the purchase of Water Management Lands pursuant to ss. 373.456, 373.4592 and 373.59. For the purposes of this subsection, the term "unencumbered balances" means the portion of Preservation 2000 bond proceeds which is not obligated through the signing of a purchase contract between a public agency and a private landowner, except that the program described in paragraph (3)(c) may not lose any portion of its unencumbered funds which remain unobligated because of extraordinary circumstances that hampered the affected local governments' abilities to close on land acquisition projects approved through the Florida Communities Trust program. Extraordinary circumstances shall be determined by the Florida Communities Trust governing body and may include such things as death or bankruptcy of the owner of property; a change in the land use designation of the property; natural disasters that affected a local government's ability to consummate the sales contract on such property; or any other condition that the Florida Communities Trust governing board determined to be extraordinary. The portion of the funds *redistributed* ~~deposited~~ in the Water Management *District P2000 sub account* ~~Lands Trust Fund~~ shall be distributed to the water management districts as provided in s. 373.59(7).

2. The department and the water management districts may enter into joint acquisition agreements to jointly fund the purchase of lands using alternatives to fee simple techniques.

Section 21. Section 259.105, Florida Statutes is created to read:

259.105 The Florida Forever Act.—

(1) This section may be cited as the "Florida Forever Act."

(2)(a) The Legislature finds and declares that:

1. The Preservation 2000 program provided tremendous financial resources for purchasing environmentally significant lands to protect those lands from imminent development, thereby assuring present and future generations access to important open spaces and recreation and conservation lands.

2. The continued alteration and development of Florida's natural areas to accommodate the state's rapidly growing population have contributed to the degradation of water resources, the fragmentation and destruction of wildlife habitats, the loss of outdoor recreation space, and the diminishment of wetlands, forests, and public beaches.

3. The potential development of Florida's remaining natural areas and escalation of land values require a continuation of government efforts to restore, bring under public protection, or acquire lands and water areas to preserve the state's invaluable quality of life.

4. Florida's groundwater, surface waters, and springs are under tremendous pressure due to population growth and economic expansion and require special protection and restoration efforts. To ensure that sufficient quantities of water are available to meet the current and future needs of the natural systems and citizens of the state, and assist in achieving the planning goals of the department and the water management districts, water resource development projects on public lands, where compatible with the resource values of and management objectives for the lands, are appropriate.

5. The needs of urban Florida for high-quality outdoor recreational opportunities, greenways, trails, and open space have not been fully met by previous acquisition programs. Through such programs as the Florida Communities Trust and the Florida Recreation Development Assistance Program, the state shall place additional emphasis on acquiring, protecting, preserving, and restoring open space, greenways, and recreation properties within urban areas where pristine natural communities or water bodies no longer exist because of the proximity of developed property.

6. Many of Florida's unique ecosystems, such as the Florida Everglades, are facing ecological collapse due to Florida's burgeoning population. To preserve these valuable ecosystems for future generations, parcels of land must be acquired to facilitate ecosystem restoration.

7. Access to public lands to support a broad range of outdoor recreational opportunities and the development of necessary infrastructure, where compatible with the resource values of and management objectives for such lands, promotes an appreciation for Florida's natural assets and improves the quality of life.

8. Acquisition of lands, in fee simple or in any lesser interest, should be based on a comprehensive assessment of Florida's natural resources and planned so as to protect the integrity of ecological systems and provide multiple benefits, including preservation of fish and wildlife habitat, recreation space for urban as well as rural areas, and water recharge.

9. The state has embraced performance-based program budgeting as a tool to evaluate the achievements of publicly funded agencies, build in accountability, and reward those agencies which are able to consistently achieve quantifiable goals. While previous and existing state environmental programs have achieved varying degrees of success, few of these programs can be evaluated as to the extent of their achievements, primarily because performance measures, standards, outcomes, and goals were not established at the outset. Therefore, the Florida Forever program shall be developed and implemented in the context of measurable state goals and objectives.

10. It is the intent of the Legislature to change the focus and direction of the state's major land acquisition programs and to extend funding and bonding capabilities, so that future generations may enjoy the natural resources of Florida.

(b) The Legislature recognizes that acquisition is only one way to achieve the aforementioned goals and encourages the development of creative partnerships between governmental agencies and private landowners. Land protection agreements and similar tools should be used, where appropriate, to bring environmentally sensitive tracts under an acceptable level of protection at a lower financial cost to the public, and to provide private landowners with the opportunity to enjoy and benefit from their property.

(c) Public agencies or other entities that receive funds under this section are encouraged to better coordinate their expenditures so that project acquisitions, when combined with acquisitions under Preservation 2000, Save Our Rivers, the Florida Communities Trust, and other public land acquisition programs, will form more complete patterns of protection for natural areas and functioning ecosystems, to better accomplish the intent of this section.

(d) A long-term financial commitment to managing Florida's public lands must accompany any new land acquisition program to ensure that the natural resource values of such lands are protected, that the public has the opportunity to enjoy the lands to their fullest potential, and that the state achieves the full benefits of its investment of public dollars.

(e) With limited dollars available for restoration and acquisition of land and water areas and for providing long-term management and capital improvements, a competitive selection process can select those

projects best able to meet the goals of Florida Forever and maximize the efficient use of the program's funding.

(f) To ensure success and provide accountability to the citizens of this state, it is the intent of the Legislature that any bond proceeds used pursuant to this section be used to implement the goals and objectives recommended by the Florida Forever Advisory Council as approved by the Board of Trustees of the Internal Improvement Trust Fund and the Legislature.

(g) As it has with previous land acquisition programs, the Legislature recognizes the desires of the citizens of this state to prosper through economic development and to preserve the natural areas and recreational open space of Florida. The Legislature further recognizes the urgency of restoring the natural functions of public lands or water bodies before they are degraded to a point where recovery may never occur, yet acknowledges the difficulty of ensuring adequate funding for restoration efforts in light of other equally critical financial needs of the state. It is the Legislature's desire and intent to fund the implementation of this section and to do so in a fiscally responsible manner, by issuing bonds to be repaid with documentary stamp tax revenue.

(3) Less the costs of issuing and the costs of funding reserve accounts and other costs associated with bonds, the proceeds of bonds issued pursuant to this section shall be deposited into the Florida Forever Trust Fund created by s. 259.1051. The proceeds shall be distributed by the Department of Environmental Protection in the following manner:

(a) Thirty-five percent to the Department of Environmental Protection for the acquisition of lands and capital project expenditures necessary to implement the water management districts' priority lists developed pursuant to s. 373.199. The funds are to be distributed to the water management districts as provided in subsection (11). A minimum of fifty percent of the total funds provided over the life of the Florida Forever Program pursuant to this paragraph shall be used for the acquisition of lands.

(b) Thirty-five percent to the Department of Environmental Protection for the acquisition of lands and capital project expenditures described in this section. Of the proceeds distributed pursuant to this paragraph, it is the intent of the Legislature that an increased priority be given to those acquisitions which achieve a combination of conservation goals, including protecting Florida's water resources and natural groundwater recharge. Capital project expenditures may not exceed 10 percent of the funds allocated pursuant to this paragraph.

(c) Twenty-four percent to the Department of Community Affairs for use by the Florida Communities Trust for the purposes of part III of chapter 380, and grants to local governments or nonprofit environmental organizations that are tax exempt under s. 501(c)(3) of the United States Internal Revenue Code for the acquisition of community-based projects, urban open spaces, parks, and greenways to implement local government comprehensive plans. From funds available to the trust, 8 percent shall be transferred annually to the Land Acquisition Trust Fund for grants pursuant to s. 375.075. From funds available to the trust and used for land acquisition, 75 percent shall be matched by local governments on a dollar-for-dollar basis. The Legislature intends that the Florida Communities Trust emphasize funding projects in low-income or otherwise disadvantaged communities. Thirty percent of the total allocation provided to the trust shall be used in Standard Metropolitan Statistical Areas, but one-half of that amount shall be used in localities in which the project site is located in built-up commercial, industrial, or mixed-use areas and functions to intersperse open spaces within congested urban core areas. From funds allocated to the trust, no less than 5 percent shall be used to acquire lands for recreational trail systems, provided that in the event these funds are not needed for such projects, they will be available for other trust projects. Local governments may use federal grants or loans, private donations, or environmental mitigation funds, including environmental mitigation funds required pursuant to s. 338.250, for any part or all of any local match required for acquisitions funded through the Florida Communities Trust. Any lands purchased by nonprofit organizations using funds allocated under this paragraph must provide for such lands to remain permanently in public use through a reversion of title to local or state government, conservation easement, or other appropriate mechanism. Projects funded with funds allocated to the Trust shall be selected in a competitive process measured against criteria adopted in rule by the Trust.

(d) One and five-tenths percent to the Department of Environmental Protection for the purchase of inholdings and additions to state parks. For the purposes of this paragraph, "state park" means any real property in the state which is under the jurisdiction of the Division of Recreation and Parks of the department, or which may come under its jurisdiction.

(e) One and five-tenths percent to the Division of Forestry of the Department of Agriculture and Consumer Services to fund the acquisition of state forest inholdings and additions pursuant to s. 589.07 and the implementation of reforestation plans or sustainable forestry management practices.

(f) One and five-tenths percent to the Fish and Wildlife Conservation Commission to fund the acquisition of inholdings and additions to lands managed by the commission which are important to the conservation of fish and wildlife.

(g) One and five-tenths percent to the Department of Environmental Protection for the Florida Greenways and Trails Program, to acquire greenways and trails or greenways and trail systems pursuant to chapter 260, including, but not limited to, abandoned railroad rights-of-way and the Florida National Scenic Trail.

(h) For the purposes of paragraphs (d), (e),(f) and (g) the agencies which receive the funds shall develop their individual acquisition or restoration lists. Proposed additions may be acquired if they are identified within the original project boundary, the management plan required pursuant to s. 253.034(5), or the management prospectus required pursuant to s. 259.032(9)(d). Proposed additions not meeting the requirements of this paragraph shall be submitted to the Acquisition and Restoration Council for approval. The council may only approve the proposed addition if it meets two or more of the following criteria: serves as a link or corridor to other publicly owned property; enhances the protection or management of the property; would add a desirable resource to the property; would create a more manageable boundary configuration; has a high resource value that otherwise would be unprotected; or can be acquired at less than fair market value.

(4) It is the intent of the Legislature that projects or acquisitions funded pursuant to paragraphs (3)(a) and (b) contribute to the achievement of the following goals:

(a) An increase in the level of protection for, or an increase in the populations of, listed plant species, as measured by the number of occurrences, acres of strategic habitat areas, or delisting or redesignation of such species.

(b) An increase in the level of protection for, or an increase in the populations of, listed animal species, as measured by the number of occurrences, acres of strategic habitat areas, delisting or redesignation of such species, or the change in long-term survival rates.

(c) The restoration of land areas, as measured by a reduction in nonnative species, level of maintenance control of invasive species, reforestation rates, or regeneration of natural communities.

(d) An increase in public landholdings needed to meet the goals of this subsection, as measured by the acquisition of lands in fee simple or with less than fee simple alternatives.

(e) The completion of projects begun under previous land acquisition programs, as measured through the acquisition of land under inholdings and additions programs.

(f) An increase in the amount of forest land for sustainable natural resources.

(g) An increase in public recreational opportunities, as measured by the acreage available for recreational opportunities or the number of miles available for greenways or trails.

(h) A reduction in the amount of pollutants flowing into Florida's surface waters, as measured by a reduction in the number of surface water bodies designated as impaired.

(i) The improvement of water recharge rates on public lands, as measured by increased speed of recharge and amount of cubic feet of water made available.

(j) The restoration of water areas, as measured by a reduction of nonnative species, level of maintenance control of invasive species, regeneration of natural communities, reduction of excessive sedimentation, removal of impediments, or reduction of shoreline erosion.

(k) The protection of natural floodplain functions and prevention of or reduction in flood damage, as measured by the number of acres of floodplain in public ownership.

(l) The restoration of degraded water bodies, as measured by the number of goals implemented under a surface water improvement plan or other restoration plans.

(m) The restoration of wetlands, as measured by the number of acres of previously converted wetlands returned to a functioning status.

(n) The preservation of strategic wetlands, as measured by the number of acres acquired.

(o) The preservation of, or reduction of contaminants in, aquifers and springs, as measured by contaminant levels or the number of acres of recharge areas acquired.

(5)(a) All lands acquired pursuant to this section shall be managed for multiple-use purposes, where compatible with the resource values of and management objectives for such lands. As used in this section, "multiple-use" includes, but is not limited to, outdoor recreational activities as described in ss. 253.034 and 259.032(9)(b), water resource development projects, and sustainable forestry management.

(b) Upon a decision by the entity in which title to lands acquired pursuant to this section has vested such lands may be designated single use as defined in s. 253.034(2)(b).

(6) As provided in this section, a water resource or water supply development project may be allowed only if the following conditions are met: minimum flows and levels have been established for those waters, if any, which may reasonably be expected to experience significant harm to water resources as a result of the project; the project complies with all applicable permitting requirements; and the project is consistent with the regional water supply plan, if any, of the water management district and with relevant recovery or prevention strategies if required pursuant to s. 373.0421(2).

(7)(a) Beginning July 1, 2000, and every year thereafter, the Acquisition and Restoration Council shall accept applications from state agencies, local governments, nonprofit and for-profit organizations, private land trusts, and individuals for project proposals eligible for funding pursuant to paragraph (3)(b). The council shall evaluate the proposals received pursuant to this subsection to ensure that they meet at least one of the criteria under subsection (9).

(b) Project applications shall contain, at a minimum, the following:

1. A minimum of two numeric performance measures that directly relate to the overall goals adopted by the council. Each performance measure shall include a baseline measurement, which is the current situation; a performance standard which the project sponsor anticipates the project will achieve; and the performance measurement itself, which should reflect the incremental improvements the project accomplishes towards achieving the performance standard.

2. Proof that property owners within any proposed acquisition have been notified of their inclusion in the proposed project. Any property owner may request the removal of such property from further consideration by submitting a request to the project sponsor or the Acquisition and Restoration Council by certified mail. Upon receiving this request, the council shall delete the property from the proposed project; however, the board of trustees, at the time it votes to approve the proposed project lists pursuant to subsection (16), may add the property back on to the project lists if it determines by a super majority of its members that such property is critical to achieve the purposes of the project.

(c) The title to lands acquired under this section shall vest in the Board of Trustees of the Internal Improvement Trust Fund, except that title to lands acquired by a water management district shall vest in the name of that district and lands acquired by a local government shall vest in the name of the purchasing local government.

(8) The Acquisition and Restoration Council shall develop a project list that shall represent those projects submitted pursuant to subsection (7).

(9) The Acquisition and Restoration Council shall develop a rule to competitively evaluate, select, and rank projects eligible for Florida Forever funds pursuant to paragraph (3)(b). In developing this rule the Acquisition and Restoration Council shall give weight to the following criteria:

(a) The project meets multiple goals described in subsection (4).

(b) The project is part of an ongoing governmental effort to restore, protect, or develop land areas or water resources.

(c) The project enhances or facilitates management of properties already under public ownership.

(d) The project has significant archeological or historic value.

(e) The project has funding sources that are identified and assured through at least the first 2 years of the project.

(f) The project contributes to the solution of water resource problems on a regional basis.

(g) The project has a significant portion of its land area in imminent danger of development, in imminent danger of losing its significant natural attributes or recreational open space, or in imminent danger of subdivision which would result in multiple ownership and make acquisition of the project costly or less likely to be accomplished.

(h) The project implements an element from a plan developed by an ecosystem management team.

(i) The project is one of the components of the Everglades restoration effort.

(j) The project may be purchased at 80 percent of appraised value.

(k) The project may be acquired, in whole or in part, using alternatives to fee simple, including but not limited to, purchase of development rights, hunting rights, agricultural or silvicultural rights, or mineral rights; obtaining conservation easements or flowage easements; or use of land protection agreements as defined in s. 380.0677(5).

(l) The project is a joint acquisition, either among public agencies, nonprofit organizations, or private entities, or by a public-private partnership.

(10) The Acquisition and Restoration Council shall give increased priority to those projects for which matching funds are available and to project elements previously identified on an acquisition list pursuant to this section that can be acquired at 80 percent or less of appraised value.

(11) For the purposes of funding projects pursuant to paragraph (3)(a) the Secretary of Environmental Protection shall ensure that each water management district receives the following percentage of funds annually:

(a) 35 percent to the South Florida Water Management District.

(b) 25 percent to the Southwest Florida Water Management District.

(c) 25 percent to the St. John's River Water Management District.

(d) 7.5 percent to the Suwannee River Water Management District.

(e) 7.5 percent to the Northwest Florida Water Management District.

(12) It is the intent of the Legislature that in developing the list of projects for funding pursuant to paragraph (3)(a), that these funds not be used to abrogate the financial responsibility of those point and nonpoint sources that have contributed to the degradation of water or land areas. Therefore an increased priority shall be given by the water management district governing boards to those projects that have secured a cost-sharing agreement allocating responsibility for the cleanup of point and nonpoint sources.

(13) An affirmative vote of five members of the Acquisition and Restoration Council shall be required in order to place a proposed project on

the list developed pursuant to subsection (8). Any member of the council who by family or a business relationship has a connection with any project proposed to be ranked shall declare such interest prior to voting for a project's inclusion on the list.

(14) Each year that bonds are to be issued pursuant to this section, the Acquisition and Restoration Council shall review that year's approved project list and shall, by the first board meeting in May, present to the Board of Trustees of the Internal Improvement Trust Fund for approval a listing of projects developed pursuant to subsection (8). The board of trustees may remove projects from the list developed pursuant to this subsection, but may not add projects or rearrange project rankings.

(15) The Acquisition and Restoration Council shall submit to the board of trustees, with its list of projects, a report that includes, but shall not be limited to, the following information for each project listed:

(a) The stated purpose for inclusion.

(b) Projected costs to achieve the project goals.

(c) An interim management budget.

(d) Specific performance measures.

(e) Plans for public access.

(f) An identification of the essential parcel or parcels within the project without which the project cannot be properly managed.

(g) Where applicable, an identification of those projects or parcels within projects which should be acquired in fee simple or in less than fee simple.

(h) An identification of those lands being purchased for conservation purposes.

(i) A management policy statement for the project and a management prospectus pursuant to s. 259.032(9)(d).

(j) An estimate of land value based on county tax assessed values.

(k) A map delineating project boundaries.

(l) An assessment of the project's ecological value, outdoor recreational value, forest resources, wildlife resources, ownership pattern, utilization, and location.

(m) A discussion of whether alternative uses are proposed for the property and what those uses are.

(n) A designation of the management agency or agencies.

(16) All proposals for projects pursuant to paragraph (3)(b) shall be implemented only if adopted by the Acquisition and Restoration Council and approved by the board of trustees. The council shall consider and evaluate in writing the merits and demerits of each project that is proposed for Florida Forever funding and shall ensure that each proposed project will meet a stated public purpose for the restoration, conservation, or preservation of environmentally sensitive lands and water areas or for providing outdoor recreational opportunities. The council also shall determine if the project conforms, where applicable, with the comprehensive plan developed pursuant to s. 259.04(1)(a), the comprehensive multipurpose outdoor recreation plan developed pursuant to s. 375.021, the state lands management plan adopted pursuant to s. 253.03(7), the water resources work plans developed pursuant to s. 373.199, and the provisions of this section.

(17)(a) The Board of Trustees of the Internal Improvement Trust Fund, or, in the case of water management district lands, the owning water management district, may authorize the granting of a lease, easement, or license for the use of certain lands acquired pursuant to this section, for certain uses that are determined by the appropriate board to be compatible with the resource values of and management objectives for such lands.

(b) Any existing lease, easement, or license acquired for incidental public or private use on, under, or across any lands acquired pursuant to this section shall be presumed to be compatible with the purposes for which such lands were acquired.

(c) Notwithstanding the provisions of paragraph (a), no such lease, easement, or license shall be entered into by the Department of Environmental Protection or other appropriate state agency if the granting of such lease, easement, or license would adversely affect the exclusion of the interest on any revenue bonds issued to fund the acquisition of the affected lands from gross income for federal income tax purposes, pursuant to Internal Revenue Service regulations.

(18) The Acquisition and Restoration Council may recommend adoption of rules by the board of trustees necessary to implement the provisions of this section relating to: solicitation, scoring, selecting, and ranking of Florida Forever project proposals; disposing of or leasing lands or water areas selected for funding through the Florida Forever program; and the process of reviewing and recommending for approval or rejection the land management plans associated with publicly owned properties. Rules promulgated pursuant to this subsection shall be submitted to the President of the Senate and the Speaker of the House of Representatives, for review by the Legislature, no later than 30 days prior to the 2000 Regular Session and shall become effective only after legislative review. In its review, the Legislature may reject, modify, or take no action relative to such rules. The council shall conform such rules to changes made by the Legislature, or, if no action was taken by the Legislature, such rules shall become effective.

(19) Lands listed as projects for acquisition under the Florida Forever program may be managed for conservation pursuant to s. 259.032, on an interim basis by a private party in anticipation of a state purchase in accordance with a contractual arrangement between the acquiring agency and the private party that may include management service contracts, leases, cost share arrangements or resource conservation agreements. Lands designated as eligible under this subsection shall be managed to maintain or enhance the resources the state is seeking to protect by acquiring the land. Funding for these contractural arrangements may originate from the documentary stamp tax revenue deposited into the Conservation and Recreation Lands Trust Fund and Water Management Lands Trust Fund. No more than five percent of funds allocated under the trust funds shall be expended for this purpose.

Section 22. Subsections (2), (3), and (4) of section 260.012, Florida Statutes, 1998 Supplement, are amended to read:

260.012 Declaration of policy and legislative intent.—

(2) It is the intent of the Legislature that a statewide system of greenways and trails be established to provide open space benefiting environmentally sensitive lands and wildlife and providing people with access to healthful outdoor activities. It is also the intent of the Legislature to acquire or designate lands *and waterways* to facilitate the establishment of a statewide system of greenways and trails; to encourage the multiple use of public rights-of-way and use to the fullest extent existing and future scenic roads, highways, park roads, parkways, greenways, trails, and national recreational trails; to encourage the development of greenways and trails by counties, cities, and special districts and to assist in such development by any means available; to coordinate greenway and trail plans and development by local governments with one another and with the state government and Federal Government; to encourage, whenever possible, the development of greenways and trails on federal lands by the Federal Government; and to encourage the owners of private lands to protect the existing ecological, historical, and cultural values of their lands, including those values derived from working landscapes.

(3) It is the intent of the Legislature that designated greenways and trails be located on public lands *and waterways* and, subject to the written agreement of the private landowner, on private lands. Designated greenways and trails located on public *lands or waterways* or *on* private lands may or may not provide public access, as agreed by the department or the landowner, respectively.

(4) It is the intent of the Legislature that information produced for the purpose of the identification of lands *and waterways*, both public and private, that are suitable for greenways and trails be used only for the purposes of:

(a) Setting priorities for acquisition, planning, and management of public lands *and waterways* for use as greenways and trails; and

(b) Identification of private lands which are eligible for designation as part of the greenways and trails system and are thereby eligible for incentives.

Section 23. Subsection (3) of section 260.013, Florida Statutes, 1998 Supplement, is amended to read:

260.013 Definitions.—As used in ss. 260.011-260.018, unless the context otherwise requires:

(3) "Designation" means the identification and inclusion of specific lands *and waterways* as part of the statewide system of greenways and trails pursuant to a formal public process, including the specific written consent of the landowner. When the department determines that public access is appropriate for greenways and trails, written authorization must be granted by the landowner to the department permitting public access to all or a specified part of the landowner's property. The department's determination shall be noticed pursuant to s. 120.525, and the department shall also notify the landowner by certified mail at least 7 days before any public meeting regarding the intent to designate.

Section 24. Section 260.014, Florida Statutes, 1998 Supplement, is amended to read:

260.014 Florida Greenways and Trails System.—The Florida Greenways and Trails System shall be a statewide system of greenways and trails which shall consist of individual greenways and trails and networks of greenways and trails which may be designated as a part of the statewide system by the department. Mapping or other forms of identification of lands *and waterways* as suitable for inclusion in the system of greenways and trails, mapping of ecological characteristics for any purpose, or development of information for planning purposes shall not constitute designation. No lands *or waterways* may be designated as a part of the statewide system of greenways and trails without the specific written consent of the landowner.

Section 25. Section 260.0142, Florida Statutes, is created to read:

260.0142 Florida Greenways and Trails Council; composition; powers and duties.—

(1) There is hereby created within the Department of Environmental Protection the Florida Greenways and Trails Council which shall advise the department in the execution of the department's powers and duties under this chapter. The council shall be composed of 21 members, consisting of:

(a) Five members appointed by the Governor, with two members representing the trail user community, two members representing the greenway user community, and one member representing private landowners. Of the initial appointments, two shall be appointed for 2-year terms and three shall be appointed for 1-year terms. Subsequent appointments shall be for 2-year terms.

(b) Three members appointed by the President of the Senate, with one member representing the trail user community and two members representing the greenway user community. Of the initial appointments, two shall be appointed for 2-year terms and one shall be appointed for a 1-year term. Subsequent appointments shall be for 2-year terms.

(c) Three members appointed by the Speaker of the House of Representatives, with two members representing the trail user community and one member representing the greenway user community. Of the initial appointments, two shall be appointed for 2-year terms and one shall be appointed for a 1-year term. Subsequent appointments shall be for 2-year terms.

Those eligible to represent the trail user community shall be chosen from, but not be limited to, paved trail users, hikers, off-road bicyclists, paddlers, equestrians, disabled outdoor recreational users, and commercial recreational interests. Those eligible to represent the greenway user community shall be chosen from, but not be limited to, conservation organizations, nature study organizations, and scientists and university experts.

(d) The 10 remaining members shall include:

1. The Secretary of Environmental Protection or a designee;

2. The executive director of the Fish and Wildlife Conservation Commission or a designee;

3. The Secretary of Community Affairs or a designee;

4. The Secretary of Transportation or a designee;

5. The Director of the Division of Forestry of the Department of Agriculture and Consumer Services or a designee;

6. The director of the Division of Historical Resources of the Department of State or a designee;

7. A representative of the water management districts who shall serve for 1 year. Membership on the council shall rotate among the five districts. The districts shall determine the order of rotation;

8. A representative of a federal land management agency. The Secretary of Environmental Protection shall identify the appropriate federal agency and request designation of a representative from the agency to serve on the council;

9. A representative of the regional planning councils to be appointed by the Secretary of Environmental Protection, in consultation with the Secretary of Community Affairs, for a single 2-year term. The representative shall not be selected from the same regional planning council for successive terms; and

10. A representative of local governments to be appointed by the Secretary of Environmental Protection, in consultation with the Secretary of Community Affairs, for a single 2-year term. Membership shall alternate between a county representative and a municipal representative.

(2) The department shall provide necessary staff assistance to the council.

(3) The council is authorized to contract for and to accept gifts, grants, or other aid from the United States Government or any person or corporation.

(4) The duties of the council shall include, but not be limited to, the following:

(a) Advise the Department of Environmental Protection, the Department of Community Affairs, the Department of Transportation, the Fish and Wildlife Conservation Commission, the Division of Forestry of the Department of Agriculture and Consumer Services, the water management districts, and the regional planning councils on policies relating to the Florida Greenways and Trails System, and promote intergovernmental cooperation;

(b) Facilitate a statewide system of interconnected landscape linkages, conservation corridors, greenbelts, recreational corridors and trails, scenic corridors, utilitarian corridors, reserves, regional parks and preserves, ecological sites, and cultural/historic/recreational sites;

(c) Facilitate a statewide system of interconnected land-based trails that connect urban, suburban, and rural areas of the state and facilitate expansion of the statewide system of freshwater and saltwater paddling trails;

(d) Recommend priorities for critical links in the Florida Greenways and Trails System;

(e) Review applications for acquisition funding under the Florida Greenways and Trails Program and recommend to the Secretary of Environmental Protection which projects should be acquired;

(f) Provide funding recommendations to agencies and organizations regarding the acquisition, development, and management of greenways and trails, including the promotion of private landowner incentives;

(g) Review designation proposals for inclusion in the Florida Greenways and Trails System;

(h) Provide advocacy and education to benefit the statewide system of greenways and trails by encouraging communication and conferencing;

(i) Encourage public-private partnerships to develop and manage greenways and trails;

(j) Review progress toward meeting established benchmarks and recommend appropriate action;

(k) Make recommendations for updating and revising the implementation plan for the Florida Greenways and Trails System;

(l) Advise the Land Acquisition and Management Advisory Council or its successor to ensure the incorporation of greenways and trails in land management plans on lands managed by the Department of Environmental Protection, the Fish and Wildlife Conservation Commission, the Division of Historical Resources of the Department of State, and the Division of Forestry of the Department of Agriculture and Consumer Services;

(m) Provide advice and assistance to the Department of Transportation and the water management districts regarding the incorporation of greenways and trails into their planning efforts;

(n) Encourage land use, environmental, and coordinated linear infrastructure planning to facilitate the implementation of local, regional, and statewide greenways and trails systems;

(o) Promote greenways and trails support organizations; and

(p) Support the Florida Greenways and Trails System in any other appropriate way.

(5) The council shall establish procedures for conducting its affairs in execution of the duties and responsibilities stated in this section, which operating procedures shall include determination of a council chair and other appropriate operational guidelines. The council shall meet at the call of the chair, or at such times as may be prescribed by its operating procedures. The council may establish committees to conduct the work of the council and the committees may include nonmembers as appropriate.

(6) A vacancy on the council shall be filled for the remainder of the unexpired term in the same manner as the original appointment. Members whose terms have expired may continue to serve until replaced or reappointed. No member shall serve on the council for more than two consecutive terms.

(7) Members of the council shall not receive any compensation for their services but shall be entitled to receive reimbursement for per diem and travel expenses incurred in the performance of their duties, as provided in s. 112.061.

Section 26. Section 260.016, Florida Statutes, 1998 Supplement, is amended, to read:

260.016 General powers of the department.—

(1) The department may:

(a) Publish and distribute appropriate maps of designated greenways and trails. The description shall include a generalized map delineating the area designated, location of suitable ingress and egress sites, as well as other points of interest to enhance the recreational opportunities of the public.

(b) Establish access routes and related public-use facilities along greenways and trails which will not substantially interfere with the nature and purposes of the greenway or trail.

(c) Adopt appropriate rules to implement or interpret this act and portions of chapter 253 relating to greenways and trails, which may include, but are not limited to, rules for the following:

1. Establishing a designation process.

2. Negotiating and executing agreements with private landowners.

3. Establishing prohibited activities or restrictions on activities to protect the health, safety, and welfare of the public.

4. Charging fees for use.

5. Providing public access.

6. Providing for maintenance.

7. Any matter necessary to the evaluation, selection, operation, and maintenance of greenways and trails.

Any person who violates or otherwise fails to comply with the rules adopted pursuant to subparagraph 3. commits a noncriminal infraction for which a fine of up to $500 may be imposed.

(d) Coordinate the activities of all governmental units and bodies and special districts that desire to participate in the development *and implementation* of the Florida Greenways and Trails System.

~~(e) Appoint an advisory body to be known as the "Florida Recreational Trails Council" which shall advise the department in the execution of its powers and duties under this chapter. The department may establish by rule the duties, structure, and responsibilities of the council. Members of the Florida Recreational Trails Council shall serve without compensation, but are entitled to be reimbursed for per diem and travel expenses as provided in s. 112.061.~~

(e)~~(f)~~ Establish, develop, and publicize *greenways and trails* ~~saltwater paddling trails~~ in a manner that will permit public recreation *when appropriate* without damaging natural resources. The Big Bend Historic Saltwater Paddling Trail from the St. Marks River to the Suwannee River is hereby designated as part of the Florida Greenways and Trails System. Additions to this trail may be added by the department from time to time as part of a statewide saltwater circumnavigation trail.

(f)~~(g)~~ Enter into ~~sublease agreements or other use~~ agreements with *any federal, state, or local governmental agency, or any other entity* ~~local governmental agencies~~ for the management of greenways and trails for recreation and conservation purposes consistent with the intent of this chapter.

~~(h) Enter into management agreements with other entities only if a federal agency, another state agency, local government, county, or municipality is unable to manage the greenways or trails lands.~~ Such entities must demonstrate their capabilities of management for the purposes defined in ss. 260.011-260.018.

(g)~~(i)~~ Charge reasonable fees or rentals for the use or operation of facilities and concessions. All such fees, rentals, or other charges collected shall be deposited in the account or trust fund of the managing entity. ~~All such fees, rentals, or other charges collected by the Division of Recreation and Parks under this paragraph shall be deposited in the State Park Trust Fund pursuant to s. 258.014.~~

(2) The department shall:

(a) Evaluate lands for the acquisition of greenways and trails and compile a list of suitable corridors, greenways, and trails, ranking them in order of priority for proposed acquisition. The department shall devise a method of evaluation which includes, but is not limited to, the consideration of:

1. The importance and function of such corridors within the statewide system.

2. Potential for local sharing in the acquisition, development, operation, or maintenance of greenway and trail corridors.

3. Costs of acquisition, development, operation, and maintenance.

(b) Maintain an updated list of abandoned and to-be-abandoned railroad rights-of-way. ~~The department shall request information on current and potential railroad abandonments from the Department of Transportation and railroad companies operating within the state. At a minimum, the department shall make such requests on a quarterly basis.~~

(c) Provide information to public and private agencies and organizations on abandoned rail corridors which are or will be available for acquisition from the railroads or for lease for interim recreational use from the Department of Transportation. ~~Such information shall include, at a minimum, probable costs of purchase or lease of the identified corridors.~~

(d) Develop and implement a process for designation of lands *and waterways* as a part of the statewide system of greenways and trails, which shall include:

1. Development and dissemination of criteria for designation.

2. Development and dissemination of criteria for changes in the terms or conditions of designation, including withdrawal or termination of designation. A landowner may have his or her *lands* ~~property~~ removed from designation by providing the department with a written request that contains an adequate description of such lands to be removed. Provisions shall be made in the designation agreement for disposition of any future improvements made to the land by the department.

3. Compilation of available information on and field verification of the characteristics of the lands *and waterways* as they relate to the developed criteria.

4. Public notice pursuant to s. 120.525 in all phases of the process.

5. Actual notice to the landowner by certified mail at least 7 days before any public meeting regarding the department's intent to designate.

6. Written authorization from the landowner in the form of a lease or other instrument for the designation and granting of public access, if appropriate, to a landowner's property.

7. Development of a greenway or trail use plan as a part of the designation agreement. In any particular segment of a greenway or trail, the plan components must be compatible with connecting segments and, at a minimum, describe the types and intensities of uses of the property.

(e) Implement the plan for the Florida Greenways and Trails System as adopted by the Florida Greenways Coordinating Council on September 11, 1998.

(3) The department or its designee is authorized to negotiate with potentially affected private landowners as to the terms under which such landowners would consent to the public use of their lands as part of the greenways and trails system. The department shall be authorized to agree to incentives for a private landowner who consents to this public use of his or her lands for conservation or recreational purposes, including, but not limited to, the following:

(a) Retention by the landowner of certain specific rights in his or her lands, including, but not limited to, the right to farm, hunt, graze, harvest timber, or use the lands for other purposes which are consistent with use as greenways or trails.

(b) Agreement to exchange, subject to the approval of the Board of Trustees of the Internal Improvement Trust Fund or other applicable unit of government, ownership or other rights of use of public lands for the ownership or other rights of use of privately owned *lands* ~~property~~. Any exchange of state-owned lands, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, for privately owned lands shall be subject to the requirements of s. 259.041.

(c) Contracting with the landowner to provide management or other services on the lands.

(d) At the option of the landowner, acceleration of the acquisition process or higher consideration in the ranking process when any lands owned by the landowner are under consideration for acquisition by the state or other unit of government.

(e) At the option of the landowner, removal of any lands owned by the landowner from consideration for acquistion by the state or other unit of government.

(f) Execution of patrol and protection agreements.

(g) Where applicable and appropriate, providing lease fees, not to exceed fair market value of the leasehold interest.

Section 27. Section 260.018, Florida Statutes, 1998 Supplement, is amended to read:

260.018 Agency recognition.—All agencies of the state, regional planning councils through their comprehensive plans, and local governments through their local comprehensive planning process pursuant to chapter 163 shall recognize the special character of publicly owned lands and waters designated by the state as greenways and trails and shall not take any action which will impair their use as designated. Identification of lands *or waterways* in planning materials, maps, data, and other information developed or used in the greenways and trails program shall not be cause for such lands *or waterways* to be subject to this section, unless such lands *or waterways* have been designated as a part of the statewide system or greenways and trails pursuant to s. 260.016(2)(d).

Section 28. Paragraph (a) of subsection (11) of ection 288.1224, Florida Statutes, is amended to read:

288.1224 Powers and duties.—The commission:

(11) Shall create an advisory committee of the commission which shall be charged with developing a regionally based plan to protect and promote all of the natural, coastal, historical, cultural, and commercial tourism assets of this state.

(a) Members of the advisory committee shall be appointed by the chair of the commission and shall include representatives of the commission, the Departments of Agriculture *and Consumer Services*, Environmental Protection, Community Affairs, Transportation, and State, the Florida Greenways *and Trails* ~~Coordinating~~ Council, the *Fish and Wildlife Conservation Commission* ~~Florida Game and Freshwater Fish Commission~~, and, as deemed appropriate by the chair of the commission, representatives from other federal, state, regional, local, and private sector associations representing environmental, historical, cultural, recreational, and tourism-related activities.

Section 29. *The following trails located upon or within public lands or waterways and designated prior to May 30, 1998, shall not be subject to the designation process established in chapter 260, Florida Statutes, 1998 Supplement: thirty-six canoe trails designated by the Governor and Cabinet in 1970 and redesignated by the Governor and Cabinet on December 8, 1981; the Historic Big Bend Saltwater Paddling Trail; Hillsborough River State Recreational Canoe Trail; and trails located within state parks and forests.*

Section 30. Effective July 1, 2001, subsection (4) of section 369.252, Florida Statutes, is amended to read:

369.252 Invasive exotic plant control on public lands.—The department shall establish a program to:

(4) Use funds in the Aquatic Plant Control Trust Fund as authorized by the Legislature for carrying out activities under this section on public lands. *Twenty percent of the amount credited to the Aquatic Plant Control Trust Fund pursuant to s. 201.15(6) shall be used for the purpose of controlling nonnative, upland, invasive plant species on public lands.*

Section 31. Subsection (5) of section 369.307, Florida Statutes, is amended to read:

369.307 Developments of regional impact in the Wekiva River Protection Area; land acquisition.—

(5) The Department of Environmental Protection is directed to proceed to negotiate for acquisition of conservation and recreation lands projects within the Wekiva River Protection Area provided that such projects have been deemed qualified under statutory and rule criteria for purchase and have been placed on the priority list for acquisition by the advisory council created in s. 259.035 *or its successor*.

Section 32. Subsection (5) is added to section 373.089, Florida Statutes, to read:

373.089 Sale or exchange of lands, or interests or rights in lands.—The governing board of the district may sell lands, or interests or rights in lands, to which the district has acquired title or to which it may hereafter acquire title in the following manner:

(5) Any lands the title to which is vested in the governing board of a water management district may be surplused pursuant to the procedures set forth in this section and s. 373.056 and the following:

(a) For those lands designated as acquired for conservation purposes, the governing board shall make a determination that the lands are no longer needed for conservation purposes and may dispose of them by a two-thirds vote.

(b) For all other lands, the governing board shall make a determination that such lands are no longer needed and may dispose of them by majority vote.

(c) For the purposes of this subsection, all lands for which title has vested in the governing board prior to July 1, 1999, shall be deemed to have been acquired for conservation purposes.

(d) For any lands acquired on or after July 1, 1999, for which title is vested in the governing board, the governing board shall determine which parcels shall be designated as having been acquired for conservation purposes.

Section 33. Section 373.139, Florida Statutes, is amended to read:

373.139 Acquisition of real property.—

(1) The Legislature declares it to be necessary for the public health and welfare that water and water-related resources be conserved and protected. The acquisition of real property for this objective shall constitute a public purpose for which public funds may be expended.

(2) The governing board of the district is empowered and authorized to acquire *in* fee *or less than fee* title to real property, and easements therein, by purchase, gift, devise, lease, eminent domain, or otherwise for flood control, water storage, water management, *aquifer recharge, water resource and water supply development,* and preservation of wetlands, streams, and lakes.~~, except that~~ Eminent domain powers may be used only for acquiring real property for flood control and water storage or for curing title defects or encumbrances to real property to be acquired from a willing seller.

(3)*(a) No acquisition of lands shall occur without a public hearing similar to those held pursuant to the provisions set forth in s. 120.54.*

(b) Title information, appraisal reports, offers, and counteroffers are confidential and exempt from the provisions of s. 119.07(1) until an option contract is executed or, if no option contract is executed, until 30 days before a contract or agreement for purchase is considered for approval by the governing board. However, each district may, at its discretion, disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple techniques, if the district determines that disclosure of such reports will bring the proposed acquisition to closure. In the event that negotiation is terminated by the district, the title information, appraisal report, offers, and counteroffers shall become available pursuant to s. 119.07(1). Notwithstanding the provisions of this section and s. 259.041, a district and the Division of State Lands may share and disclose title information, appraisal reports, appraisal information, offers, and counteroffers when joint acquisition of property is contemplated. A district and the Division of State Lands shall maintain the confidentiality of such title information, appraisal reports, appraisal information, offers, and counteroffers in conformance with this section and s. 259.041, except in those cases in which a district and the division have exercised discretion to disclose such information.

(c) The Secretary of Environmental Protection shall release moneys from the appropriate account or trust fund to a district for preacquisition costs within 30 days after receipt of a resolution adopted by the district's governing board which identifies and justifies any such preacquisition costs necessary for the purchase of any lands listed in the district's 5-year workplan. The district shall return to the department any funds not used for the purposes stated in the resolution, and the department shall deposit the unused funds into the appropriate account or trust fund.

(d) The Secretary of Environmental Protection shall release acquisition moneys from the appropriate account or trust fund to a district following receipt of a resolution adopted by the governing board identifying the lands being acquired and certifying that such acquisition is consistent with the 5-year workplan of acquisition and other provisions of this section. The governing board also shall provide to the Secretary of Environmental Protection a copy of all certified appraisals used to determine the value of the land to be purchased. Each parcel to be acquired must have at least one appraisal. Two appraisals are required when the estimated value of the parcel exceeds $500,000. However, when both appraisals exceed $500,000 and differ significantly, a third appraisal may be obtained. If the purchase price is greater than the appraisal price, the governing board shall submit written justification for the increased price. The Secretary of Environmental Protection may withhold moneys for any purchase that is not consistent with the 5-year plan or the intent of this section or that is in excess of appraised value. The governing board may appeal any denial to the Land and Water Adjudicatory Commission pursuant to s. 373.114.

(4) The governing board of the district may purchase tax certificates or tax deeds issued in accordance with chapter 197 relating to property eligible for purchase under this section.

~~(5) Lands acquired for the purposes enumerated in subsection (2) may also be used for recreational purposes, and whenever practicable such lands shall be open to the general public for recreational uses. Except when prohibited by a covenant or condition described in s. 373.056(2), lands owned, managed, and controlled by the district may be used for multiple purposes, including, but not limited to, agriculture, silviculture, and water supply, as well as boating and other recreational uses.~~

~~(6) For the purpose of introducing water into, or drawing water from, the underlying aquifer for storage or supply, the governing board is authorized to hold, control, and acquire by donation, lease, or purchase any land, public or private.~~

(5)~~(7)~~ This section shall not limit the exercise of similar powers delegated by statute to any state or local governmental agency or other person.

(6) A district may dispose of land acquired under this section pursuant to s. 373.056 or s. 373.089. However, no such disposition of land shall be made if it would have the effect of causing all or any portion of the interest on any revenue bonds issued pursuant to s. 259.101 or s. 259.105 to fund the acquisition programs detailed in this section to lose the exclusion from gross income for purposes of federal income taxation. Revenue derived from such disposition may not be used for any purpose except the purchase of other lands meeting the criteria specified in this section or payment of debt service on revenue bonds or notes issued under s. 373.584.

(7) The districts have the authority to promulgate rules that include the specific process by which land is acquired; the selection and retention of outside appraisers, surveyors, and acquisition agents; and public notification. Rules adopted pursuant to this subsection shall be submitted to the President of the Senate and the Speaker of the House of Representatives, for review by the Legislature, no later than 30 days prior to the 2001 Regular Session and shall become effective only after legislative review. In its review, the Legislature may reject, modify, or take no action relative to such rules. The districts shall conform such rules to changes made by the Legislature, or, if no action was taken by the Legislature, such rules shall become effective.

Section 34. Section 373.1391, Florida Statutes, is created to read:

373.1391 Management of real property.—

(1)(a) Lands titled to the governing boards of the districts shall be managed and maintained, to the extent practicable, in such a way as to ensure a balance between public access, general public recreational purposes, and restoration and protection of their natural state and condition. Except when prohibited by a covenant or condition described in s. 373.056(2), lands owned, managed, and controlled by the district may be used for multiple purposes, including, but not limited to, agriculture, silviculture, and water supply, as well as boating and other recreational uses.

(b) Whenever practicable such lands shall be open to the general public for recreational uses. General public recreational purposes shall include, but not be limited to, fishing, hunting, horseback riding, swimming, camping, hiking, canoeing, boating, diving, birding, sailing, jogging, and other related outdoor activities to the maximum extent possible considering the environmental sensitivity and suitability of those lands. These public lands shall be evaluated for their resource value for the purpose of establishing which parcels, in whole or in part, annually or seasonally, would be conducive to general public recreational purposes. Such findings shall be included in management plans which are developed for such public lands. These lands shall be made available to the public for these purposes, unless the district governing board can demonstrate that such activities would be incompatible with the purposes for which these lands were acquired.

(c) In developing or reviewing land management plans should a dispute arise that cannot be resolved by the water management districts, that issue shall be forwarded to the Secretary of Environmental Protection who shall submit it to the Florida Forever Advisory Council.

(d) For any fee simple acquisition of a parcel which is or will be leased back for agricultural purposes, or for any acquisition of a less-than-fee interest in lands that is or will be used for agricultural purposes, the district governing board shall first consider having a soil and water conservation district created pursuant to chapter 582 manage and monitor such interest.

(2) Interests in real property acquired by the districts under this section with funds other than those appropriated under the Florida Forever Act may be used for permittable water resource development and water supply development purposes under the following conditions: the minimum flows and levels of priority water bodies on such lands have been established; the project complies with all conditions for issuance of a permit under part II of this chapter; and the project is compatible with the purposes for which the land was acquired.

(3) Each district is encouraged to use volunteers to provide land management and other services. Volunteers shall be covered by liability protection and workers' compensation in the same manner as district employees, unless waived in writing by such volunteers or unless such volunteers otherwise provide equivalent insurance.

(4) Each water management district is authorized and encouraged to enter into cooperative land management agreements with state agencies or local governments to provide for the coordinated and cost-effective management of lands to which the water management districts, the Board of Trustees of the Internal Improvement Trust Fund, or local governments hold title. Any such cooperative land management agreement must be consistent with any applicable laws governing land use, management duties, and responsibilities and procedures of each cooperating entity. Each cooperating entity is authorized to expend such funds as are made available to it for land management on any such lands included in a cooperative land management agreement.

(5) The following additional uses of lands acquired pursuant to the Florida Forever program and other state-funded land purchase programs shall be authorized, upon a finding by the governing board, if they meet the criteria specified in paragraphs (a)-(e): water resource development projects, water supply development projects, stormwater management projects, linear facilities, and sustainable agriculture and forestry. Such additional uses are authorized where:

(a) Not inconsistent with the management plan for such lands;

(b) Compatible with the natural ecosystem and resource values of such lands;

(c) The proposed use is appropriately located on such lands and where due consideration is given to the use of other available lands;

(d) The using entity reasonably compensates the titleholder for such use based upon an appropriate measure of value; and

(e) The use is consistent with the public interest.

A decision by the governing board pursuant to this subsection shall be given a presumption of correctness. Moneys received from the use of state lands pursuant to this subsection shall be returned to the lead managing agency in accordance with the provisions of s. 373.59.

(6) The districts have the authority to adopt rules that specify: allowable activities on district-owned lands; the amount of fees, licenses, or other charges for users of district-owned lands; the application and reimbursement process for payments in lieu of taxes; the use of volunteers for management activities; and the processes related to entering into or severing cooperative land management agreements. Rules promulgated pursuant to the subsection shall become effective only after submitted to the President of the Senate and Speaker of the House of Representatives for review by the Legislature not later than 30 days prior to the next regular session. In its review, the Legislature may reject, modify, or take no action relative to such rules. The districts shall conform such rules to changes made by the Legislature, or, if no action is taken, such rules shall become effective.

Section 35. Section 373.146, Florida Statutes, is amended to read:

373.146 Publication of notices, process, and papers.—

(1) Whenever in this chapter the publication of any notice, process, or paper is required or provided for, unless otherwise provided by law, the publication thereof in some newspaper or newspapers as defined in chapter 50 having general circulation within the area to be affected shall be taken and considered as being sufficient.

(2) Notwithstanding any other provision of law to the contrary, and except in the case of emergency meetings, water management districts may provide reasonable notice of public meetings held to evaluate responses to solicitations issued by the water management district, by publication in a newspaper of general paid circulation in the county where the principal office of the water management district is located, or in the county or counties where the public work will be performed, no less than 7 days before such meeting.

Section 36. Section 373.199, Florida Statutes, is created to read:

373.199 Florida Forever Water Management District Workplan.—

(1) Over the years, the Legislature has created numerous programs and funded several initiatives intended to restore, conserve, protect, and manage Florida's water resources and the lands and ecosystems associated with them. Although these programs and initiatives have yielded individual successes, the overall quality of Florida's water resources continues to degrade; natural systems associated with surface waters continue to be altered or have not been restored to a fully functioning level; and sufficient quantities of water for current and future reasonable beneficial uses and for natural systems remain in doubt.

(2) Therefore, in order to further the goals of the Florida Forever Act each water management district shall develop a 5-year workplan that identifies projects that meet the criteria in subsections (3), (4), and (5).

(3) In developing the list, each water management district shall:

(a) Integrate its existing surface water improvement and management plans, Save Our Rivers land acquisition lists, stormwater management projects, proposed water resource development projects, proposed water body restoration projects, and other properties or activities that would assist in meeting the goals of Florida Forever.

(b) Work cooperatively with the applicable ecosystem management area teams and other citizen advisory groups, the Department of Environmental Protection and its district offices, the Department of Agriculture and Consumer Services, the Fish and Wildlife Conservation Commission, the Department of Community Affairs, the Department of Transportation, other state agencies, and federal agencies, where applicable.

(4) The list submitted by the districts shall include, where applicable, the following information for each project:

(a) A description of the water body system, its historical and current uses, and its hydrology; a history of the conditions which have led to the need for restoration or protection; and a synopsis of restoration efforts that have occurred to date, if applicable.

(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 project area's drainage basin, and of important tributaries, point and nonpoint sources of pollution, and permitted discharge activities associated with that basin.

(d) A description of strategies and potential strategies, including improved stormwater management, for restoring or protecting the water body to Class III or better surface water quality status.

(e) A listing and synopsis of studies that are being or have been prepared for the water body, stormwater management project, or water resource development project.

(f) A description of the measures needed to manage and maintain the water body once it has been restored and to prevent future degradation, to manage and maintain the stormwater management system, or to manage and maintain the water resource development project.

(g) A schedule for restoration and protection of the water body, implementation of the stormwater management project, or development of the water resource development project.

(h) An estimate of the funding needed to carry out the restoration, protection, or improvement project, or the development of new water resources, where applicable, and the projected sources of the funding.

(i) Numeric performance measures for each project. Each performance measure shall include a baseline measurement, which is the current situation; a performance standard, which water management district staff anticipates the project will achieve; and the performance measurement itself, which should reflect the incremental improvements the project accomplishes towards achieving the performance standard. These measures shall reflect the relevant goals detailed in s. 259.105(4).

(j) A discussion of permitting and other regulatory issues related to the project.

(k) An identification of the proposed public access for projects with land acquisition components.

(l) An identification of those lands which require a full fee simple interest to achieve water management goals and those lands which can be acquired using alternatives to fee simple acquisition techniques and still achieve such goals. In their evaluation of which lands would be appropriate for acquisition through alternatives to fee simple, district staff shall consider criteria including, but not limited to, acquisition costs, the net present value of future land management costs, the net present value of advalorem revenue loss to the local government, and potential for revenue generated from activities compatible with acquisition objectives.

(m) An identification of lands needed to protect or recharge groundwater and a plan for their acquisition as necessary to protect potable water supplies. Lands which serve to protect or recharge groundwater identified pursuant to this paragraph shall also serve to protect other valuable natural resources or provide space for natural resource based recreation.

(5) The list of projects shall indicate the relative significance of each project within the particular water management district's boundaries, and the schedule of activities and sums of money earmarked should reflect those rankings as much as possible over a 5-year planning horizon.

(6) Each district shall remove the property of an unwilling seller from its 5-year workplan at the next scheduled update of the plan, if in receipt of a request to do so by the property owner.

(7) By January 1 of each year, each district shall file with the Legislature and the Secretary of Environmental Protection a report of acquisitions completed during the year together with modifications or additions to its 5-year workplan. Included in the report shall be:

(a) A description of land management activity for each property or project area owned by the water management district.

(b) A list of any lands surplused and the amount of compensation received.

The secretary shall submit the report required pursuant to this subsection along with the Florida Forever report required under s. 259.105.

Section 37. Subsection (6) of section 373.250, Florida Statutes, is repealed;

373.250 Reuse of reclaimed water.—

~~(6) Each water management district shall submit to the Legislature, by June 1 of each year, an annual report which describes the district's progress in promoting the reuse of reclaimed water. The report shall include, but not be limited to:~~

~~(a) The number of permits issued during the year which required reuse of reclaimed water and, by categories, the percentages of reuse required.~~

~~(b) The number of permits issued during the year which did not require the reuse of reclaimed water and, of those permits, the number which reasonably could have required reuse.~~

~~(c) In the second and subsequent annual reports, a statistical comparison of reuse required through consumptive use permitting between the current and preceding years.~~

~~(d) A comparison of the volume of reclaimed water available in the district to the volume of reclaimed water required to be reused through consumptive use permits.~~

~~(e) A comparison of the volume of reuse of reclaimed water required in water resource caution areas through consumptive use permitting to the volume required in other areas in the district through consumptive use permitting.~~

~~(f) An explanation of the factors the district considered when determining how much, if any, reuse of reclaimed water to require through consumptive use permitting.~~

~~(g) A description of the district's efforts to work in cooperation with local government and private domestic wastewater treatment facilities to increase the reuse of reclaimed water. The districts, in consultation with the department, shall devise a uniform format for the report required by this subsection and for presenting the information provided in the report.~~

Section 38. Section 373.59, Florida Statutes, 1998 Supplement, is amended to read:

373.59 Water Management Lands Trust Fund.—

(1) There is established within the Department of Environmental Protection the Water Management Lands Trust Fund to be used as a nonlapsing fund for the purposes of this section. The moneys in this fund are hereby continually appropriated for the purposes of land acquisition, management, maintenance, capital improvements *of land titled to the districts*, payments in lieu of taxes, *debt service on bonds issued prior to July 1, 1999, preacquisition costs associated with land purchases*, and *the department's costs of administration of the fund. The department's costs of administration shall be charged proportionally against each district's allocation using the formula provided in subsection (8). Capital improvements shall include, but need not be limited to, perimeter fencing, signs, firelanes, control of invasive exotic species, controlled burning, habitat inventory and restoration, law enforcement, access roads and trails, and minimal public accommodations, such as primitive campsites, garbage receptacles, and toilets.* ~~administration of the fund in accordance with the provisions of this section.~~

(2)~~(a)~~ *Until the Preservation 2000 Program is concluded,* ~~By January 15 of each year,~~ each district shall file with the Legislature and the Secretary of Environmental Protection a report of acquisition activity, *by January 15 of each year* together with modifications or additions to its 5-year plan of acquisition. Included in the report shall be an identification of those lands which require a full fee simple interest to achieve water management goals and those lands which can be acquired using alternatives to fee simple acquisition techniques and still achieve such goals. In their evaluation of which lands would be appropriate for acquisition through alternatives to fee simple, district staff shall consider criteria including, but not limited to, acquisition costs, the net present value of future land management costs, the net present value of ad valorem revenue loss to the local government, and the potential for revenue generated from activities compatible with acquisition objectives. The report shall also include a description of land management activity. ~~Expenditure of moneys from the Water Management Lands Trust Fund shall be limited to the costs for acquisition, management, maintenance, and capital improvements of lands included within the 5-year plan as filed by each district and to the department's costs of administration of the fund. The department's costs of administration shall be charged proportionally against each district's allocation using the formula provided in subsection (7).~~ However, no acquisition of lands shall occur without a public hearing similar to those held pursuant to the provisions set forth in s. 120.54. In the annual update of its 5-year plan for acquisition, each district shall identify lands needed to protect or recharge groundwater and shall establish a plan for their acquisition as necessary to protect potable water supplies. Lands which serve to protect or recharge groundwater identified pursuant to this paragraph shall also serve to protect other valuable natural resources or provide space for natural resource based recreation. *Once all Preservation 2000 funds allocated to the water management districts have been expended or committed, this subsection shall be repealed.*

~~(b) Moneys from the fund shall be used for continued acquisition, management, maintenance, and capital improvements of the following lands and lands set forth in the 5-year land acquisition plan of the district:~~

~~1. By South Florida Water Management District—lands in the water conservation areas and areas adversely affected by raising water levels of Lake Okeechobee in accordance with present regulation schedules, and the Savannahs Wetland area in Martin County and St. Lucie County.~~

~~2. By Southwest Florida Water Management District—lands in the Four River Basins areas, including Green Swamp, Upper Hillsborough and Cypress Creek, Anclote Water Storage Lands (Starkey), Withlacoochee and Hillsborough riverine corridors, and Sawgrass Lake addition.~~

~~3. By St. Johns River Water Management District—Seminole Ranch, Latt Maxey and Evans properties in the upper St. Johns River Basin.~~

~~4. By Suwannee River Water Management District—lands in Suwannee River Valley.~~

~~5. By Northwest Florida Water Management District—lands in the Choctawhatchee and Apalachicola River Valleys.~~

(3) Each district shall remove the property of an unwilling seller from its plan of acquisition at the next scheduled update of the plan, if in receipt of a request to do so by the property owner. *This subsection shall be repealed at the conclusion of the Preservation 2000 program.*

~~(4)(a) Moneys from the Water Management Lands Trust Fund shall be used for acquiring the fee or other interest in lands necessary for water management, water supply, and the conservation and protection of water resources, except that such moneys shall not be used for the acquisition of rights-of-way for canals or pipelines. Such moneys shall also be used for management, maintenance, and capital improvements. Interests in real property acquired by the districts under this section may be used for permittable water resource development and water supply development purposes under the following conditions: the minimum flows and levels of priority water bodies on such lands have been established; the project complies with all conditions for issuance of a permit under part II of this chapter; and the project is compatible with the purposes for which the land was acquired. Lands acquired with moneys from the fund shall be managed and maintained in an environmentally acceptable manner and, to the extent practicable, in such a way as to restore and protect their natural state and condition.~~

(4)~~(b)~~ The Secretary of Environmental Protection shall release moneys from the Water Management Lands Trust Fund to a district for preacquisition costs within 30 days after receipt of a resolution adopted by the district's governing board which identifies and justifies any such preacquisition costs necessary for the purchase of any lands listed in the district's 5-year plan. The district shall return to the department any funds not used for the purposes stated in the resolution, and the department shall deposit the unused funds into the Water Management Lands Trust Fund.

~~(c) The Secretary of Environmental Protection shall release acquisition moneys from the Water Management Lands Trust Fund to a district following receipt of a resolution adopted by the governing board identifying the lands being acquired and certifying that such acquisition is consistent with the plan of acquisition and other provisions of this act. The governing board shall also provide to the Secretary of Environmental Protection a copy of all certified appraisals used to determine the value of the land to be purchased. Each parcel to be acquired must have at least one appraisal. Two appraisals are required when the estimated value of the parcel exceeds $500,000. However, when both appraisals exceed $500,000 and differ significantly, a third appraisal may be obtained. If the purchase price is greater than the appraisal price, the governing board shall submit written justification for the increased price. The Secretary of Environmental Protection may withhold moneys for any purchase that is not consistent with the 5-year plan or the intent of this act or that is in excess of appraised value. The governing board may appeal any denial to the Land and Water Adjudicatory Commission pursuant to s. 373.114.~~

(5)~~(d)~~ The Secretary of Environmental Protection shall release to the districts moneys for management, maintenance, and capital improvements following receipt of a resolution and request adopted by the governing board which specifies the designated managing agency, specific management activities, public use, estimated annual operating costs, and other acceptable documentation to justify release of moneys.

~~(5) Water management land acquisition costs shall include payments to owners and costs and fees associated with such acquisition.~~

(6) If a district issues revenue bonds or notes under s. 373.584 *prior to July 1, 1999*, the district may pledge its share of the moneys in the Water Management Lands Trust Fund as security for such bonds or notes. The Department of Environmental Protection shall pay moneys from the trust fund to a district or its designee sufficient to pay the debt service, as it becomes due, on the outstanding bonds and notes of the district; however, such payments shall not exceed the district's cumulative portion of the trust fund. However, any moneys remaining after payment of the amount due on the debt service shall be released to the district pursuant to subsection *(5)* ~~(3)~~.

(7) Any unused portion of a district's share of the fund shall accumulate in the trust fund to the credit of that district. Interest earned on such portion shall also accumulate to the credit of that district to be used for ~~land acquisition,~~ management, maintenance, and capital improvements as provided in this section. The total moneys over the life of the fund available to any district under this section shall not be reduced except by resolution of the district governing board stating that the need for the moneys no longer exists. *Any water management district with fund balances in the Water Management Lands Trust Fund as of March 1, 1999, may expend those funds for land acquisitions pursuant to s. 373.139, or for the purpose specified in this subsection.*

(8) Moneys from the Water Management Lands Trust Fund shall be allocated to the five water management districts in the following percentages:

(a) Thirty percent to the South Florida Water Management District.

(b) Twenty-five percent to the Southwest Florida Water Management District.

(c) Twenty-five percent to the St. Johns River Water Management District.

(d) Ten percent to the Suwannee River Water Management District.

(e) Ten percent to the Northwest Florida Water Management District.

~~(9) Each district may use its allocation under subsection (8) for management, maintenance, and capital improvements. Capital improvements shall include, but need not be limited to, perimeter fencing, signs, firelanes, control of invasive exotic species, controlled burning, habitat inventory and restoration, law enforcement, access roads and trails, and minimal public accommodations, such as primitive campsites, garbage receptacles, and toilets.~~

(9)~~(10)~~ Moneys in the fund not needed to meet current obligations incurred under this section shall be transferred to the State Board of Administration, to the credit of the fund, to be invested in the manner provided by law. Interest received on such investments shall be credited to the fund.

~~(11) Lands acquired for the purposes enumerated in this section shall also be used for general public recreational purposes. General public recreational purposes shall include, but not be limited to, fishing, hunting, horseback riding, swimming, camping, hiking, canoeing, boating, diving, birding, sailing, jogging, and other related outdoor activities to the maximum extent possible considering the environmental sensitivity and suitability of those lands. These public lands shall be evaluated for their resource value for the purpose of establishing which parcels, in whole or in part, annually or seasonally, would be conducive to general public recreational purposes. Such findings shall be included in management plans which are developed for such public lands. These lands shall be made available to the public for these purposes, unless the district governing board can demonstrate that such activities would be incompatible with the purposes for which these lands were acquired. For any fee simple acquisition of a parcel which is or will be leased back for agricultural purposes, or for any acquisition of a less-than-fee interest in land that is or will be used for agricultural purposes, the district governing board shall first consider having a soil and water conservation district created pursuant to chapter 582 manage and monitor such interest.~~

(10)(a) Beginning July 1, 1999, not more than one-fourth of the land management funds provided for in subsections (1) and (8) in any year

shall be reserved annually by a governing board, during the development of its annual operating budget, for payments in lieu of taxes for all actual tax losses incurred as a result of governing board acquisitions for water management districts under the Florida Forever program during any year. Reserved funds not used for payments in lieu of taxes in any year shall revert to the Water Management Lands Trust Fund to be used in accordance with the provisions of this section.

(b) Payment in lieu of taxes shall be available:

1. To all counties that have a population of 150,000 or less and in which the amount of tax loss from all completed Preservation 2000 and Florida Forever acquisitions in the county exceeds 0.01 percent of the county's total taxable value. Population levels shall be determined pursuant to s. 11.031

2. To all local governments located in eligible counties and whose lands are bought and taken off the tax rolls.

For the purposes of this subsection, "local government" includes municipalities, the county school board, mosquito control districts, and any other local government entity which levies ad valorem taxes.

(c) If insufficient funds are available in any year to make full payments to all qualifying counties and local governments, such counties and local governments shall receive a pro rata share of the moneys available.

(d) The payment amount shall be based on the average amount of actual taxes paid on the property for the 3 years preceding acquisition. Applications for payment in lieu of taxes shall be made no later than January 31 of the year following acquisition. No payment in lieu of taxes shall be made for properties which were exempt from ad valorem taxation for the year immediately preceding acquisition. If property that was subject to ad valorem taxation was acquired by a tax-exempt entity for ultimate conveyance to the state under this chapter, payment in lieu of taxes shall be made for such property based upon the average amount of taxes paid on the property for the 3 years prior to its being removed from the tax rolls. The water management districts shall certify to the Department of Revenue those properties that may be eligible under this provision. Once eligibility has been established, that governmental entity shall receive 10 consecutive annual payments for each tax loss, and no further eligibility determination shall be made during that period.

(e) Payment in lieu of taxes pursuant to this subsection shall be made annually to qualifying counties and local governments after certification by the Department of Revenue that the amounts applied for are reasonably appropriate, based on the amount of actual taxes paid on the eligible property, and after the water management districts have provided supporting documents to the Comptroller and have requested that payment be made in accordance with the requirements of this section.

(f) If a water management district conveys to a county or local government title to any land owned by the district, any payments in lieu of taxes on the land made to the county or local government shall be discontinued as of the date of the conveyance.

~~(12) A district may dispose of land acquired under this section, pursuant to s. 373.056 or s. 373.089. However, revenue derived from such disposal may not be used for any purpose except the purchase of other lands meeting the criteria specified in this section or payment of debt service on revenue bonds or notes issued under s. 373.584, as provided in this section.~~

~~(13) No moneys generated pursuant to this act may be applied or expended subsequent to July 1, 1985, to reimburse any district for prior expenditures for land acquisition from ad valorem taxes or other funds other than its share of the funds provided herein or to refund or refinance outstanding debt payable solely from ad valorem taxes or other funds other than its share of the funds provided herein.~~

~~(14)(a) Beginning in fiscal year 1992-1993, not more than one-fourth of the land management funds provided for in subsections (1) and (9) in any year shall be reserved annually by a governing board, during the development of its annual operating budget, for payment in lieu of taxes to qualifying counties for actual ad valorem tax losses incurred as a result of lands purchased with funds allocated pursuant to s. 259.101(3)(b). In addition, the Northwest Florida Water Management District, the South Florida Water Management District, the Southwest Florida Water Management District, the St. Johns River Water Management District, and the Suwannee River Water Management District shall pay to qualifying counties payments in lieu of taxes for district lands acquired with funds allocated pursuant to subsection (8). Reserved funds that are not used for payment in lieu of taxes in any year shall revert to the fund to be used for management purposes or land acquisition in accordance with this section.~~

~~(b) Payment in lieu of taxes shall be available to counties for each year in which the levy of ad valorem tax is at least 8.25 mills or the amount of the tax loss from all completed Preservation 2000 acquisitions in the county exceeds 0.01 percent of the county's total taxable value, and the population is 75,000 or less and to counties with a population of less than 100,000 which contain all or a portion of an area of critical state concern designated pursuant to chapter 380.~~

~~(c) If insufficient funds are available in any year to make full payments to all qualifying counties, such counties shall receive a pro rata share of the moneys available.~~

~~(d) The payment amount shall be based on the average amount of actual taxes paid on the property for the 3 years immediately preceding acquisition. For lands purchased prior to July 1, 1992, applications for payment in lieu of taxes shall be made to the districts by January 1, 1993. For lands purchased after July 1, 1992, applications for payment in lieu of taxes shall be made no later than January 31 of the year following acquisition. No payment in lieu of taxes shall be made for properties which were exempt from ad valorem taxation for the year immediately preceding acquisition. Payment in lieu of taxes shall be limited to a period of 10 consecutive years of annual payments.~~

~~(e) Payment in lieu of taxes shall be made within 30 days after: certification by the Department of Revenue that the amounts applied for are appropriate, certification by the Department of Environmental Protection that funds are available, and completion of any fund transfers to the district. The governing board may reduce the amount of a payment in lieu of taxes to any county by the amount of other payments, grants, or in-kind services provided to that county by the district during the year. The amount of any reduction in payments shall remain in the Water Management Lands Trust Fund for purposes provided by law.~~

~~(f) If a district governing board conveys to a local government title to any land owned by the board, any payments in lieu of taxes on the land made to the local government shall be discontinued as of the date of the conveyance.~~

~~(15) Each district is encouraged to use volunteers to provide land management and other services. Volunteers shall be covered by liability protection and workers' compensation in the same manner as district employees, unless waived in writing by such volunteers or unless such volunteers otherwise provide equivalent insurance.~~

~~(16) Each water management district is authorized and encouraged to enter into cooperative land management agreements with state agencies or local governments to provide for the coordinated and cost-effective management of lands to which the water management districts, the Board of Trustees of the Internal Improvement Trust Fund, or local governments hold title. Any such cooperative land management agreement must be consistent with any applicable laws governing land use, management duties, and responsibilities and procedures of each cooperating entity. Each cooperating entity is authorized to expend such funds as are made available to it for land management on any such lands included in a cooperative land management agreement.~~

(11)~~(17)~~ Notwithstanding any provision of this section to the contrary ~~and for the 1998-1999 fiscal year only~~, the governing board of a water management district may request, and the Secretary of Environmental Protection shall release upon such request, moneys allocated to the districts pursuant to subsection (8) for the purpose of carrying out the *purposes* ~~provisions~~ of *s. 373.0361, s. 375.0831, s. 373.139, or* ss. 373.451-373.4595. No funds may be used pursuant to this subsection until necessary debt service obligations, ~~and~~ requirements for payments in lieu of taxes and land management obligations that may be required *by this chapter* ~~pursuant to this section~~ are provided for. ~~This subsection is repealed on July 1, 1999.~~

Section 39. Section 375.075, Florida Statutes, is amended to read:

375.075 Outdoor recreation; financial assistance to local governments.—

(1) The Department of Environmental Protection is authorized, pursuant to s. 370.023, to establish the Florida Recreation Development Assistance Program to provide grants to qualified local governmental entities to acquire or develop land for public outdoor recreation purposes. To the extent not needed for debt service on bonds issued pursuant to s. 375.051, each *fiscal* year *through fiscal year 2000-2001,* the department shall develop and plan a program which shall be based upon funding of not less than 5 percent of the money credited to the Land Acquisition Trust Fund pursuant to s. 201.15(2) and (3) in that year. *Beginning fiscal year 2001-2002, the department shall develop and plan a program which shall be based upon funding provided from the Florida Forever Trust Fund pursuant to s. 259.105(3)(c).*

(2)(a) The department shall adopt, by rule, procedures to govern the program, which shall include, but need not be limited to, a competitive project selection process designed to maximize the outdoor recreation benefit to the public.

(b) Selection criteria shall, at a minimum, rank:

1. The extent to which the project would implement the outdoor recreation goals, objectives, and priorities specified in the state comprehensive outdoor recreation plan; and

2. The extent to which the project would provide for priority resource or facility needs in the region as specified in the state comprehensive outdoor recreation plan.

(c) No release of funds from the Land Acquisition Trust Fund, *or from the Florida Forever Trust Fund beginning in fiscal year 2001-2002,* for this program may be made for these public recreation projects until the projects have been selected through the competitive selection process provided for in this section.

(3) A local government may submit up to two grant applications during each application period announced by the department. However, a local government may not have more than three active projects expending grant funds during any state fiscal year. The maximum project grant for each project application may not exceed $200,000 in state funds.

Section 40. Subsection (13) of section 380.0666, Florida Statutes, is amended to read:

380.0666 Powers of land authority.—The land authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers, which are in addition to all other powers granted by other provisions of this act:

(13) To identify parcels of land within the area or areas of critical state concern that would be appropriate acquisitions by the state from the Conservation and Recreational Lands Trust Fund and recommend such acquisitions to the advisory council established pursuant to s. 259.035 *or its successor*.

Section 41. Subsection (8) of section 380.0677, Florida Statutes, is amended to read:

380.0677 Green Swamp Land Authority.—

(8) APPROPRIATIONS.—From funds appropriated to the Department of Environmental Protection for land acquisition from the Conservation and Recreation Lands Trust Fund for fiscal years 1994-1995, 1995-1996, and 1996-1997, $4 million shall be reserved each fiscal year to carry out the purposes of this section. To the extent practicable, moneys appropriated from the Conservation and Recreation Lands Trust Fund, Save Our Rivers Trust Fund, and Florida Communities Trust Fund shall be used to acquire lands, or interests or rights in lands, on the Conservation and Recreation Lands, Save Our Rivers, or Florida Communities Trust land acquisition plans or lists, as defined in s. 259.035, or a land acquisition plan under s. 373.59 or s. 380.508. However, nothing in this subsection prohibits the Green Swamp Land Authority from entering into land protection agreements with any property owner whose property is not on any of such lists. From sums appropriated to the Department of Environmental Protection from the Water Management District Lands Trust Fund for fiscal years 1994-1995, 1995-1996, and 1996-1997, $3 million shall be reserved each fiscal year to carry out the purposes of this section. Such amounts as are used from the Water Management District Lands Trust Fund shall be credited against the allocations as provided in s. 373.59 to the St. Johns River Water Management District or the Southwest Florida Water Management District in proportion to the amount of lands for which an interest was acquired, and shall not be required by a district for debt service payments or land management purposes. From funds appropriated to the Department of Community Affairs for the Florida Communities Trust Program from the Preservation 2000 Trust Fund for fiscal years 1994-1995 through 1999-2000, $3 million shall be reserved each fiscal year to carry out the purposes of this section. Appropriations identified pursuant to this subsection shall fund the acquisition of lands, or the interests or rights in lands, and related costs of acquisition. Such funds shall be available for expenditure after the land authority has adopted rules to begin its program. Funds reserved pursuant to this subsection, for each of the referenced fiscal years, shall remain available for the purposes specified in this subsection for *24* ~~12~~ months from the date on which such funds become available for disbursement. After such time has elapsed, any funds which are not legally obligated for expenditure shall be released for the lawful purposes for which they were otherwise appropriated.

Section 42. Subsection (4) of section 380.22, Florida Statutes, 1998 Supplement, is amended to read:

380.22 Lead agency authority and duties.—

(4) The department shall establish a county-based process for identifying, and setting priorities for acquiring, coastal properties in coordination with the Land Acquisition *and Management* Advisory Council, *or its successor,* and the Coastal Resources Interagency Management Committee so these properties may be acquired as part of the state's land acquisition programs. This process shall include the establishment of criteria for prioritizing coastal acquisitions which, in addition to recognizing pristine coastal properties and coastal properties of significant or important environmental sensitivity, recognize hazard mitigation, beach access, beach management, urban recreation, and other policies necessary for effective coastal management.

Section 43. Section 380.503, Florida Statutes, is amended to read:

380.503 Definitions.—As used in ss. 380.501-380.515, unless the context indicates a different meaning or intent:

(1)~~(4)~~ "Comprehensive plan" means a plan that meets the requirements of ss. 163.3177, 163.3178, and 163.3191.

(2)~~(13)~~ "Department" means the Department of Community Affairs.

(3)~~(2)~~ "Local government" means a county or municipality.

(4) "Metropolitan" means a population area consisting of a central city with adjacent cities and smaller surrounding communities: a major urban area and its environs.

(5)~~(3)~~ "Nonprofit organization" means any private nonprofit organization, existing under the provisions of s. 501(c)(3) of the United States Internal Revenue Code, which has among its principal goals the conservation of natural resources or protection of the environment.

(6)~~(14)~~ "Program" means a plan that is established or will be established by a local government to create innovative approaches that will assist in the implementation of the conservation, recreation and open space, or coastal management elements of the local comprehensive plan, such as a transfer of development rights program or an environmental or recreational land acquisition program.

(7)~~(5)~~ "Project" means any work on, improvement to, or acquisition of real property, buildings, or any other property.

(8)~~(10)~~ "Public access project" means action taken pursuant to this part to create or improve public accessways to surface waters.

(9)~~(6)~~ "Real property" means any interest in land and may also include any appurtenances and improvements to the land.

(10)~~(8)~~ "Redevelopment project" means action taken pursuant to this part to correct undesirable development patterns.

(11)~~(9)~~ "Resource enhancement project" means action taken pursuant to this part to restore, as nearly as possible, degraded natural areas to their original condition or to enhance the resource values of a natural area.

(12) "Site reservation" means temporarily acquiring and holding areas identified for public use, then transferring the land to an appropriate state agency, local government, or nonprofit organization for management for public use.

(13)~~(7)~~ "Surface waters" means publicly owned waters upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused.

(14)~~(1)~~ "Trust" means the Florida Communities Trust created pursuant to this part.

(15) "Urban area" means an area of or for development characterized by social, economic, and institutional activities that are predominantly based on the manufacture, production, distribution, or provision of goods and services, in a setting that typically includes residential and nonresidential development uses other than those characteristic of rural areas.

(16)~~(15)~~ "Urban greenways and open space project" means action taken pursuant to this part to acquire lands or interest in lands to create a linear open space protected and managed as part of linked conservation lands or recreational opportunities in an urban area, or to preserve open space or historic sites to enhance recreational and cultural opportunities in an urban area.

(17)~~(11)~~ "Urban waterfront restoration project" means action taken pursuant to this part to restore deteriorated or deteriorating urban waterfronts for public use and enjoyment.

Section 44. Subsection (1) of section 380.504, Florida Statutes, is amended to read:

380.504 Florida Communities Trust; creation; membership; expenses.—

(1) There is created within the Department of Community Affairs a nonregulatory state agency and instrumentality, which shall be a public body corporate and politic, known as the "Florida Communities Trust." The governing body of the trust shall consist of:

(a) The Secretary of Community Affairs and the Secretary of Environmental Protection; and

(b) *Four* ~~Three~~ public members whom the Governor shall appoint subject to Senate confirmation.

The Governor shall appoint a former elected official of a *county* ~~local~~ government, *a former elected official of a metropolitan municipal government,* a representative of a nonprofit organization as defined in this part, and a representative of the development industry. The Secretary of Community Affairs may designate his or her assistant secretary or the director of the Division of *Community* ~~Resource~~ Planning ~~and Management~~ to serve in his or her absence. The Secretary of Environmental Protection may appoint his or her *deputy secretary* ~~assistant executive director, the deputy assistant director for Land Resources~~, the director of the Division of State Lands, or the director of the Division of Recreation and Parks to serve in his or her absence. The Secretary of Community Affairs shall be the chair of the governing body of the trust. The Governor shall make his or her appointments upon the expiration of any current terms or within 60 days after the effective date of the resignation of any member.

Section 45. Section 380.505, Florida Statutes, is amended to read:

380.505 Meetings; quorum; voting.—The powers of the trust shall be vested in its governing body members. The governing body may delegate such powers to department staff as it deems necessary. *Four* ~~Three~~ members of the governing body shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes. However, the governing body may take action only upon an affirmative vote of at least *four* ~~three~~ members. The governing body shall meet at least quarterly, and may meet more often at the call of the chair or upon an affirmative vote of three members.

Section 46. Subsections (4) and (11) of section 380.507, Florida Statutes, are amended to read:

380.507 Powers of the trust.—The trust shall have all the powers necessary or convenient to carry out the purposes and provisions of this part, including:

(4) To acquire and dispose of real and personal property or any interest therein when necessary or appropriate to protect the natural environment, provide public access or public recreational facilities, preserve wildlife habitat areas, provide access for managing acquired lands, or otherwise carry out the purposes of this part. If the trust acquires land for permanent state ownership, title to such land shall be vested in the Board of Trustees of the Internal Improvement Trust Fund*; otherwise, title to property acquired in partnership with a county or municipality shall vest in the name of the local government.* Notwithstanding any other provision of law, the trust may enter into an option agreement to purchase lands included in projects approved according to this part, when necessary to reserve lands during the preparation of project plans and during acquisition proceedings. The consideration for an option shall not exceed $100,000.

(11) To make rules necessary to carry out the purposes of this part and to exercise any power granted in this part, pursuant to the provisions of chapter 120. The trust shall adopt rules governing the acquisition of lands by local governments or the trust using proceeds from the Preservation 2000 Trust Fund *and the Florida Forever Trust Fund, consistent with the intent expressed in the Florida Forever Act*. Such rules must include, but are not limited to, procedures for appraisals and confidentiality consistent with ss. 125.355(1)(a) and (b) and 166.045(1)(a) and (b), a method of determining a maximum purchase price, and procedures to assure that the land is acquired in a voluntarily negotiated transaction, surveyed, conveyed with marketable title, and examined for hazardous materials contamination. Land acquisition procedures of a local land authority created pursuant to s. 380.0663 or s. 380.0677 *may* ~~shall~~ be used for the land acquisition programs described by *ss.* ~~s.~~ 259.101(3)(c) *and 259.105* if within areas of critical state concern designated pursuant to s. 380.05, subject to approval of the trust.

Section 47. Subsection (7) of section 380.510, Florida Statutes, is amended to read:

380.510 Conditions of grants and loans.—

(7) Any funds received by the trust from the Preservation 2000 Trust Fund pursuant to s. 259.101(3)(c) *and the Florida Forever Trust Fund pursuant to s. 259.105(3)(c)* shall be held separate and apart from any other funds held by the trust and shall be used only to pay the cost of the acquisition of lands by a local government or the state for the purposes of this part. ~~Such funds may not be used to pay for a redevelopment project or an urban waterfront restoration project or for site reservation except to acquire lands to help implement the goals, objectives, and policies of the coastal, the conservation, or recreation and open space elements of the local comprehensive plan.~~ In addition to the other conditions set forth in this section, the disbursement of Preservation 2000 *and Florida Forever* funds from the trust shall be subject to the following conditions:

(a) The administration and use of any funds received by the trust from the Preservation 2000 Trust Fund *and the Florida Forever Trust Fund* shall be subject to such terms and conditions imposed thereon by the agency of the state responsible for the ~~revenue~~ bonds, the proceeds of which are deposited in the Preservation 2000 Trust Fund *and the Florida Forever Trust Fund*, including restrictions imposed to ensure that the interest on any such ~~revenue~~ bonds issued by the state as tax-exempt ~~revenue~~ bonds will not be included in the gross income of the holders of such bonds for federal income tax purposes.

(b) All deeds or leases with respect to any real property acquired with funds received by the trust from the Preservation 2000 Trust Fund shall contain such covenants and restrictions as are sufficient to ensure that the use of such real property at all times complies with s. 375.051 and s. 9, Art. XII of the State Constitution. *All deeds or leases with respect to any real property acquired with funds received by the trust from the Florida Forever Trust Fund shall contain such covenants and restrictions as are sufficient to ensure that the use of such real property at all times complies with s. 11(e), Art. VII of the State Constitution.* Each deed or lease shall contain a reversion, conveyance, or termination clause that will vest title in the Board of Trustees of the Internal Improvement

Trust Fund if any of the covenants or restrictions are violated by the titleholder or leaseholder or by some third party with the knowledge of the titleholder or leaseholder.

Section 48. Effective July 1, 2001, subsections (5) and (6) of section 420.5092, Florida Statutes, are amended to read:

420.5092 Florida Affordable Housing Guarantee Program.—

(5) Pursuant to s. 16, Art. VII of the State Constitution, the corporation may issue, in accordance with s. 420.509, revenue bonds of the corporation to establish the guarantee fund. Such revenue bonds shall be primarily payable from and secured by annual debt service reserves, from interest earned on funds on deposit in the guarantee fund, from fees, charges, and reimbursements established by the corporation for the issuance of affordable housing guarantees, and from any other revenue sources received by the corporation and deposited by the corporation into the guarantee fund for the issuance of affordable housing guarantees. To the extent such primary revenue sources are considered insufficient by the corporation, pursuant to the certification provided in subsection (6), to fully fund the annual debt service reserve, the certified deficiency in such reserve shall be additionally payable from the first proceeds of the documentary stamp tax moneys deposited into the State Housing Trust Fund pursuant to s. 201.15*(9)*~~(6)~~(a) and *(10)*~~(7)~~(a) during the ensuing state fiscal year.

(6)(a) If the primary revenue sources to be used for repayment of revenue bonds used to establish the guarantee fund are insufficient for such repayment, the annual principal and interest due on each series of revenue bonds shall be payable from funds in the annual debt service reserve. The corporation shall, before June 1 of each year, perform a financial audit to determine whether at the end of the state fiscal year there will be on deposit in the guarantee fund an annual debt service reserve from interest earned pursuant to the investment of the guarantee fund, fees, charges, and reimbursements received from issued affordable housing guarantees and other revenue sources available to the corporation. Based upon the findings in such guarantee fund financial audit, the corporation shall certify to the Comptroller the amount of any projected deficiency in the annual debt service reserve for any series of outstanding bonds as of the end of the state fiscal year and the amount necessary to maintain such annual debt service reserve. Upon receipt of such certification, the Comptroller shall transfer to the annual debt service reserve, from the first available taxes distributed to the State Housing Trust Fund pursuant to s. 201.15*(9)*~~(6)~~(a) and *(10)*~~(7)~~(a) during the ensuing state fiscal year, the amount certified as necessary to maintain the annual debt service reserve.

(b) If the claims payment obligations under affordable housing guarantees from amounts on deposit in the guarantee fund would cause the claims paying rating assigned to the guarantee fund to be less than the third-highest rating classification of any nationally recognized rating service, which classifications being consistent with s. 215.84(3) and rules adopted thereto by the State Board of Administration, the corporation shall certify to the Comptroller the amount of such claims payment obligations. Upon receipt of such certification, the Comptroller shall transfer to the guarantee fund, from the first available taxes distributed to the State Housing Trust Fund pursuant to s. 201.15*(9)*~~(6)~~(a) and *(10)*~~(7)~~(a) during the ensuing state fiscal year, the amount certified as necessary to meet such obligations, such transfer to be subordinate to any transfer referenced in paragraph (a) and not to exceed 50 percent of the amounts distributed to the State Housing Trust Fund pursuant to s. 201.15*(9)*~~(6)~~(a) and *(10)*~~(7)~~(a) during the preceding state fiscal year.

Section 49. Effective July 1, 2001, section 420.9073, Florida Statutes, 1998 Supplement, is amended to read:

420.9073 Local housing distributions.—

(1) Distributions calculated in this section shall be disbursed on a monthly basis by the agency beginning the first day of the month after program approval pursuant to s. 420.9072. Each county's share of the funds to be distributed from the portion of the funds in the Local Government Housing Trust Fund received pursuant to s. 201.15*(9)*~~(6)~~ shall be calculated by the agency for each fiscal year as follows:

(a) Each county other than a county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, shall receive the guaranteed amount for each fiscal year.

(b) Each county other than a county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, may receive an additional share calculated as follows:

1. Multiply each county's percentage of the total state population excluding the population of any county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, by the total funds to be distributed.

2. If the result in subparagraph 1. is less than the guaranteed amount as determined in subsection (3), that county's additional share shall be zero.

3. For each county in which the result in subparagraph 1. is greater than the guaranteed amount as determined in subsection (3), the amount calculated in subparagraph 1. shall be reduced by the guaranteed amount. The result for each such county shall be expressed as a percentage of the amounts so determined for all counties. Each such county shall receive an additional share equal to such percentage multiplied by the total funds received by the Local Government Housing Trust Fund pursuant to s. 201.15*(9)*~~(6)~~ reduced by the guaranteed amount paid to all counties.

(2) Effective July 1, 1995, distributions calculated in this section shall be disbursed on a monthly basis by the agency beginning the first day of the month after program approval pursuant to s. 420.9072. Each county's share of the funds to be distributed from the portion of the funds in the Local Government Housing Trust Fund received pursuant to s. 201.15*(10)*~~(7)~~ shall be calculated by the agency for each fiscal year as follows:

(a) Each county shall receive the guaranteed amount for each fiscal year.

(b) Each county may receive an additional share calculated as follows:

1. Multiply each county's percentage of the total state population, by the total funds to be distributed.

2. If the result in subparagraph 1. is less than the guaranteed amount as determined in subsection (3), that county's additional share shall be zero.

3. For each county in which the result in subparagraph 1. is greater than the guaranteed amount, the amount calculated in subparagraph 1. shall be reduced by the guaranteed amount. The result for each such county shall be expressed as a percentage of the amounts so determined for all counties. Each such county shall receive an additional share equal to this percentage multiplied by the total funds received by the Local Government Housing Trust Fund pursuant to s. 201.15*(10)*~~(7)~~ as reduced by the guaranteed amount paid to all counties.

(3) Calculation of guaranteed amounts:

(a) The guaranteed amount under subsection (1) shall be calculated for each state fiscal year by multiplying $350,000 by a fraction, the numerator of which is the amount of funds distributed to the Local Government Housing Trust Fund pursuant to s. 201.15*(9)*~~(6)~~ and the denominator of which is the total amount of funds distributed to the Local Government Housing Trust Fund pursuant to s. 201.15.

(b) The guaranteed amount under subsection (2) shall be calculated for each state fiscal year by multiplying $350,000 by a fraction, the numerator of which is the amount of funds distributed to the Local Government Housing Trust Fund pursuant to s. 201.15*(10)*~~(7)~~ and the denominator of which is the total amount of funds distributed to the Local Government Housing Trust Fund pursuant to s. 201.15.

(4) Funds distributed pursuant to this section may not be pledged to pay debt service on any bonds.

Section 50. *Section 253.787, Florida Statutes, is repealed.*

Section 51. *Effective July 1, 1999, subsection (2) of section 380.0677, Florida Statutes, is repealed and the power, duties, functions, and all other activities performed by the Green Swamp Land Authority are hereby transferred by a Type Two transfer, pursuant to section 20.06,*

Florida Statutes, to the Department of Environmental Protection. All rules of the authority in effect on the effective date of the transfer shall be included in the transfer. Henceforth, the Green Swamp Land Authority shall mean the Department of Environmental Protection for purposes of section 380.0677, Florida Statutes, and statutes related thereto.

Section 52. *If the Department of Environmental Protection or a water management district has made a payment in lieu of taxes to a governmental entity and subsequently suspended such payment, the department or water management district shall reinstitute appropriate payments and continue the payments in consecutive years until the governmental entity has received a total of ten payments for each tax loss.*

Section 53. Except as otherwise provided herein, this act shall take effect July 1, 1999.

And the title is amended as follows:

On page 1, line 8 thru page 5 line 11 remove from the title of the bill: all of said lines and insert in lieu thereof: amending s. 161.05301, F.S.; correcting cross-references; amending s. 161.085, F.S.; providing for permitting of certain coastal armoring structures; amending s. 161.091, F.S.; correcting cross-references; creating s. 215.618, F.S.; providing for the issuance of Florida Forever bonds; providing limitations; providing procedures and legislative intent; amending s. 216.331, F.S.; correcting a cross-reference; amending s. 253.027, F.S.; providing for the reservation of funds; revising the criteria for expenditures for archaeological property to include lands on the acquisition list for the Florida Forever program; amending s. 253.03, F.S.; providing certain structures entitled to continue sovereignty submerged lands leases; amending s. 253.034, F.S.; providing for the use of state-owned lands; providing for the sale of surplus state lands; authorizing contractual arrangements to manage state-owned lands; amending s. 253.7825, F.S.; revising acreage requirements for a horse park-agricultural center; amending s. 259.03, F.S.; deleting obsolete definitions; providing new definitions; amending s. 259.032, F.S.; providing legislative intent; specifying certain uses of funds from the Conservation and Recreation Lands Trust Fund; revising provisions relating to individual land management plans; revising eligibility for payment in lieu of taxes; deleting obsolete language; revising timeframe for removal of certain projects from a priority list; creating s. 259.0345, F.S.; creating the Florida Forever Advisory Council; specifying membership and duties; providing for per diem and travel expenses; providing for a report; providing an appropriation; amending s. 259.035, F.S.; creating the Acquisition and Restoration Council; specifying membership and duties; providing for compensation; authorizing adoption of rules; providing for per diem and travel expenses; amending s. 259.036, F.S.; providing conforming language; amending s. 259.04, F.S.; conforming language and cross-references; amending s. 259.041, F.S.; providing procedures and guidelines for land acquisition; providing legislative intent and guidelines for use of less than fee land acquisition alternatives; amending s. 259.101, F.S.; providing for redistribution for certain unencumbered P2000 funds; conforming language and cross-references; creating s. 259.105, F.S.; creating the Florida Forever Act; providing legislative findings and intent; providing for issuing bonds; providing for distribution and use of bond proceeds; providing project goals and selection criteria; providing application and selection procedures; authorizing certain uses of acquired lands; authorizing adoption of rules, subject to legislative review; authorizing contractual arrangements to manage lands identified for acquisition under Florida Forever program; amending s. 260.012, F.S.; clarifying legislative intent relating to the statewide system of greenways and trails; amending s. 260.013, F.S.; clarifying a definition; amending s. 260.014, F.S.; including waterways in the statewide system of greenways and trails; creating s. 260.0142, F.S.; creating the Florida Greenways and Trails Council within the Department of Environmental Protection; providing for membership, powers, and duties; amending s. 260.016, F.S.; revising powers of the Department of Environmental Protection with respect to greenways and trails; deleting reference to the Florida Recreational Trails Council; amending s. 260.018, F.S., to conform to the act; amending s. 288.1224, F.S.; providing conforming language; providing exceptions to the designation process for certain recreational trails; amending s. 369.252, F.S.; providing for the use of certain funds from the Aquatic Plant Control Trust Fund; amending s. 369.307, F.S.; providing conforming language; amending s. 373.089, F.S.; providing procedure for the surplusing of water management district lands; amending s. 373.139, F.S.; revising authority and requirements for acquisition and disposition of lands by the water management districts; providing district rulemaking authority, subject to legislative review; amending s. 373.146, F.S.; providing for public notice of certain public meetings; creating s. 373.1391, F.S.; providing criteria for management and uses of district lands; providing district rulemaking authority, subject to legislative review; creating s. 373.199, F.S.; providing for Florida Forever water management districts' workplans; requiring development of recommended project lists; specifying required information; repealing s. 373.250, F.S.; relating to the reuse of reclaimed water; amending s. 373.59, F.S.; revising authorized uses of funds from the Water Management Lands Trust Fund; revising eligibility criteria for payment in lieu of taxes; amending s. 375.075, F.S.; revising funding and procedures for the Florida Recreation Development Assistance Program; amending s. 380.0666, F.S.; providing conforming language; amending s. 380.0677, F.S.; extending the availability of funds for specified purposes; amending s. 380.22, F.S.; providing conforming language; amending s. 380.503, F.S.; providing definitions; amending s. 380.504, F.S.; revising the composition of the Florida Communities Trust; amending s. 380.505, F.S.; revising quorum requirements; amending s. 380.507, F.S.; providing for titling of certain acquired property to a local government; revising rulemaking authority; amending s. 380.510, F.S.; requiring covenants and restrictions for certain property, necessary to comply with constitutional requirements; amending ss. 420.5092 and 420.9073, F.S.; correcting cross-references; repealing s. 253.787, F.S.; relating to the Florida Greenways Coordinating Council; repealing of s. 380.0677(2), F.S.; relating to membership of the Green Swamp Land Authority; transferring powers, duties and functions of the Green Swamp Land Authority to the Department of Environmental Protection; providing that payments in lieu of taxes be reinstituted under specified circumstances; providing effective dates.

On motion by Senator Latvala, the Senate concurred in the House amendment.

CS for CS for SB 908 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

EXPLANATION OF VOTE

Senate Bill 908, the Florida Forever Act, as amended in the House of Representatives, has returned to the Senate containing a provision affecting submerged land leases for historical structures listed on a historical register and built over state waters.

I own one such property which is one of dozens of similarly situated properties.

Pursuant to Senate Rule 1.39, I am disclosing, in an abundance of caution, that a provision in SB 908 inures to my private gain, but it is neither special nor unique to me.

As permitted by Senate Rule and law, once disclosed, it is my duty to cast a vote on this bill.

John Laurent, 17th District

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1902, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1902—A bill to be entitled An act relating to the Department of Juvenile Justice and the Department of Children and Family Services; providing for waiver of specified provisions of law; directing the department to consult with the Executive Office of the Governor in implementing waiver authority; requiring a report and monthly status reports; requiring a comprehensive reorganization plan; requiring the Department of Children and Family Services and the Department of Juvenile Justice to develop and submit to the Legislature a proposed plan to realign the boundaries of the districts of those departments; specifying that other statutory responsibilities or related rules are not impaired; providing an effective date.

House Amendment 1 (361113)(with title amendment)—On page 3, line 17 through page 4, line 28, and on page 5, lines 9 through 13 remove from the bill: all of said lines

And the title is amended as follows:

On page 1, lines 2-17 remove the entire title of the bill: and insert in lieu thereof: An act relating to the Department of Children and Family Services; providing for waiver of specified provisions of law; directing the department to consult with the Executive Office of the Governor in implementing waiver authority; requiring a report and monthly status reports; requiring a comprehensive reorganization plan; requiring the Department of Children and Family Services to develop and submit to the Legislature a proposed plan to realign the boundaries of the districts of the department; specifying that other statutory responsibilities or related rules are not impaired; providing an effective date.

House Amendment 2 (565717)—On page 4, line 29, through page 5, line 8 remove from the bill: all of said lines and insert in lieu thereof:

Section 3. *The Department of Children and Family Services, in consultation with the Office of the State Courts Administrator, shall develop a proposed plan to realign the districts of the department so that the district boundaries are consistent with the boundaries of the judicial circuits. The plan may not propose more than 15 districts for the department and must include, as at least one alternative, a proposal for fewer than 15 districts. The proposed plan must be submitted to the President of the Senate and the Speaker of the House of Representatives by December 1, 1999.*

On motion by Senator Clary, the Senate concurred in the House amendments.

CS for SB 1902 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	Webster
Cowin	Horne	Meek	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment 1, concurred in same as amended, and passed CS for HB 1855 as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for HB 1855—A bill to be entitled An act relating to agriculture and consumer services; amending s. 501.913, F.S.; revising provisions relating to identity of registrant of antifreeze; providing liability; amending s. 501.916, F.S., relating to mislabeling of antifreeze; revising required labeling to be included on antifreeze; amending s. 501.919, F.S.; revising provisions relating to enforcement and stop-sale orders; amending s. 501.922, F.S., relating to violation of the antifreeze act; revising penalties and suspension of registration; repealing s. 531.54, F.S., relating to salaries and expenses of enforcement; amending s. 570.191, F.S., relating to the Agricultural Emergency Eradication Trust Fund; clarifying the definition of "agricultural emergency"; amending s. 570.46, F.S.; revising the powers and duties of the Division of Standards; deleting a reference to testing of samples; amending s. 570.48, F.S., relating to duties of the Division of Fruit and Vegetables; providing for the appointment, certification, licensure, and supervision of certain inspectors; amending s. 570.952, F.S., relating to the Florida Agriculture Center and Horse Park Authority; deleting requirements relating to a quorum and official actions; creating s. 570.235, F.S.; creating the Pest Exclusion Advisory Committee within the Department of Agriculture and Consumer Services; establishing membership of the advisory committee; providing duties of the advisory committee; requiring a report; amending s. 581.184, F.S.; establishing a citrus canker-free buffer area; requiring the development of a compensation plan; providing a limitation for compensation; amending s. 588.011, F.S.; revising legal fence requirements; amending s. 588.12, F.S.; revising legislative findings regarding livestock at large; amending s. 588.13, F.S.; revising definitions; repealing s. 588.14, F.S.; relating to duty of owners of livestock; amending s. 588.16, F.S.; revising the authority to impound livestock running at large; amending s. 588.17, F.S.; revising provisions relating to the disposition of impounded livestock; amending s. 588.18, F.S.; revising fees relating to livestock at large; amending s. 588.19, F.S.; revising procedures for defraying certain costs; amending s. 589.081, F.S.; clarifying language regarding distribution to counties of gross receipts funds from Withlacoochee and Goethe State Forests; amending s. 593.1141, F.S.; revising references to the Agricultural Stabilization and Conservation Service; amending s. 616.05, F.S.; clarifying requirements regarding the publication of notice to amend the charter of a fair association; amending s. 616.07, F.S.; revising the tax exempt status of fair associations to include exemption from special assessments; amending s. 616.08, F.S.; clarifying provisions regarding the authority of a fair association to sell, mortgage, lease, or convey property; amending s. 616.13, F.S.; revising restrictions regarding the operation of temporary amusement rides; amending s. 616.15, F.S.; requiring certain notice to be sent upon application for a permit to conduct a public fair or exposition; requiring the department to consider proximity of fairs and expositions when issuing permits; authorizing the denial or withdrawal of permits based on competition; amending s. 616.242, F.S., relating to safety standards for amusement rides; revising documentation provided to the department for an annual permit; revising the rulemaking authority of the department; revising fees and inspection standards; prohibiting bungy catapulting or reverse bungy jumping; amending s. 616.260, F.S.; revising the tax exempt status of the Florida State Fair Authority to include exemption from special assessments; amending s. 823.14, F.S.; clarifying a definition pertaining to the Florida Right to Farm Act; amending s. 828.12, F.S.; revising provisions relating to cruelty to animals; amending s. 828.125, F.S., relating to killing or aggravated abuse of registered breed horses or cattle; revising provisions relating to prohibited acts; amending s. 823.14, F.S.; providing legislative findings regarding the effect of music on animal husbandry; preempting nuisance from noise from raising livestock to the state; providing findings; establishing certain sound limits; providing that certain special assessments shall not be due from a fair association or state fair; providing an effective date.

House Amendment 1 (770817)(with title amendment) to Senate Amendment 1—On page 23, lines 19-30 remove from the amendment: all of said lines

And the title is amended as follows:

On page 32, lines 10-11, of the amendment remove: all of said lines and insert in lieu thereof: cattle;

On motion by Senator Thomas, the Senate concurred in the House amendment to the Senate amendment.

CS for HB 1855 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—40

Madam President	Burt	Casas	Cowin
Bronson	Campbell	Childers	Dawson-White
Brown-Waite	Carlton	Clary	Diaz-Balart

Dyer	Horne	Laurent	Saunders
Forman	Jones	Lee	Scott
Geller	King	McKay	Sebesta
Grant	Kirkpatrick	Meek	Silver
Gutman	Klein	Mitchell	Sullivan
Hargrett	Kurth	Myers	Thomas
Holzendorf	Latvala	Rossin	Webster

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment 1, concurred in same as amended, and passed CS for HB's 1927 and 961 as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for HB's 1927 and 961—A bill to be entitled An act relating to managed health care; amending s. 408.05, F.S.; requiring the State Center for Health Statistics to publish health maintenance organization report cards; amending s. 408.7056, F.S.; excluding certain additional grievances from consideration by a statewide provider and subscriber assistance panel; revising panel membership; amending s. 627.6471, F.S.; requiring preferred provider organization policies which do not provide direct patient access to a dermatologist to conform to certain requirements imposed on exclusive provider organization contracts; amending s. 641.31, F.S.; providing for a point-of-service benefit rider on a health maintenance contract; providing requirements; providing restrictions; authorizing reasonable copayment and annual deductible; providing exceptions relating to subscriber liability for services received; amending s. 641.3155, F.S.; providing a process for retroactive reduction of payments of provider claims under certain circumstances; amending s. 641.51, F.S.; requiring that health maintenance organizations provide additional information to the Agency for Health Care Administration indicating quality of care; removing a requirement that organizations conduct customer satisfaction surveys; revising requirements for preventive pediatric health care provided by health maintenance organizations; amending s. 641.58, F.S.; providing for moneys in the Health Care Trust Fund to be used for additional purposes; directing the director of the Agency for Health Care Administration to establish an advisory group on the submission and payment of health claims; providing membership and duties; requiring a report; providing an appropriation; providing effective dates.

House Amendment 1 (082629)(with title amendment) to Senate Amendment 1—On page 24, between lines 13 & 14, of the amendment insert:

Section 16. Subsection (13) of section 409.912, Florida Statutes, 1998 Supplement, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(13)*(a)* The agency shall identify health care utilization and price patterns within the Medicaid program which are not cost-effective or medically appropriate and assess the effectiveness of new or alternate methods of providing and monitoring service, and may implement such methods as it considers appropriate. Such methods may include disease management initiatives, an integrated and systematic approach for managing the health care needs of recipients who are at risk of or diagnosed with a specific disease by using best practices, prevention strategies, clinical-practice improvement, clinical interventions and protocols, outcomes research, information technology, and other tools and resources to reduce overall costs and improve measurable outcomes.

(b) The responsibility of the agency under this subsection shall include the development of capabilities to identify actual and optimal practice patterns; patient and provider educational initiatives; methods for determining patient compliance with prescribed treatments; fraud, waste, and abuse prevention and detection programs; and beneficiary case management programs.

1. The practice pattern identification program shall evaluate practitioner prescribing patterns based on national and regional practice guidelines, comparing practitioners to their peer groups. The agency and its Drug Utilization Review Board shall consult with a panel of practicing health care professionals consisting of the following: the Speaker of the House of Representatives and the President of the Senate shall each appoint three physicians licensed under ch. 458 or ch. 459; and the Governor shall appoint two pharmacists licensed under ch. 465 and one dentist licensed under ch. 466 who is an oral surgeon. Terms of the panel members shall expire at the discretion of the appointing official. The panel shall begin its work by August 1, 1999, regardless of the number of appointments made by that date. The advisory panel shall be responsible for evaluating treatment guidelines and recommending ways to incorporate their use in the practice pattern identification program. Practitioners who are prescribing inappropriately or inefficiently, as determined by the agency, may have their prescribing of certain drugs subject to prior authorization.

2. The agency shall also develop educational interventions designed to promote the proper use of medications by providers and beneficiaries.

3. The agency shall implement a pharmacy fraud, waste, and abuse initiative that may include a surety bond or letter of credit requirement for participating pharmacies, enhanced provider auditing practices, the use of additional fraud and abuse software, recipient management programs for beneficiaries inappropriately using their benefits, and other steps that will eliminate provider and recipient fraud, waste, and abuse. The initiative shall address enforcement efforts to reduce the number and use of counterfeit prescriptions.

4. The agency may apply for any federal waivers needed to implement this paragraph.

And the title is amended as follows:

On page 27, line 14, of the amendment insert after the semicolon: amending s. 409.912, F.S., relating to purchase of goods and services for Medicaid recipients; requiring the Agency for Health Care Administration to develop certain programs and initiatives relating to the prescribing, use, and dispensing of drugs; providing for an advisory panel on prescription practice patterns;

Senator Myers moved the following amendment which failed:

Senate Amendment 1 (661516) to House Amendment 1 to Senate Amendment 1—On page 3, delete lines 9 and 10 and insert: *prescribing inappropriately, as determined by national and regional practice guidelines, may have their prescribing of certain drugs*

On motion by Senator Clary, the Senate concurred in the House amendment to the Senate amendment.

CS for HB's 1927 and 961 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

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

Nays—1

Myers

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 312, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 312—A bill to be entitled An act relating to health insurance; amending s. 627.6645, F.S.; revising the notice requirements for cancellation or nonrenewal of a group health insurance policy; specifying conditions under which the insurer may retroactively cancel coverage due to nonpayment of premium; amending s. 627.6675, F.S.; revising the time limits for an employee or group member to apply for an individual converted policy when termination of group coverage is due to failure of the employer to pay the premium; revising the requirements for the premium for the converted policy; allowing a group insurer to contract with another insurer to issue an individual converted policy under certain conditions; amending s. 641.3108, F.S.; revising the notice requirements for cancellation or nonrenewal of a health maintenance organization contract; specifying conditions under which the organization may retroactively cancel coverage due to nonpayment of premium; amending s. 641.3922, F.S.; revising the time limits for an employee or group member to apply for a converted contract from a health maintenance organization when termination of group coverage is due to failure of the employer to pay the premium; revising the requirements for the premium for the converted contract; providing an effective date.

House Amendment 1 (661825)(with title amendment)—On page 2, line 2, insert:

Section 1. Subsection (1) of section 284.33, Florida Statutes, 1998 Supplement, is amended to read:

284.33 Purchase of insurance, reinsurance, and services.—

(1) The Department of Insurance is authorized to provide insurance, specific excess insurance, and aggregate excess insurance through the Department of Management Services, pursuant to the provisions of part I of chapter 287, as necessary to provide insurance coverages authorized by this part, consistent with market availability. *However, the Department of Insurance may directly purchase annuities through utilization of a structured settlement insurance consulting firm selected by the department to assist in the settlement of claims being handled by the Division of Risk Management. The selection of the structured settlement insurance services consultant shall be made by using competitive sealed proposals. The consulting firm shall act as an agent of record for the department in procuring the best annuity products available to facilitate structured settlement of claims, considering price, insurer financial strength, and the best interests of the state risk management program. Purchase of annuities by the department utilizing a structured settlement method shall be excepted from competitive sealed bidding or proposal requirements.* The Department of Insurance is further authorized to purchase such risk management services, including, but not limited to, risk and claims control; safety management; and legal, investigative, and adjustment services, as may be required and pay claims. The department may contract with a service organization for such services and advance money to such service organization for deposit in a special checking account for paying claims made against the state under the provisions of this part. The special checking account shall be maintained in this state in a bank or savings association organized under the laws of this state or of the United States. The department may replenish such account as often as necessary upon the presentation by the service organization of documentation for payments of claims equal to the amount of the requested reimbursement.

Section 2. Subsection (6) of section 626.99, Florida Statutes, is amended to read:

626.99 Life insurance solicitation.—

(6) ADOPTION OF BUYER'S GUIDE; REQUIREMENTS.—Any insurer soliciting life insurance in this state on or after October 1, 1980, shall adopt and use a buyer's guide, and the adoption and use by an insurer of the buyer's guide adopted *October 1, 1996* ~~May 4, 1976~~, by the National Association of Insurance Commissioners in the NAIC Life Insurance Solicitation Model Regulation shall be in compliance with the requirements of this section.

Section 3. Section 627.4785, Florida Statutes, is created to read:

627.4785 Valuation of life insurance policies.—The department may adopt by rule the valuation of life insurance policies model regulation as approved by the National Association of Insurance Commissioners in March 1999, including tables of select mortality factors.

And the title is amended as follows:

On page 1, line 2, remove all of said line, and insert in lieu thereof: An act relating to insurance; amending s. 284.33, F.S.; authorizing the Department of Insurance to directly purchase annuities through a structured settlement insurance services consultant; providing procedures and requirements; providing an exemption from certain competitive sealed bidding or proposal requirements; amending s. 626.99, F.S.; revising a reference to a more current edition of a certain buyer's guide; creating s. 627.4785, F.S.; authorizing the Department of Insurance to adopt a certain valuation of life insurance policies model regulation; amending

House Amendment 2 (172029)(with title amendment)—On page 2, line 2, insert:

Section 1. Subsection (1) and paragraph (a) of subsection (6) of section 627.410, Florida Statutes, 1998 Supplement, are amended to read:

627.410 Filing, approval of forms.—

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or group certificates issued under a master contract delivered in this state, or printed rider or endorsement form or form of renewal certificate, shall be delivered or issued for delivery in this state, unless the form has been filed with the department at its offices in Tallahassee by or in behalf of the insurer which proposes to use such form and has been approved by the department. This provision does not apply to surety bonds or to policies, riders, endorsements, or forms of unique character which are designed for and used with relation to insurance upon a particular subject (other than as to *individual or small group* health insurance), or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificateholder. As to group insurance policies effectuated and delivered outside this state but covering persons resident in this state, the group certificates to be delivered or issued for delivery in this state shall be filed with the department for information purposes only.

(6)(a) An insurer shall not deliver or issue for delivery or renew in this state any health insurance policy form until it has filed with the department a copy of every applicable rating manual, rating schedule, change in rating manual, and change in rating schedule; if rating manuals and rating schedules are not applicable, the insurer must file with the department applicable premium rates and any change in applicable premium rates. *This provision does not apply to rating manuals, rating schedules, changes in rating manuals or schedules, or if rating manuals or schedules are not applicable, to premium rates or changes in such rates, relating to policies, riders, endorsements, or forms of unique character which are designed for and used with relation to insurance upon a particular subject or to benefits under group health insurance policies insuring 100 or more persons and are used at the request of the individual policyholder, contract holder, or certificate holder.*

Section 2. Section 627.6474, Florida Statutes, is created to read:

627.6474 Point of service policies; purpose; definitions; authority; standards; reporting; application.—

(1) PURPOSE.—It is the purpose of this section to encourage the issuance to persons coverage that provides an option, at the time medical services are secured, of accessing benefits provided by a licensed health maintenance organization or by a licensed health insurer. By authorizing the issuance of such coverage, the Legislature intends to maximize health care options for consumers of health care policies.

(2) SCOPE.—Point of service coverage may be issued on an individual or group basis.

(3) DEFINITIONS.—As used in this section:

(a) "Point of service agreement" is the contractual means by which a health insurer and health maintenance organization jointly offer point of service coverage.

(b) "Point of service policy" is a policy providing comprehensive health benefits under which a covered person has:

1. A health insurance policy issued by an authorized health insurer in conjunction with a health maintenance contract issued by a licensed health maintenance organization, under which the covered person may choose at each time of service to access indemnity benefits under the health insurance policy or benefits under the health maintenance contract, but not both; or

2. A single contract issued by a health maintenance organization or a single policy issued by a health insurer, pursuant to a point of service agreement between the health insurer and the health maintenance organization, under which the covered person may choose at each time of service to access indemnity benefits under the health insurance portion of the policy or benefits under the health maintenance portion or the policy, but not both.

(c) "Covered person" means the policyholder or subscriber of an individual point of service policy, or the subscriber or certificateholder under a group point of service policy.

(4) AUTHORITY TO ISSUE.—Subject to the requirements contained in this section, nothing in this code, including chapter 641, and rules adopted under the code and such chapter, shall be deemed to prohibit an authorized health insurer and a licensed health maintenance organization, in conjunction, from soliciting, offering, or providing point of service coverage either in a separate policy issued by the health insurer jointly with a separate health maintenance contract issued by the health maintenance organization or in a single contract issued by the health maintenance organization or in a single policy issued by the health insurer.

(5) PROVISIONS OF POINT OF SERVICE POLICIES.—Each point of service policy shall contain, in addition to all others required under this code, chapter 641, and rules adopted under the code and such chapter, a provision:

(a) Clearly identifying both the health insurer and the health maintenance organization and, in the instance of a group policy, a provision in the member handbook or certificate of coverage clearly identifying the health insurer and the health maintenance organization.

(b) Stating that a covered person covered under a point of service policy must elect either indemnity benefits or health maintenance organization coverage at the time of service.

(c) Stating that whenever coverage has been paid or provided with respect to a given medical service by either the health insurer or the health maintenance organization pursuant to a filed and approved point of service policy, the provisions of s. 627.4235 shall not apply with respect to the point of service policy but shall apply as to other policies, plans, or contracts of the covered person.

(d) Stating that 60 days prior to the termination of a point of service agreement, the terminating company must provide each covered person who has a policy under the agreement notice in writing of the termination.

(e) That, if a point of service agreement is terminated, the policyholder in an individual contract or the contract holder in a group contract may, within 60 days after receiving notice of the termination, elect to continue coverage for the remainder of the contract period on the form and at the rate approved by the department pursuant to subsection (6) with either the health maintenance organization or the health insurer that was a party to the point of service agreement. Point of service policies and contracts issued pursuant to this section are exempt from the notice requirements of s. 641.31074(3)(a)1. and 2. and s. 627.6571(3)(a) 1. and 2.

(f) That, if the covered person is entitled to a conversion plan, the covered person is entitled to a choice of either an indemnity plan from the health insurer or a health maintenance organization contract, without prejudice.

(6) FILING AND REPORTING REQUIREMENTS.—

(a) The following requirements apply to point of service policy forms and rate filings.

1. All point of service policy form and rate filings shall be made jointly, whether or not separate or combined forms are used.

2. The point of service policy form and rate filing shall include all forms and rates required by this section. However, if forms and rates which have been previously approved are used to satisfy the required separate health benefit policies and the conversion policies to be used in conjunction with such point of service policy, it shall be sufficient to identify the form number and date of approval of these forms and related rates.

3. The point of service policy form and rate filing shall contain certification from an officer of the health insurer and an officer of the health maintenance organization that each company agrees, as a condition precedent to termination of the point of service agreement, to provide the department with notice of its intention to terminate the point of service arrangement no less than 90 days prior to the effective date of termination. Further, each company agrees to notify the department within 48 hours after a material breach by either company.

4. All point of service policy filings shall contain an authorization from the health insurer and the health maintenance organization, either as joint signatories or an original letter of authorization from each company to the other, to make the combined filing whenever a single policy will be used and that each company will be responsible for the accuracy of the information which it provided for the combined filing. The insurer or health maintenance organization that issues the single policy shall be primarily responsible for insuring that the benefits specified in the contract are provided in the manner specified in the contact.

5. All point of service policy forms and rates shall be filed and approved prior to use. All form and rate changes to such policy shall be filed and approved prior to use.

6. The health insurer and the health maintenance organization shall each file and have approved a policy form and rate to be made available to the covered person when the point of service agreement is terminated during an existing contract period. The filing shall:

a. Contain levels of indemnity benefits or other health benefit coverage no less than that provided by the insurer under the point of service policy for the insurer's policy form or by the health maintenance organization under the point of service policy for the health maintenance organization contract.

b. Comply in all respects with the requirements of the insurance code or chapter 641 as related to the product being filed.

c. Clearly identify that the policy is intended for use as a replacement for a point of service policy.

7. The health insurer or the health maintenance organization shall make, at a minimum, an annual rate filing for each point of service policy form offered in this state. Annual periodic rate adjustments shall be made to reflect the actual premium split based on experience and compared with the assumed split at the beginning of the contract. Except as so described, no other experience adjustments shall be made on a retrospective basis without approval by the department.

8. All rate filings for a point of service policy shall contain the following terms and conditions, in addition to all others required by law or rule:

a. The health insurer and the health maintenance organization shall each perform its own pricing on a net claim basis.

b. The health insurer and the health maintenance organization shall each calculate its own expenses and profit margins.

c. Expenses shall be itemized and shall clearly identify which entity is performing which duty relative to each expense item noted.

d. Minimum loss ratios, as defined in the code or in any applicable rule adopted under the code, shall be met by each company.

(b) Each health insurer and health maintenance organization shall maintain separate records relating to any point of service policy. The

annual actuarial certification shall contain a specific actuarial certification that the rates charged for this product are not inadequate, excessive, or discriminatory.

(7) APPLICABILITY.—

(a) Any health insurer entering into a point of service arrangement pursuant to this section, in addition to the requirements of this section, shall be subject to all provisions of the insurance code and other laws, and rules adopted under the code or such laws, applicable to health insurers generally. However, an agent that sells or solicits a product issued as a single policy or contract by either the health maintenance organization or the insurer shall be appointed by the entity issuing the policy or contract and shall not be required to be appointed by both carriers.

(b) Any health maintenance organization entering into a point of service arrangement pursuant to this section, in addition to the requirements of this section, shall be subject to all provisions of chapter 641, and rules adopted under such chapter, and to all other provisions of this code and other laws and rules adopted under such code and laws applicable to health maintenance organizations generally.

(c) The health insurance portion of a point of service arrangement policy shall be subject to the provisions of part III of chapter 631. The health maintenance portion of a point of service arrangement shall be subject to part IV of chapter 631.

(d) Any health maintenance organization entering into a point of service arrangement pursuant to this section shall not be subject to part VII of chapter 626 when administering a point of service policy.

(8) RULEMAKING.—The department may adopt any rule necessary to implement the intent and provisions of this section. In adopting such rule, the department shall consider requirements to ensure that experience adjustments and other adjustments are reasonable, fair, and equitable; that point of service policies, advertisements, solicitation materials, and other statements or related documents are clear and understandable; that point of service policies are provided to the insurance buying public in a fashion that meets the purposes of this section and are provided in a fair and equitable fashion; and that point of service policies provide for a proper triggering of the conversion plan policies.

And the title is amended as follows:

On page 1, line 2, after the semicolon, insert: amending s. 627.410, F.S.; limiting application of an exception; providing an exception to certain filing requirements for manuals, schedules, or rates relating to certain group health insurance policies; creating s. 627.6474, F.S.; providing for point of service policies; providing purpose and scope; providing definitions; providing authority to issue point of service policies; specifying required provisions in such policies; providing filing and reporting requirements; specifying applicability; authorizing the Department of Insurance to adopt rules;

House Amendment 3 (661355)(with title amendment)—On page 2, line 2, and insert in lieu thereof:

Section 1. Paragraph (n) of subsection (3), paragraph (c) of subsection (5) and paragraphs (b) and (d) of subsection (6) of section 627.6699, Florida Statutes, 1998 Supplement, are amended to read:

627.6699 Employee Health Care Access Act.—

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

(n) "Modified community rating" means a method used to develop carrier premiums which spreads financial risk across a large population and allows adjustments for age, gender, family composition, tobacco usage, ~~and~~ geographic area as determined under paragraph *(5)(j), claims experience, health status, or duration of coverage as permitted under subparagraph (6)(b)5. and administrative and acquisition expenses as permitted under subparagraph (6)(b)6* ~~(5)(k)~~.

(5) AVAILABILITY OF COVERAGE.—

(c) Every small employer carrier must, as a condition of transacting business in this state:

1. Beginning *July* ~~January~~ 1, *1999* ~~1994~~, offer and issue all small employer health benefit plans on a guaranteed-issue basis to every eligible small employer, with *2* ~~3~~ to 50 eligible employees, that elects to be covered under such plan, agrees to make the required premium payments, and satisfies the other provisions of the plan. A rider for additional or increased benefits may be medically underwritten and may only be added to the standard health benefit plan. The increased rate charged for the additional or increased benefit must be rated in accordance with this section.

2. Beginning *August 1, 1999* ~~April 15, 1994~~, offer and issue basic and standard small employer health benefit plans on a guaranteed-issue basis, *during a 31-day open enrollment period of August 1 through August 31 of each year,* to every eligible small employer, with *less than* ~~one or~~ two eligible employees, *which small employer is not formed primarily for the purposes of buying health insurance,* which elects to be covered under such plan, agrees to make the required premium payments, and satisfies the other provisions of the plan. *Coverage provided pursuant to this subparagraph shall begin on October 1 of the same year as the date of enrollment, unless the small employer carrier and the small employer mutually agree to a different date.* A rider for additional or increased benefits may be medically underwritten and may only be added to the standard health benefit plan. The increased rate charged for the additional or increased benefit must be rated in accordance with this section. *For purposes of this subparagraph, a person, his or her spouse, and his or her dependent children shall constitute a single eligible employee if such person and spouse are employed by the same small employer.*

~~3. Offer to eligible small employers the standard and basic health benefit plans.~~

This *paragraph* ~~subparagraph~~ does not limit a carrier's ability to offer other health benefit plans to small employers if the standard and basic health benefit plans are offered and rejected.

(6) RESTRICTIONS RELATING TO PREMIUM RATES.—

(b) For all small employer health benefit plans that are subject to this section and are issued by small employer carriers on or after January 1, 1994, premium rates for health benefit plans subject to this section are subject to the following:

1. Small employer carriers must use a modified community rating methodology in which the premium for each small employer must be determined solely on the basis of the eligible employee's and eligible dependent's gender, age, family composition, tobacco use, or geographic area as determined under paragraph *(5)(j) and in which the premium may be adjusted as permitted by subparagraphs 6. and 7* ~~(5)(k)~~.

2. Rating factors related to age, gender, family composition, tobacco use, or geographic location may be developed by each carrier to reflect the carrier's experience. The factors used by carriers are subject to department review and approval.

3. Small employer carriers may not modify the rate for a small employer for 12 months from the initial issue date or renewal date, unless the composition of the group changes or benefits are changed.

4. Carriers participating in the alliance program, in accordance with ss. 408.700-408.707, may apply a different community rate to business written in that program.

5. Any adjustments in rates for claims experience, health status, and duration of coverage may not be charged to individual employees or dependents. For a small employer's policy, such adjustments may not result in a rate for the small employer which deviates more than 15 percent from the carrier's approved rate. Any such adjustment must be applied uniformly to the rates charged for all employees and dependents of the small employer. A small employer carrier may make an adjustment to a small employer's renewal premium, not to exceed 10 percent annually, due to the claims experience, health status, or duration of coverage of the employees or dependents of the small employer. A small employer carrier may not make an adjustment which exceeds 5 percent to a small employer's renewal premium due to health status. Semiannually, small group carriers shall report information on forms adopted by rules by the department to enable the department to monitor the relationship of aggregate adjusted premiums actually charged policyholders by each carrier to the premiums that would have been charged by application of the carrier's approved modified community rates. If the aggregate premium resulting from the application of such adjustment exceeds the premium that would have been charged by application of the approved modified

community rate by 5 percent for the current reporting period, the carrier shall limit the application of such adjustments to only minus adjustments beginning not more than 60 days after the report is sent to the department. For any subsequent reporting period, if the total aggregate adjusted premium actually charged does not exceed by 5 percent the premium that would have been charged by application of the approved modified community rate, the carrier may apply both plus and minus adjustments.

6. A small employer carrier may provide a credit to a small employer's premium based on administrative and acquisition expense differences resulting from the size of the group. Group size administrative and acquisition expense factors may be developed by each carrier to reflect the carrier's experience and are subject to department review and approval.

7. A small employer carrier rating methodology may include separate rating categories for one dependent child, for two dependent children, and three or more dependent children for family coverage of employees having a spouse and dependent children or employees having dependent children only. A small employer carrier may have fewer, but not greater, numbers of categories for dependent children than those specified in this subparagraph.

8. Small employer carriers may not use a composite rating methodology to rate a small employer with fewer than 10 employees. For the purposes of this subparagraph a "composite rating methodology" means a rating methodology that averages the impact of the rating factors for age and gender in the premiums charged to all of the employees of a small employer.

(d) Notwithstanding s. 627.401(2), this section and ss. 627.410 and 627.411 apply to any health benefit plan provided by a small employer carrier *that is an insurer, and this section and s. 641.31 apply to any health benefit provided by a small employer carrier that is a health maintenance organization,* that provides coverage to one or more employees of a small employer regardless of where the policy, certificate, or contract is issued or delivered, if the health benefit plan covers employees or their covered dependents who are residents of this state.

And the title is amended as follows:

On page 1, line 2, after the semicolon insert: to the Employee Health Care Access Act; amending s. 627.6699, F.S.; revising a definition; revising and updating provisions requiring small employer carriers to offer and issue certain health benefit plans; providing additional restrictions on premium rates for certain health benefit plans;

House Amendment 4 (524683)(with title amendment)—On page 2, line 2, insert:

Section 1. Section 624.6085, Florida Statutes, is created to read:

624.6085 "Collateral protection insurance" defined.—For purposes of ss. 215.555, 627.311, and 627.351, "collateral protection insurance" means commercial property under which a creditor is the primary beneficiary and policyholder and which protects or covers an interest of the creditor arising out of a credit transaction secured by real or personal property. Initiation of such coverage is triggered by the mortgagor's failure to maintain insurance coverage as required by the mortgage or other lending document. Collateral protection insurance is not residential coverage.

And the title is amended as follows:

On page 1, line 2, after the semicolon insert: creating s. 624.6085, Florida Statutes; defining the term "collateral protection insurance";

House Amendment 5 (120815)(with title amendment)—On page 2, line 2, insert:

Section 1. Subsection (9) of section 636.003, Florida Statutes, is amended to read:

636.003 Definitions.—As used in this act, the term: (9) "Prepaid limited health service organization" means any person, corporation, partnership, or any other entity which, in return for a prepayment, undertakes to provide or arrange for, or provide access to, the provision of a limited health service to enrollees through *a* ~~an exclusive~~ panel of providers. Prepaid limited health service organization does not include:

(a) An entity otherwise authorized pursuant to the laws of this state to indemnify for any limited health service;

(b) A provider or entity when providing limited health services pursuant to a contract with a prepaid limited health service organization, a health maintenance organization, a health insurer, or a self-insurance plan; or

(c) Any person who, in exchange for fees, dues, charges or other consideration, provides access to a limited health service provider without assuming any responsibility for payment for the limited health service or any portion thereof.

Section 2. Subsection (2) of section 636.016, Florida Statutes, is amended to read:

636.016 Prepaid limited health service contracts.

(2) Every prepaid limited health service organization shall provide each subscriber a contract, a certificate, membership card, or member handbook which must clearly state all of the services to which a subscriber is entitled under the contract and must include a clear and understandable statement of any limitations on the services or kinds of services to be provided, including any copayment feature or schedule of benefits required by the contract or by any insurer or entity which is underwriting any of the services offered by the prepaid limited health service organization *or any limitations on services being received from a non-panel provider*. The contract, certificate, provider listing, or member handbook must also state where and in what manner the health services may be obtained.

And the title is amended as follows:

On page 1, line 2, after the semicolon insert: amending s. 636.003, F.S.; deleting the word exclusive from the definition of prepaid limited health service organization; amending s. 636.016, F.S.; providing for additional disclosure by a prepaid limited health service organization relating to prepaid limited health service contracts;

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

Senate Amendment 1 (723956)(with title amendment) to House Amendment 1—On page 1, line 17 through page 3, line 10, delete those lines and insert:

Section 1. Paragraphs (e) and (f) of subsection (1) of section 626.321, Florida Statutes, 1998 Supplement, are amended to read:

626.321 Limited licenses.—

(1) The department shall issue to a qualified individual, or a qualified individual or entity under paragraphs (c), (d), and (e), a license as agent authorized to transact a limited class of business in any of the following categories:

(e) Credit life or disability insurance.—License covering only credit life or disability insurance. The license may be issued only to an individual employed by a life or health insurer as an officer or other salaried or commissioned representative, or to an individual employed by or associated with a lending or financing institution or creditor, and may authorize the sale of such insurance only with respect to borrowers or debtors of such lending or financing institution or creditor. However, only the individual or entity whose tax identification number is used in receiving or is credited with receiving the commission from the sale of such insurance shall be the licensed agent of the insurer. No individual while so licensed shall hold a license as an agent or solicitor as to any other or additional kind or class of life or health insurance coverage. An entity other than a lending or financial institution defined in s. 626.988 holding a limited license under this paragraph shall also be authorized to sell credit property insurance. *An entity applying for a license under this section:*

1. Is required to submit only one application for a license under s. 626.171.

2. Is required to obtain a license for each office, branch office, or place of business making use of the entity's business name by applying to the department for the license on a simplified form developed by rule of the department for this purpose.

3. Is not required to pay any additional application fees for a license issued to the offices or places of business referenced in subsection (2), but is required to pay the license fee as prescribed in s. 624.501, be appointed under s. 626.112, and pay the prescribed appointment fee under s. 624.501. The license obtained under this paragraph shall be posted at the business location for which it was issued so as to be readily visible to prospective purchasers of such coverage.

(f) Credit insurance.—License covering only credit insurance, as such insurance is defined in s. 624.605(1)(i), and no individual *or entity* so licensed shall, during the same period, hold a license as an agent or solicitor as to any other or additional kind of life or health insurance with the exception of credit life or disability insurance as defined in paragraph (e). *The same licensing provisions as outlined in paragraph (e) apply to entities licensed as credit insurance agents under this paragraph.*

Section 2. Subsection (1) of section 626.989, Florida Statutes, 1998 Supplement, is amended to read:

626.989 Division of Insurance Fraud; definition; investigative, subpoena powers; protection from civil liability; reports to division; division investigator's power to execute warrants and make arrests.—

(1) For the purposes of this section, a person commits a "fraudulent insurance act" if the person knowingly and with intent to defraud presents, causes to be presented, or prepares with knowledge or belief that it will be presented, to or by an insurer, self-insurer, self-insurance fund, servicing corporation, purported insurer, broker, or any agent thereof, any written statement as part of, or in support of, an application for the issuance of, or the rating of, any insurance policy, or a claim for payment or other benefit pursuant to any insurance policy, which the person knows to contain materially false information concerning any fact material thereto or if the person conceals, for the purpose of misleading another, information concerning any fact material thereto. *For the purposes of this section, the term "insurer" also includes any health maintenance organization and the term "insurance policy" also includes a health maintenance organization subscriber contract.*

Section 3. Section 626.9892, Florida Statutes, is created to read:

626.9892 Anti-Fraud Reward Program; reporting of insurance fraud.—

(1) The Anti-Fraud Reward Program is hereby established within the department, to be funded from the Insurance Commissioner's Regulatory Trust Fund.

(2) The department may pay rewards of up to $25,000 to persons providing information leading to the arrest and conviction of persons committing complex or organized crimes investigated by the Division of Insurance Fraud arising from violations of s. 440.105, s. 624.15, s. 626.9541, s. 626.989, or s. 817.234.

(3) Only a single reward amount may be paid by the department for claims arising out of the same transaction or occurrence, regardless of the number of persons arrested and convicted and the number of persons submitting claims for the reward. The reward may be disbursed among more than one person in amounts determined by the department.

(4) The department shall adopt rules which set forth the application and approval process, including the criteria against which claims shall be evaluated, the basis for determining specific reward amounts, and the manner in which rewards shall be disbursed. Applications for rewards authorized by this section must be made pursuant to rules established by the department.

(5) Determinations by the department to grant or deny a reward under this section shall not be considered agency action subject to review under s. 120.569 or s. 120.57.

Section 4. Section 641.3915, Florida Statutes, is created to read:

641.3915 Health maintenance organization anti-fraud plans and investigative units.—Each authorized health maintenance organization and applicant for a certificate of authority shall comply with the provisions of ss. 626.989 and 626.9891 as though such organization or applicant were an authorized insurer. For purposes of this section, the reference to the year 1996 in s. 626.9891 means the year 2000 and the reference to the year 1995 means the year 1999.

Section 5. Paragraph (h) of subsection (2) of section 775.15, Florida Statutes, 1998 Supplement, is amended to read:

775.15 Time limitations.—

(2) Except as otherwise provided in this section, prosecutions for other offenses are subject to the following periods of limitation:

(h) A prosecution for a felony violation of s. 440.105 *and s. 817.234* must be commenced within 5 years after the violation is committed.

Section 6. Subsections (1), (2), (3), (4), and (10) of section 817.234, Florida Statutes, 1998 Supplement, are amended, and subsections (11) and (12) are added to said section, to read:

817.234 False and fraudulent insurance claims.—

(1)(a) *A person commits insurance fraud punishable as provided in subsection (11) if that* ~~Any~~ person ~~who~~, with the intent to injure, defraud, or deceive any insurer:

1. Presents or causes to be presented any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy *or a health maintenance organization subscriber or provider contract*, knowing that such statement contains any false, incomplete, or misleading information concerning any fact or thing material to such claim;

2. Prepares or makes any written or oral statement that is intended to be presented to any insurer in connection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy *or a health maintenance organization subscriber or provider contract*, knowing that such statement contains any false, incomplete, or misleading information concerning any fact or thing material to such claim; or

3.*a.* Knowingly presents, causes to be presented, or prepares or makes with knowledge or belief that it will be presented to any insurer, purported insurer, servicing corporation, insurance broker, or insurance agent, or any employee or agent thereof, any false, incomplete, or misleading information or written or oral statement as part of, or in support of, an application for the issuance of, or the rating of, any insurance policy, *or a health maintenance organization subscriber or provider contract;* or

b. Who *knowingly* conceals information concerning any fact material to such application~~,~~

~~commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084~~.

(b) All claims and application forms shall contain a statement that is approved by the Department of Insurance that clearly states in substance the following: "Any person who knowingly and with intent to injure, defraud, or deceive any insurer files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree." *This paragraph shall not apply to reinsurance contracts, reinsurance agreements, or reinsurance claims transactions.* ~~The changes in this paragraph relating to applications shall take effect on March 1, 1996.~~

(2) Any physician licensed under chapter 458, osteopathic physician licensed under chapter 459, chiropractic physician licensed under chapter 460, or other practitioner licensed under the laws of this state who knowingly and willfully assists, conspires with, or urges any insured party to fraudulently violate any of the provisions of this section or part XI of chapter 627, or any person who, due to such assistance, conspiracy, or urging by said physician, osteopathic physician, chiropractic physician, or practitioner, knowingly and willfully benefits from the proceeds derived from the use of such fraud, *commits insurance fraud* ~~is guilty of a felony of the third degree~~, punishable as provided in *subsection (11)* ~~s. 775.082, s. 775.083, or s. 775.084~~. In the event that a physician, osteopathic physician, chiropractic physician, or practitioner is adjudicated guilty of a violation of this section, the Board of Medicine as set forth in chapter 458, the Board of Osteopathic Medicine as set forth in chapter 459, the Board of Chiropractic Medicine as set forth in chapter 460, or other appropriate licensing authority shall hold an administrative hearing to consider the imposition of administrative sanctions as provided by law against said physician, osteopathic physician, chiropractic physician, or practitioner.

(3) Any attorney who knowingly and willfully assists, conspires with, or urges any claimant to fraudulently violate any of the provisions of this section or part XI of chapter 627, or any person who, due to such assistance, conspiracy, or urging on such attorney's part, knowingly and willfully benefits from the proceeds derived from the use of such fraud, commits *insurance fraud* ~~a felony of the third degree~~, punishable as provided in *subsection (11)* ~~s. 775.082, s. 775.083, or s. 775.084~~.

(4) *Any* ~~No~~ person or governmental unit licensed under chapter 395 to maintain or operate a hospital, and *any* ~~no~~ administrator or employee of any such hospital, *who* ~~shall~~ knowingly and willfully *allows* ~~allow~~ the use of the facilities of said hospital by an insured party in a scheme or conspiracy to fraudulently violate any of the provisions of this section or part XI of chapter 627~~. Any hospital administrator or employee who violates this subsection~~ commits *insurance fraud* ~~a felony of the third degree~~, punishable as provided in *subsection (11)* ~~s. 775.082, s. 775.083, or s. 775.084~~. Any adjudication of guilt for a violation of this subsection, or the use of business practices demonstrating a pattern indicating that the spirit of the law set forth in this section or part XI of chapter 627 is not being followed, shall be grounds for suspension or revocation of the license to operate the hospital or the imposition of an administrative penalty of up to $5,000 by the licensing agency, as set forth in chapter 395.

(10) As used in this section, the term "insurer" means any insurer, *health maintenance organization*, self-insurer, self-insurance fund, or other similar entity or person regulated under chapter 440 *or chapter 641* or by the Department of Insurance under the Florida Insurance Code.

(11) If the value of any property involved in a violation of this section:

(a) Is less than $20,000, the offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Is $20,000 or more, but less than $100,000, the offender commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Is $100,000 or more, the offender commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(12) As used in this section:

(a) "Property" means property as defined in s. 812.012.

(b) "Value" means value as defined in s. 812.012.

Section 7. Subsection (4) of section 817.505, Florida Statutes, 1998 Supplement, is amended to read:

817.505 Patient brokering prohibited; exceptions; penalties.—

(4) Any person, including an officer, partner, agent, attorney, or other representative of a firm, joint venture, partnership, business trust, syndicate, corporation, or other business entity, who violates any provision of this section commits~~:~~

~~(a) A misdemeanor of the first degree for a first violation, punishable as provided in s. 775.082 or by a fine not to exceed $5,000, or both.~~

~~(b)~~ a felony of the third degree ~~for a second or subsequent violation~~, punishable as provided in s. 775.082, *s. 775.083, or s. 775.084* ~~or by a fine not to exceed $10,000, or both~~.

Section 8. For the purpose of incorporating the amendment to subsection (4) of section 817.505, Florida Statutes, 1998 Supplement, in a reference thereto, subsection (3) of section 455.657, Florida Statutes, is reenacted to read:

455.657 Kickbacks prohibited.—

(3) Violations of this section shall be considered patient brokering and shall be punishable as provided in s. 817.505.

Section 9. *The sum of $250,000 is hereby appropriated from the Insurance Commissioner's Regulatory Trust Fund in a nonoperating category for state fiscal year 1999-2000 for the purpose of implementing the reward program under s. 626.9892, Florida Statutes, as created by this act.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, delete lines 19-31 and insert: An act relating to insurance; amending s. 626.321, F.S.; providing requirements for limited licenses for credit life or disability insurance and credit insurance; amending s. 626.989, F.S.; defining the terms "insurer" and "insurance policy" for purposes of determining insurance fraud; creating s. 626.9892, F.S.; establishing the Anti-Fraud Reward Program in the department; providing for rewards under certain circumstances; requiring the department to adopt rules to implement the program; exempting review of department decisions relating to rewards; creating s. 641.3915, F.S.; requiring certain health maintenance organizations to comply with insurer anti-fraud requirements; providing construction; amending s. 775.15, F.S.; extending the statute of limitations for certain insurance fraud violations; amending s. 817.234, F.S.; specifying a schedule of criminal penalties for committing insurance fraud; providing definitions; providing application to health maintenance organizations and contracts; amending s. 817.505, F.S.; revising a penalty for patient brokering; reenacting s. 455.657(3), F.S., relating to kickbacks, to incorporate changes; providing an appropriation; amending

Senator Lee moved the following amendment which was adopted:

Senate Amendment 1 (084894)(with title amendment) to House Amendment 4—On page 1, delete lines 22-28 and insert: *insurance under which a creditor is the primary beneficiary and policyholder and which protects or covers an interest of the creditor arising out of a credit transaction secured by real or personal property. Initiation of such coverage is triggered by the mortgagor's failure to maintain insurance coverage as required by the mortgage or other lending document. Collateral protection insurance is not residential coverage.*

Section 2. Paragraphs (e) and (f) of subsection (1) of section 626.321, Florida Statutes, 1998 Supplement are amended to read:

626.321 Limited licenses.—

(1) The department shall issue to a qualified individual, or a qualified individual or entity under paragraphs (c), (d), and (e), a license as agent authorized to transact a limited class of business in any of the following categories:

(e) Credit life or disability insurance.—License covering only credit life or disability insurance. The license may be issued only to an individual employed by a life or health insurer as an officer or other salaried or commissioned representative, or to an individual employed by or associated with a lending or financing institution or creditor, and may authorize the sale of such insurance only with respect to borrowers or debtors of such lending or financing institution or creditor. However, only the individual or entity whose tax identification number is used in receiving or is credited with receiving the commission from the sale of such insurance shall be the licensed agent of the insurer. No individual while so licensed shall hold a license as an agent or solicitor as to any other or additional kind or class of life or health insurance coverage. An entity other than a lending or financial institution defined in s. 626.988 holding a limited license under this paragraph shall also be authorized to sell credit property insurance. *An entity applying for a license under this section:*

1. Is required to submit only one application for a license under s. 626.171.

2. Is required to obtain a license for each office, branch office, or place of business making use of the entity's business name by applying to the department for the license on a simplified form developed by rule of the department for this purpose.

3. Is not required to pay any additional application fees for a license issued to the offices or places of business referenced in subsection (2), but is required to pay the license fee as prescribed in s. 624.501, be appointed under s. 626.112, and pay the prescribed appointment fee under s. 624.501. The license obtained under this paragraph shall be posted at the business location for which it was issued so as to be readily visible to prospective purchasers of such coverage.

(f) Credit insurance.—License covering only credit insurance, as such insurance is defined in s. 624.605(1)(i), and no individual *or entity*

so licensed shall, during the same period, hold a license as an agent or solicitor as to any other or additional kind of life or health insurance with the exception of credit life or disability insurance as defined in paragraph (e). *The same licensing provisions as outlined in paragraph (e) apply to entities licensed as credit insurance agents under this paragraph.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 8, after the semicolon (;) insert: amending s. 626.321, F.S.; providing requirements for limited licenses for credit life or disability insurance and credit insurance;

On motion by Senator Lee, the Senate concurred in **House Amendments 1** and **4** as amended and requested the House to concur in the Senate amendments to the House amendments; and refused to concur in **House Amendments 2, 3** and **5** and the House was requested to recede.

CS for SB 312 passed as amended and 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

SPECIAL ORDER CALENDAR, continued

On motion by Senator Sullivan, by two-thirds vote **HB 2029** was withdrawn from the Committees on Comprehensive Planning, Local and Military Affairs; and Fiscal Policy.

On motion by Senator Sullivan—

HB 2029—A bill to be entitled An act relating to emergency management; amending s. 240.295, F.S.; prescribing duties of the Board of Regents with respect to identifying public hurricane evacuation shelter space on certain campuses; requiring the submission of a capital improvements program; deleting a requirement for the submission of a report; revising a condition precedent to a requirement for specified building construction standards; revising applicability; removing an exemption; amending s. 252.38, F.S.; revising provisions relating to the appointment, salary, and direction and control of a county emergency management agency director; amending s. 252.385, F.S.; revising legislative intent; including certain private facilities within a survey of prospective public hurricane evacuation shelters; including district school boards and community college boards of trustees among those coordinating and implementing such survey; revising completion dates for the retrofitting of specified facilities; exempting the owner or lessee of a shelter scheduled for retrofitting from a requirement to make certain improvements; providing that specified public facilities be made available as public hurricane evacuation shelters; requiring the Department of Management Services to incorporate public hurricane evacuation shelter provisions into lease agreements for state agencies; providing specifications for suitable leased public facilities; amending s. 252.51, F.S.; revising provisions which provide exemption from liability for persons or organizations who permit real estate or premises to be used for sheltering persons during specified emergencies; exempting the state, its political subdivisions, agents, and employees from liability for damages caused by emergency management workers in certain situations; providing exceptions; defining "emergency management worker"; repealing s. 252.855, F.S., which requires the development of consolidated reporting forms for specified storage tank registration programs and single annual fee payment and due date for reporting required from specified petroleum distributors and retail outlets; providing an effective date.

—a companion measure, was substituted for **CS for SB 1932** and read the second time by title.

Senator Carlton moved the following amendment:

Amendment 1 (085368)(with title amendment)—On page 8, between lines 4 and 5, insert:

Section 6. Subsections (1) and (3) of section 252.355, Florida Statutes, are amended to read:

252.355 Registry of ~~disabled~~ persons *with special needs*; notice.—

(1) In order to meet the special needs of persons who would need assistance during evacuations and sheltering because of physical, *mental, or sensory disabilities* ~~or mental handicaps~~, each local emergency management agency in the state shall maintain a registry of ~~disabled~~ persons *with special needs* located within the jurisdiction of the local agency. The registration shall identify those persons in need of assistance and plan for resource allocation to meet those identified needs. To assist the local emergency management agency in identifying such persons, the Department of *Children and Family Services, Department of Health, Department of Labor and Employment Security, and Department of Elderly Affairs* ~~Health and Rehabilitative Services~~ shall provide registration information to all of *their* ~~its~~ special needs clients and to all incoming clients as a part of the intake process. The registry shall be updated annually. The registration program shall give ~~disabled~~ persons *with special needs* the option of preauthorizing emergency response personnel to enter their homes during search and rescue operations if necessary to assure their safety and welfare following disasters.

(3) All records, data, information, correspondence, and communications relating to the registration of ~~disabled~~ persons *with special needs* as provided in subsection (1) are confidential and exempt from the provisions of s. 119.07(1), except that such information shall be available to other emergency response agencies, as determined by the local emergency management director.

Section 7. Section 381.0303, Florida Statutes, is created to read:

381.0303 Health practitioner recruitment for special needs shelters.—

(1) PURPOSE.—The purpose of this section is to designate the Department of Health, through its county health departments, as the lead agency for coordination of the recruitment of health care practitioners to staff special needs shelters in times of emergency or disaster and to provide resources to the department to carry out this responsibility. However, nothing in this section prohibits a county health department from entering into an agreement with a local emergency management agency to assume the lead responsibility for recruiting health care practitioners.

(2) SPECIAL NEEDS SHELTER PLAN AND STAFFING.—Provided funds have been appropriated to support medical services disaster coordinator positions in county health departments, the department shall assume lead responsibility for the local coordination of local medical and health care providers, the American Red Cross, and other interested parties in developing a plan for the staffing and medical management of special needs shelters. The plan shall be in conformance with the local comprehensive emergency management plan.

(a) County health departments shall, in conjunction with the local emergency management agencies, have the lead responsibility for coordination of the recruitment of health care practitioners to staff local special needs shelters. County health departments shall assign their employees to work in special needs shelters when needed to protect the health of patients.

(b) The appropriate county health department and local emergency management agency shall jointly determine who has responsibility for medical supervision in a special needs shelter.

(c) Local emergency management agencies shall be responsible for the designation and operation of special needs shelters during times of emergency or disaster. County health departments shall assist the local emergency management agency with regard to the management of medical services in special needs shelters.

(3) REIMBURSEMENT TO HEALTH CARE PRACTITIONERS.—The Department of Health shall reimburse, subject to the availability of

funds for this purpose, health care practitioners as defined in s. 455.501, provided the practitioner is not providing care to a patient under an existing contract, and emergency medical technicians and paramedics licensed pursuant to chapter 401 for medical care provided at the request of the department in special needs shelters or at other locations during times of emergency or major disaster. Reimbursement for health care practitioners, except for physicians, shall be based on the average hourly rate that such practitioners were paid according to the most recent survey of Florida hospitals conducted by the Florida Hospital Association. Reimbursement shall be requested on forms prepared by the Department of Health. If a Presidential Disaster Declaration has been made, and the Federal Government makes funds available, the department shall use such funds for reimbursement of eligible expenditures. In other situations, or if federal funds do not fully compensate the department for reimbursement made pursuant to this section, the department shall submit to the Cabinet or Legislature, as appropriate, a budget amendment to obtain reimbursement from the working capital fund. Travel expense and per diem costs shall be reimbursed pursuant to s. 112.061.

(4) HEALTH CARE PRACTITIONER REGISTRY.—The department may use the registries established in ss. 401.273 and 455.276 when health care practitioners are needed to staff special needs shelters or to staff disaster medical assistance teams.

(5) SPECIAL NEEDS SHELTER INTERAGENCY COMMITTEE.—The Department of Health may establish a special needs shelter interagency committee, to be chaired and staffed by the department. The committee shall resolve problems related to special needs shelters not addressed in the state comprehensive emergency medical plan and shall serve as an oversight committee to monitor the planning and operation of special needs shelters.

(a) The committee may:

1. On or before January 1, 2000, resolve questions concerning the roles and responsibilities of state agencies and other organizations that are necessary to implement the program.

2. On or before January 1, 2000, identify any issues requiring additional legislation and funding.

3. Develop and negotiate any necessary interagency agreements.

4. Undertake other such activities as the department deems necessary to facilitate the implementation of this section.

5. Submit recommendations to the Legislature as necessary.

(b) The special needs shelter interagency committee shall be composed of representatives of emergency management, health, medical, and social services organizations. Membership shall include, but shall not be limited to, the Departments of Community Affairs, Children and Family Services, Elderly Affairs, Labor and Employment Security, and Education; the Agency for Health Care Administration; the Florida Medical Association; Associated Home Health Industries of Florida, Inc.; the Florida Nurses Association; the Florida Health Care Association; the Florida Hospital Association; the Florida Statutory Teaching Hospital Council; the Florida Association of Homes for the Aging; the Florida Emergency Preparedness Association; the American Red Cross; Florida Hospices, Inc.; the Association of Community Hospitals and Health Systems; the Florida Association of Health Maintenance Organizations; the Florida League of Health Systems; Private Care Association; and the Salvation Army.

(c) Meetings of the committee shall be held in Tallahassee and members of the committee shall serve at the expense of the agencies or organizations they represent.

(6) RULES.—The department may adopt rules necessary to implement this section.

(7) IMPLEMENTATION CONDITIONAL UPON APPROPRIATION.—The implementation of subsections (3), (4), and (5) is conditional upon the receipt of an appropriation by the department to establish headquarters staff for special needs shelter staffing coordination. The submission of emergency management plans to county health departments by home health agencies, hospices, and nurse registries pursuant to ss. 400.497(11)(c) and (d), 400.610(1)(b) and (c), and 400.506(16)(e) is conditional upon the receipt of an appropriation by the department to establish medical services disaster coordinator positions in county health departments.

Section 8. Section 400.492, Florida Statutes, is created to read:

400.492 Provision of services during an emergency.—Each home health agency shall prepare and maintain a comprehensive emergency management plan that is consistent with the standards adopted by national accreditation organizations and consistent with the local special needs plan. The plan shall be updated annually and shall provide for continuing home health services during an emergency that interrupts patient care or services in the patient's home. The plan shall describe how the home health agency establishes and maintains an effective response to emergencies and disasters, including: notifying staff when emergency response measures are initiated; providing for communication between staff members, county health departments, and local emergency management agencies, including a backup system; identifying resources necessary to continue essential care or services or referrals to other organizations subject to written agreement; and prioritizing and contacting patients who need continued care or services.

(1) Each patient record for patients who are listed in the registry established pursuant to s. 252.355 shall include a description of how care or services will be continued in the event of an emergency or disaster. The home health agency shall discuss the emergency provisions with the patient and the patient's caregivers, including where and how the patient is to evacuate, procedures for notifying the home health agency in the event that the patient evacuates to a location other than the shelter identified in the patient record, and a list of medications and equipment which must either accompany the patient or will be needed by the patient in the event of an evacuation.

(2) Each home health agency shall maintain a current prioritized list of patients who need continued services during an emergency. The list shall indicate how services shall be continued in the event of an emergency or disaster for each patient and if the patient is to be transported to a special needs shelter, and shall indicate if the patient is receiving skilled nursing services and the patient's medication and equipment needs. The list shall be furnished to county health departments and to local emergency management agencies, upon request.

(3) Home health agencies shall not be required to continue to provide care to patients in emergency situations that are beyond their control and that make it impossible to provide services, such as when roads are impassable or when patients do not go to the location specified in their patient records.

(4) Notwithstanding the provisions of s. 400.464(2) or any other provision of law to the contrary, a home health agency may provide services in a special needs shelter located in any county.

Section 9. Subsection (1) of section 400.497, Florida Statutes, is amended, and subsection (11) is added to that section, to read:

400.497 Rules establishing minimum standards.—The Agency for Health Care Administration shall adopt, publish, and enforce rules to implement this part, including, as applicable, ss. 400.506 and 400.509, which must provide reasonable and fair minimum standards relating to:

(1) Scope of home health services to be provided, *which shall include services to be provided during emergency evacuation and sheltering.*

(11) Preparation of a comprehensive emergency management plan pursuant to s. 400.492.

(a) The Agency for Health Care Administration shall adopt rules establishing minimum criteria for the plan and plan updates, with the concurrence of the Department of Health and in consultation with the Department of Community Affairs.

(b) The rules must address the requirements in s. 400.492. In addition, the rules shall provide for the maintenance of patient-specific medication lists that can accompany patients who are transported from their homes.

(c) The plan is subject to review and approval by the county health department. During its review, the county health department shall ensure that the following agencies, at a minimum, are given the opportunity to review the plan:

1. The local emergency management agency.

2. The Agency for Health Care Administration.

3. The local chapter of the American Red Cross or other lead sheltering agency.

4. The district office of the Department of Children and Family Services.

The county health department shall complete its review within 60 days after receipt of the plan and shall either approve the plan or advise the home health agency of necessary revisions.

(d) For any home health agency that operates in more than one county, the Department of Health shall review the plan, after consulting with all of the county health departments, the agency, and all the local chapters of the American Red Cross or other lead sheltering agencies in the areas of operation for that particular hospice. The Department of Health shall complete its review within 90 days after receipt of the plan and shall either approve the plan or advise the hospice of necessary revisions. The Department of Health shall make every effort to avoid imposing differing requirements based on differences between counties on the hospice.

(e) The requirements in this subsection do not apply to:

1. A facility that is certified under chapter 651 and has a licensed home health agency used exclusively by residents of the facility; or

2. A retirement community that consists of residential units for independent living and either a licensed nursing home or an assisted living facility, and has a licensed home health agency used exclusively by the residents of the retirement community; provided the comprehensive emergency management plan for the facility or retirement community provides for continuous care of all residents with special needs during an emergency.

Section 10. Present subsections (15), (16), and (17) of section 400.506, Florida Statutes, 1998 Supplement, are renumbered as subsections (17), (18), and (19), respectively, and new subsections (15) and (16) are added to that section to read:

400.506 Licensure of nurse registries; requirements; penalties.—

(15) Nurse registries shall assist at-risk clients with special needs registration with the appropriate local emergency management agency pursuant to s. 252.355.

(16) Each nurse registry shall prepare and maintain a comprehensive emergency management plan that is consistent with the criteria in this subsection and with the local special needs plan. The plan shall be updated annually. The plan shall specify how the nurse registry shall facilitate the provision of continuous care by persons referred for contract to persons who are registered pursuant to s. 252.355 during an emergency that interrupts the provision of care or services in private residencies.

(a) All persons referred for contract who care for persons registered pursuant to s. 252.355 must include in the patient record a description of how care will be continued during a disaster or emergency that interrupts the provision of care in the patient's home. It shall be the responsibility of the person referred for contract to ensure that continuous care is provided.

(b) Each nurse registry shall maintain a current prioritized list of patients in private residencies who are registered pursuant to s. 252.355 and are under the care of persons referred for contract and who need continued services during an emergency. This list shall indicate, for each patient, if the client is to be transported to a special needs shelter and if the patient is receiving skilled nursing services. Nurse registries shall make this list available to county health departments and to local emergency management agencies upon request.

(c) Each person referred for contract who is caring for a patient who is registered pursuant to s. 252.355 shall provide a list of their patient's medication and equipment needs to the nurse registry. Each person referred for contract shall make this information available to county health departments and to local emergency management agencies upon request.

(d) Each person referred for contract shall not be required to continue to provide care to patients in emergency situations that are beyond their control and that make it impossible to provide services, such as when roads are impassable or when patients do not go to the location specified in their patient records.

(e) The comprehensive emergency management plan required by this subsection is subject to review and approval by the county health department. During its review, the county health department shall ensure that, at a minimum, the local emergency management agency, the Agency for Health Care Administration and the local chapter of the American Red Cross or other lead sheltering agency are given the opportunity to review the plan. The county health department shall complete its review within 60 days after receipt of the plan and shall either approve the plan or advise the nurse registry of necessary revisions.

(f) The Agency for Health Care Administration shall adopt rules establishing minimum criteria for the comprehensive emergency management plan and plan updates required by this subsection, with the concurrency of the Department of Health and in consultation with the Department of Community Affairs.

Section 11. Paragraph (g) is added to subsection (1) of section 400.605, Florida Statutes, to read:

400.605 Administration; forms; fees; rules; inspections; fines.—

(1) The department, in consultation with the agency, shall by rule establish minimum standards and licensure procedures for a hospice. The rules must include:

(g) Components of a comprehensive emergency plan, developed in consultation with the Department of Health and the Department of Community Affairs.

Section 12. Paragraph (f) is added to subsection (5) of section 400.6095, Florida Statutes, to read:

400.6095 Patient admission; assessment; plan of care; discharge; death.—

(5) Each hospice, in collaboration with the patient and the patient's primary or attending physician, shall prepare and maintain a plan of care for each patient, and the care provided to a patient must be in accordance with the plan of care. The plan of care shall be made a part of the patient's medical record and shall include, at a minimum:

(f) A description of how needed care and services will be provided in the event of an emergency.

Section 13. Paragraph (b) of subsection (1) of section 400.610, Florida Statutes, is amended, paragraphs (c), (d), and (e) of that subsection are redesignated as paragraphs (d), (e), and (f), respectively, and a new paragraph (c) is added to that subsection, to read:

400.610 Administration and management of a hospice.—

(1) A hospice shall have a clearly defined organized governing body, consisting of a minimum of seven persons who are representative of the general population of the community served. The governing body shall have autonomous authority and responsibility for the operation of the hospice and shall meet at least quarterly. The governing body shall:

(b) *Prepare and maintain a comprehensive emergency management plan that provides for continuing hospice services in the event of an emergency that is consistent with local special needs plans. The plan shall include provisions for ensuring continuing care to hospice patients who go to special needs shelters. The plan is subject to review and approval by the county health department except as provided in paragraph (c). During its review, the county health department shall ensure that the department, the agency, and the local chapter of the American Red Cross or other lead sheltering agency have an opportunity to review and comment on the plan. The county health department shall complete its review within 60 days after receipt of the plan and shall either approve the plan or advise the hospice of necessary revisions.* ~~Prepare a disaster preparedness plan.~~

(c) For any hospice that operates in more than one county, the Department of Health shall review the plan, after consulting with all of the

county health departments, the agency, and all the local chapters of the American Red Cross or other lead sheltering agencies in the areas of operation for that particular hospice. The Department of Health shall complete its review within 90 days after receipt of the plan and shall either approve the plan or advise the hospice of necessary revisions. The Department of Health shall make every effort to avoid imposing differing requirements based on differences between counties on the hospice.

(d)~~(c)~~ Adopt an annual budget.

(e)~~(d)~~ Appoint a director who shall be responsible for the day-to-day management and operation of the hospice and who shall serve as the liaison between the governing body and the hospice staff.

(f)~~(e)~~ Undertake such additional activities as necessary to ensure that the hospice is complying with the requirements for hospice services as set forth in this part.

Section 14. Section 401.273, Florida Statutes, is created to read:

401.273 Emergency medical technician and paramedic registry for disasters and emergencies.—The department shall include on its forms for the certification or recertification of emergency medical technicians and paramedics who could assist the department in the event of a disaster a question asking if the practitioner would be available to provide health care services in special needs shelters or to help staff disaster medical assistance teams during times of emergency or major disaster. The names of the emergency medical technicians and paramedics who answer affirmatively shall be maintained by the department as a registry for disasters and emergencies.

Section 15. Subsection (12) is added to section 408.15, Florida Statutes, 1998 Supplement, to read:

408.15 Powers of the agency.—In addition to the powers granted to the agency elsewhere in this chapter, the agency is authorized to:

(12) Establish, in coordination with the Department of Health, uniform standards of care to be provided in special needs units or shelters during times of emergency or major disaster.

Section 16. Section 455.276, Florida Statutes, is created to read:

455.276 Health care practitioner registry for disasters and emergencies.—The Department of Health shall include on its forms for the licensure or certification of physicians, physician assistants, certified nursing assistants, licensed practical nurses, registered nurses, nurse practitioners, respiratory therapists, and other health care practitioners who could assist the department in the event of a disaster a question asking if the practitioner would be available to provide health care services in special needs shelters or to help staff disaster medical assistance teams during times of emergency or major disaster. The names of practitioners who answer affirmatively shall be maintained by the department as a health care practitioner registry for disasters and emergencies.

Section 17. *State agencies that contract with providers for the care of persons with disabilities or limitations that make such persons dependent upon the care of others shall include emergency and disaster planning provisions in such contracts at the time the contracts are initiated or upon renewal. These provisions shall include, but shall not be limited to:*

(1) The designation of an emergency coordinating officer.

(2) A procedure to contact all at-risk provider clients, on a priority basis, prior to and immediately following an emergency or disaster.

(3) A procedure to help at-risk clients register with the special needs registry of the local emergency management agency.

(4) A procedure to dispatch the emergency coordinating officer or other staff members to special needs shelters to assist clients with special needs, if necessary.

(5) A procedure for providing the essential services the organization currently provides to special needs clients in preparation for, and during and following, a disaster.

Section 18. Chapter 515, Florida Statutes, consisting of sections 515.21, 515.23, 515.25, 515.27, 515.29, 515.31, 515.33, 515.35, and 515.37, is created to read:

515.21 Short title.—This chapter may be cited as the "Preston de Ibern/McKenzie Merriam Residential Swimming Pool Safety Act."

515.23 Legislative findings and intent.—The Legislature finds that drowning is the leading cause of death of young children in this state and is also a significant cause of death for medically frail elderly persons in this state, that constant adult supervision is the key to accomplishing the objective of reducing the number of submersion incidents, and that when lapses in supervision occur a pool safety feature designed to deny, delay, or detect unsupervised entry to the swimming pool, spa, or hot tub will reduce drowning and near-drowning incidents. In addition to the incalculable human cost of these submersion incidents, the health care costs, loss of lifetime productivity, and legal and administrative expenses associated with drownings of young children and medically frail elderly persons in this state each year and the lifetime costs for the care and treatment of young children who have suffered brain disability due to near-drowning incidents each year are enormous. Therefore, it is the intent of the Legislature that all new residential swimming pools, spas, and hot tubs be equipped with at least one pool safety feature as specified in this chapter. It is also the intent of the Legislature that the Department of Health be responsible for producing for the public a publication that provides information on drowning prevention and the responsibilities of pool ownership and also for developing a drowning prevention education program for the public and for persons violating the pool safety requirements of this chapter.

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

(1) "Approved safety pool cover" means a manually or power-operated safety pool cover that meets all of the performance standards of the American Society for Testing and Materials (ASTM) in compliance with standard F1346-91.

(2) "Barrier" means a fence, dwelling wall, or nondwelling wall, or any combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool, especially access from the residence or from the yard outside the barrier.

(3) "Department" means the Department of Health.

(4) "Exit alarm" means a device that makes audible, continuous alarm sounds when any door or window which permits access from the residence to any pool area that is without an intervening enclosure is opened or left ajar.

(5) "Indoor swimming pool" means a swimming pool that is totally contained within a building and surrounded on all four sides by walls of or within the building.

(6) "Medically frail elderly person" means any person who is at least 65 years of age and has a medical problem that affects balance, vision, or judgment, including, but not limited to, a heart condition, diabetes, or Alzheimer's disease or any related disorder.

(7) "Outdoor swimming pool" means any swimming pool that is not an indoor swimming pool.

(8) "Portable spa" means a nonpermanent structure intended for recreational bathing, in which all controls and water-heating and water-circulating equipment are an integral part of the product and which is cord-connected and not permanently electrically wired.

(9) "Public swimming pool" means a swimming pool, as defined in s. 514.011(2), which is operated, with or without charge, for the use of the general public; however, the term does not include a swimming pool located on the grounds of a private residence.

(10) "Residential" means situated on the premises of a detached one-family or two-family dwelling or a one-family townhouse not more than three stories high.

(11) "Swimming pool" means any structure, located in a residential area, that is intended for swimming or recreational bathing and contains water over 24 inches deep, including, but not limited to, in-ground, above-ground, and on-ground swimming pools; hot tubs; and nonportable spas.

(12) "Young child" means any person under the age of 6 years.

515.27 Residential swimming pool safety feature options; penalties.—

(1) In order to pass final inspection and receive a certificate of completion, a residential swimming pool must meet at least one of the following requirements relating to pool safety features:

(a) The pool must be isolated from access to a home by an enclosure that meets the pool barrier requirements of s. 515.29;

(b) The pool must be equipped with an approved safety pool cover;

(c) All doors and windows providing direct access from the home to the pool must be equipped with an exit alarm that has a minimum sound pressure rating of 85 dB A at 10 feet; or

(d) All doors providing direct access from the home to the pool must be equipped with a self-closing, self-latching device with a release mechanism placed no lower than 54 inches above the floor.

(2) A person who fails to equip a new residential swimming pool with at least one pool safety feature as required in subsection (1) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, except that no penalty shall be imposed if the person, within 45 days after arrest or issuance of a summons or a notice to appear, has equipped the pool with at least one safety feature as required in subsection (1) and has attended a drowning prevention education program as established by s. 515.31. However, the requirement of attending a drowning prevention education program is waived if such program is not offered within 45 days after issuance of the citation.

515.29 Residential swimming pool barrier requirements.—

(1) A residential swimming pool barrier must have all of the following characteristics:

(a) The barrier must be at least 4 feet high on the outside.

(b) The barrier may not have any gaps, openings, indentations, protrusions, or structural components that could allow a young child to crawl under, squeeze through, or climb over the barrier.

(c) The barrier must be placed around the perimeter of the pool and must be separate from any fence, wall, or other enclosure surrounding the yard unless the fence, wall, or other enclosure or portion thereof is situated on the perimeter of the pool, is being used as part of the barrier, and meets the barrier requirements of this section.

(d) The barrier must be placed sufficiently away from the water's edge to prevent a young child or medically frail elderly person who may have managed to penetrate the barrier from immediately falling into the water.

(2) The structure of an aboveground swimming pool may be used as its barrier or the barrier for such a pool may be mounted on top of its structure; however, such structure or separately mounted barrier must meet all barrier requirements of this section. In addition, any ladder or steps that are the means of access to an aboveground pool must be capable of being secured, locked, or removed to prevent access or must be surrounded by a barrier that meets the requirements of this section.

(3) Gates that provide access to swimming pools must open outwards away from the pool and be self-closing and equipped with a self-latching locking device, the release mechanism of which must be located on the pool side of the gate and so placed that it cannot be reached by a young child over the top or through any opening or gap.

(4) A wall of a dwelling may serve as part of the barrier if it does not contain any door or window that opens to provide access to the swimming pool.

(5) A barrier may not be located in a way that allows any permanent structure, equipment, or similar object to be used for climbing the barrier.

515.31 Drowning prevention education program; public information publication.—

(1) The department shall develop a drowning prevention education program, which shall be made available to the public at the state and local levels and which shall be required as set forth in s. 515.27(2) for persons in violation of the pool safety requirements of this chapter. The department may charge a fee, not to exceed $100, for attendance at such a program. The drowning prevention education program shall be funded using fee proceeds, state funds appropriated for such purpose, and grants. The department, in lieu of developing its own program, may adopt a nationally recognized drowning prevention education program to be approved for use in local safety education programs, as provided by rule of the department.

(2) The department shall also produce, for distribution to the public at no charge, a publication that provides information on drowning prevention and the responsibilities of pool ownership. The department, in lieu of developing its own publication, may adopt a nationally recognized drowning prevention and responsibilities of pool ownership publication, as provided by rule of the department.

515.33 Information required to be furnished to buyers.—A licensed pool contractor, on entering into an agreement with a buyer to build a residential swimming pool, or a licensed home builder or developer, on entering into an agreement with a buyer to build a house that includes a residential swimming pool, must give the buyer a document containing the requirements of this chapter and a copy of the publication produced by the department under s. 515.31 that provides information on drowning prevention and the responsibilities of pool ownership.

515.35 Rulemaking authority.—The department shall adopt rules pursuant to the Administrative Procedure Act establishing the fees required to attend drowning prevention education programs and setting forth the information required under this chapter to be provided by licensed pool contractors and licensed home builders or developers.

515.37 Exemptions.—This chapter does not apply to:

(1) Any system of sumps, irrigation canals, or irrigation flood control or drainage works constructed or operated for the purpose of storing, delivering, distributing, or conveying water.

(2) Stock ponds, storage tanks, livestock operations, livestock watering troughs, or other structures used in normal agricultural practices.

(3) Public swimming pools.

(4) Any political subdivision that has adopted or adopts a residential pool safety ordinance, provided the ordinance is equal to or more stringent than the provisions of this chapter.

(5) Any portable spa with a safety cover that complies with ASTM F1346-91(Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs).

(6) Small, temporary pools without motors, which are commonly referred to or known as "kiddy pools."

Section 19. *Implementation of sections 6 through 17 of this act is contingent upon a specific appropriation for Fiscal Year 1999-2000.*

Section 20. *All sections of this act shall take effect July 1, 1999, unless otherwise specified.*

And the title is amended as follows:

On page 2, line 18, after the semicolon (;) insert: amending s. 252.355, F.S.; revising provisions relating to registration of persons requiring special needs assistance in emergencies; creating s. 381.0303, F.S.; providing for recruitment of health care practitioners for special needs shelters; providing for reimbursement; providing duties of the Department of Health, the county health departments, and the local emergency management agencies; authorizing use of a health care practitioner registry; authorizing establishment of a special needs shelter interagency committee; providing membership and responsibilities; providing that implementing certain provisions is conditional upon the receipt of appropriations as specified; providing for rules; amending s. 400.506, F.S.; requiring nurse registries to assist at-risk clients with special needs registration and to prepare a comprehensive emergency management plan; specifying plan requirements; providing for plan review and approval; creating s. 400.492, F.S.; requiring home health agencies to prepare a comprehensive emergency management plan; specifying plan requirements; amending ss. 400.497 and 400.610, F.S.; providing minimum requirements for home health agency and hospice comprehensive emergency management plans; providing for rules; providing for plan review and approval; providing for plan review and approval for hospices operating in more than one county; providing for plan

review and approval for home health agencies operating in more than one county; amending s. 400.506, F.S.; requiring nurse registries to assist at-risk clients with special needs registration and to prepare a comprehensive emergency management plan; specifying plan requirements; providing for plan review and approval; creating s. 401.273, F.S.; amending s. 400.605, F.S.; requiring the Department of Elderly Affairs to include components for comprehensive emergency management plan in its rules establishing minimum standards for a hospice; amending s. 400.6095, F.S.; requiring that certain emergency care and service information be included in hospice patients' medical records; providing for establishment of a registry of emergency medical technicians and paramedics for disasters and emergencies; amending s. 408.15, F.S.; authorizing the Agency for Health Care Administration to establish uniform standards of care for special needs shelters; creating s. 455.276, F.S.; providing for establishment of a health practitioner registry for disasters and emergencies; requiring emergency and disaster planning provisions in certain state agency provider contracts; specifying minimum contract requirements; creating ch. 515, F.S., the "Preston de Ibern/ McKenzie Merriam Residential Swimming Pool Safety Act"; providing legislative findings and intent; providing definitions; providing pool safety feature requirements and options; providing penalties; providing pool barrier requirements; providing for a drowning prevention education program and a public information publication; providing for a fee; requiring pool contractors, home builders, and developers to provide buyers with certain information; providing rulemaking authority; providing exemptions; making the implementation of part of the act contingent upon a specific appropriation; providing an appropriation; providing an effective date.

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

Amendment 1A (501546)—On page 23, line 2, delete "*17*" and insert: *(18)*

Amendment 1 as amended was adopted.

Senator Sullivan moved the following amendment which was adopted:

Amendment 2 (703764)—On page 3, delete lines 15-27 and insert: ~~improvements.~~ *The board shall submit to the Governor and the Legislature by September 30 of each year a 5-year capital improvements program that identifies new or retrofitted facilities that will incorporate enhanced hurricane resistance standards and that can be used as public hurricane evacuation shelters.* Until a *county in which a* campus *is located* has sufficient *public hurricane evacuation* shelter space, any *campus* building for which a design contract is entered into subsequent to July 1, *2000* ~~1994~~, *and which has been identified by the board, with the concurrence of the local emergency management agency or the Department of Community Affairs, to be appropriate for use as a public hurricane evacuation shelter* must be constructed in accordance with public shelter standards ~~unless the board, with the concurrence of the local emergency management agency or the Department of Community Affairs, exempts the building or part thereof from shelter standards because of its location, size, or other characteristic~~.

Senator King moved the following amendment which was adopted:

Amendment 3 (555276)(with title amendment)—On page 8, between lines 4 and 5, insert:

Section 6. Subsection (26) of section 403.703, Florida Statutes, is amended and a new subsection (45) is added to said section to read:

403.703 Definitions.—As used in this act, unless the context clearly indicates otherwise, the term:

(26) "Storage" means the containment or holding of a hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste. *References to "storage" and "storage facilities" include management or storage of hazardous waste at hazardous waste transfer facilities.*

(45) "Hazardous waste transfer facility" means any transportation-related storage facility, including loading docks, parking areas, storage areas and other similar areas, that receive manifested shipments of hazardous waste and where such shipments are stored or held for a period of more than 24 hours, but not greater than 10 days.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 18, after the semicolon (;) insert: amending s. 403.703, F.S.; providing definitions;

On motion by Senator Sullivan, by two-thirds vote **HB 2029** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—1

Webster

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

BILLS ON THIRD READING

Consideration of **CS for SB 1148**, **CS for CS for SB 356**, **SB 8** and **CS for SB 2000** was deferred.

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; 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; 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; providing an effective date.

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

On motion by Senator Bronson, **CS for SB 1352** as amended was passed and certified to the House. The vote on passage was:

Yeas—25

Madam President	Diaz-Balart	Horne	Saunders
Burt	Dyer	Kirkpatrick	Sullivan
Carlton	Geller	Klein	Thomas
Casas	Grant	Laurent	Webster
Childers	Gutman	Lee	
Clary	Hargrett	McKay	
Dawson-White	Holzendorf	Rossin	

Nays—11

Brown-Waite	Forman	Latvala	Myers
Campbell	Jones	Meek	Silver
Cowin	King	Mitchell	

Vote after roll call:

Yea—Bronson

Nay—Kurth

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 third time by title.

On motion by Senator Grant, **CS for SB 90** was passed and certified to the House. The vote on passage was:

Yeas—23

Madam President	Forman	Klein	Rossin
Bronson	Geller	Kurth	Saunders
Burt	Grant	McKay	Sebesta
Campbell	Gutman	Meek	Silver
Carlton	Horne	Mitchell	Sullivan
Dyer	Jones	Myers	

Nays—14

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

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has returned as requested CS for SB's 2422 and 1952.

John B. Phelps, Clerk

CS for SB's 2422 and 1952—A bill to be entitled An act relating to trust funds; creating s. 215.5601, F.S.; creating the Lawton Chiles Endowment Fund for Health and Human Services; providing definitions; providing legislative intent; specifying the purposes and uses of endowment funds; providing for administration of the endowment by the State Board of Administration; providing for the availability of endowment funds; providing appropriations; creating s. 215.5602, F.S.; establishing the Florida Biomedical Research Program within the Lawton Chiles Endowment Fund; providing the goals of the program; specifying the use of funds appropriated under the program; creating the Biomedical Research Advisory Council within the Department of Health; providing for membership of the council; providing reimbursement for travel and other expenses for council members; providing duties of the council; providing for applications for funding under the program; requiring the Secretary of Health to award grants and fellowships, in consultation with the council; providing for the appointment of a peer review council to review proposals for funding; requiring the Department of Health to contract with an entity to administer the program; providing rulemaking authority; requiring the council to submit an annual report to the Governor, the Secretary of Health, and the Legislature; providing an effective date.

RECONSIDERATION OF BILL

On motion by Senator Latvala, the Senate reconsidered the vote by which **CS for SB's 2422 and 1952** as amended passed April 26.

On motion by Senator Latvala, by two-thirds vote **HB 1885** was withdrawn from the Committee on Fiscal Policy.

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

HB 1885—A bill to be entitled An act relating to trust funds; creating s. 215.5601, F.S.; creating the Lawton Chiles Endowment Fund for Children and Elders; providing definitions; providing legislative intent; specifying the purposes and uses of endowment funds; providing for administration of the endowment by the State Board of Administration; providing for the availability of endowment funds; providing appropriations; providing for management of moneys in the endowment as an annuity; amending s. 215.52, F.S.; providing rulemaking authority; providing an effective date.

—a companion measure, was substituted for **CS for SB's 2422 and 1952** and read the second time by title.

Senators Latvala and Dyer offered the following amendment which was moved by Senator Latvala and adopted:

Amendment 1 (062798)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 215.5601, Florida Statutes, is created to read:

215.5601 Lawton Chiles Endowment Fund.—

(1) SHORT TITLE.—This section may be cited as the "Lawton Chiles Endowment Fund."

(2) DEFINITIONS.—As used in this section:

(a) "Board" means the State Board of Administration established by s. 16, Art. IX of the State Constitution of 1885 and incorporated into s. 9(c), Art. XII of the State Constitution of 1968.

(b) "Endowment" means the Lawton Chiles Endowment Fund.

(c) "Earnings" means all income generated by investments and the net change in the market value of assets.

(d) "State agency" or "state agencies" means the Department of Health, the Department of Children and Family Services, the Department of Elderly Affairs, or the Agency for Health Care Administration, or any combination thereof, as the context indicates.

(3) LEGISLATIVE INTENT.—It is the intent of the Legislature to:

(a) Provide a perpetual source of funding for the future of state children's health programs, child welfare programs, community-based health and human services initiatives, and biomedical research activities.

(b) Ensure that enhancement revenues will be available to finance these important initiatives.

(c) Use tobacco settlement moneys to ensure the financial security of vital health and human services programs.

(d) Encourage the development of community-based solutions to strengthen and improve the quality of life of Florida's most vulnerable citizens.

(e) Provide funds for cancer research and public-health research for diseases linked to tobacco use.

(4) LAWTON CHILES ENDOWMENT FUND; CREATION; PURPOSES AND USES.—

(a) There is created the Lawton Chiles Endowment Fund, to be administered by the State Board of Administration. The endowment shall serve as a clearing trust fund not subject to termination pursuant to s. 19(f), Art. III of the State Constitution and shall be funded by settlement moneys received from the tobacco industry. The endowment fund shall be exempt from the service charges imposed by s. 215.20.

(b) Funds from the endowment shall be distributed by the board to trust funds of the state agencies in the amounts indicated by reference to the legislative appropriations for the state agencies, except as otherwise provided in this section.

(c) The state agencies shall use the funds from the endowment to enhance or support increases in clients served or in program costs in health and human services program areas.

(d) The Secretary of Health, the Secretary of Children and Family Services, the Secretary of Elderly Affairs, and the Director of Health Care Administration shall conduct meetings to discuss program priorities for endowment funding prior to submitting their budget requests to the Executive Office of the Governor and the Legislature. The purpose of the meetings shall be to gain consensus for priority requests and recommended endowment funding levels for those priority requests. An agency head may not designate a proxy for these meetings.

(e) Funds from the endowment may not be used to supplant existing revenues.

(f) When advised by the Revenue Estimating Conference that a deficit will occur with respect to the appropriations from the Tobacco Settlement Trust Fund in any fiscal year, the Governor shall develop a plan of action to eliminate the deficit. Before implementing the plan of action, the Governor must comply with the provisions of section 216.177(2), Florida Statutes. In developing the plan of action the Governor shall, to the extent possible, preserve legislative policy and intent, and, absent any specific directions to the contrary in the General Appropriations Act, any reductions in appropriations from the Tobacco Settlement Trust Fund for a fiscal year shall be prorated among the purposes for which funds were appropriated from the Tobacco Settlement Trust Fund for that year.

(5) ADMINISTRATION OF THE ENDOWMENT.—

(a) The board is authorized to invest and reinvest funds of the endowment in those securities listed in s. 215.47, in accordance with the fiduciary standards set forth in s. 215.47(9) and consistent with an investment plan developed by the executive director and approved by the board. Costs and fees of the board for investment services shall be deducted from the earnings accruing to the endowment.

(b) The endowment shall be managed as an annuity. The investment objective shall be long-term preservation of the real value of the principal and a specified regular annual cash outflow for appropriation, as nonrecurring revenue. The schedule of annual cash outflow shall be included within the investment plan adopted pursuant to paragraph (a).

(c) The board shall establish a separate account for the funds of the endowment. The board shall design and operate an investment portfolio that maximizes the financial return to the endowment, consistent with the risks inherent in each investment, and that is designed to preserve an appropriate diversification of the portfolio.

(d) No later than February 15, 2000, the board shall report on the financial status of the endowment to the Governor, the Speaker of the House of Representatives, the President of the Senate, the chairs of the respective appropriations and appropriate substantive committees of each chamber, and the Revenue Estimating Conference. Thereafter, the board shall make a status report to such persons no later than August 15 and February 15 of each year.

(e) Accountability for funds from the endowment which have been appropriated to a state agency and distributed by the board shall reside with the state agency. The board is not responsible for the proper expenditure or accountability of funds from the endowment after distribution to a state agency.

(f) The board may collect a fee for service from the endowment no greater than that charged to the Florida Retirement System.

(6) AVAILABILITY OF FUNDS.—

(a) Funds from the endowment shall not be available for appropriation to a state agency until July 1, 2000. Beginning July 1, 2000, the maximum annual amount of endowment funds that may be appropriated shall be in accordance with the following, based on earnings averaged over 3 years:

1. Beginning July 1, 2000, no more than a level of spending representing earnings at a rate of 3 percent.

2. Beginning July 1, 2001, no more than a level of spending representing earnings at a rate of 4 percent.

3. Beginning July 1, 2002, no more than a level of spending representing earnings at a rate of 5 percent.

4. Beginning July 1, 2003, and thereafter, no more than a level of spending representing earnings at a rate of 6 percent.

(b) Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, all unencumbered balances of appropriations as of June 30 or undisbursed balances as of December 31 shall revert to the endowment's principal.

(7) ENDOWMENT PRINCIPAL; APPROPRIATION OF EARNINGS.—The following amounts are appropriated from the Department of Banking and Finance Tobacco Settlement Clearing Trust Fund to the Lawton Chiles Endowment Fund for Health and Human Services:

1. For Fiscal Year 1999-2000, $1,100,000,000;

2. For Fiscal Year 2000-2001, $200,000,000;

3. For Fiscal Year 2001-2002, $200,000,000; and

4. For Fiscal Year 2002-2003, $200,000,000.

Section 2. Section 215.5602, Florida Statutes, is created to read:

215.5602 Florida Biomedical Research Program.—

(1) There is established within the Lawton Chiles Endowment Fund the Florida Biomedical Research Program to support research initiatives that address the health care problems of Floridians in the areas of cancer, cardiovascular disease, stroke, and pulmonary disease. The long-term goals of the program are to:

(a) Improve the health of Floridians by researching better treatments for cancer, cardiovascular disease, stroke, and pulmonary disease.

(b) Expand the foundation of biomedical knowledge relating to the diagnosis and treatment of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease.

(c) Improve the quality of the state's academic health centers by bringing the advances of biomedical research into the training of physicians and other health care providers.

(d) Increase the state's per capita funding for biomedical research by undertaking new initiatives in biomedical research that will attract additional funding from outside the state.

(e) Stimulate economic activity in the state in areas related to biomedical research, such as the research and production of pharmaceuticals, biotechnology, and medical devices.

(2) Funds appropriated from the Lawton Chiles Endowment Fund to the Department of Health for the purposes of this section shall be used exclusively for the award of grants and fellowships under the program established in this section; for research relating to the diagnosis and treatment of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease; and for expenses incurred in the administration of this section.

(3) There is created within the Department of Health the Biomedical Research Advisory Council.

(a) The council shall consist of nine members, including: the chief executive officer of the Florida Division of the American Cancer Society, or a designee; the chief executive officer of the Florida/Puerto Rico Affiliate of the American Heart Association, or a designee; and the chief executive officer of the American Lung Association of Florida, or a designee. The Governor shall appoint the remaining six members of the council, as follows:

1. Two members with expertise in the field of biomedical research.

2. One member with expertise in the field of behavioral or social research.

3. One member from a professional medical organization.

4. One member from a research university in the state.

5. One member representing the general population of the state.

In making his appointments, the Governor shall select primarily, but not exclusively, Floridians with biomedical and lay expertise in the general areas of cancer, cardiovascular disease, stroke, and pulmonary disease. The Governor's appointments shall be for a 3-year term and shall reflect the diversity of the state's population. A council member appointed by the Governor may not serve more than two consecutive terms.

(b) The council shall adopt internal organizational procedures as necessary for its efficient organization.

(c) The department shall provide such staff, information, and other assistance as is reasonably necessary to assist the council in carrying out its responsibilities.

(d) Members of the council shall serve without compensation, but may receive reimbursement as provided in s. 112.061 for travel and other necessary expenses incurred in the performance of their official duties.

(4) The council shall advise the Secretary of Health as to the direction and scope of the biomedical research program. The responsibilities of the council may include, but are not limited to:

(a) Providing advice on program priorities and emphases.

(b) Providing advice on the overall program budget.

(c) Participating in periodic program evaluation.

(d) Assisting in the development of guidelines to ensure fairness, neutrality, and adherence to the principles of merit and quality in the conduct of the program.

(e) Assisting in the development of appropriate linkages to nonacademic entities, such as voluntary organizations, health care delivery institutions, industry, government agencies, and public officials.

(f) Developing criteria and standards for the award of research grants.

(g) Developing administrative procedures relating to solicitation, review, and award of research grants and fellowships, to ensure an impartial, high-quality peer review system.

(h) Developing and supervising research peer review panels.

(i) Reviewing reports of peer review panels and making recommendations for research grants and fellowships.

(j) Developing and providing oversight regarding mechanisms for the dissemination of research results.

(5)(a) Applications for biomedical research funding under the program may be submitted from any university or established research institute in the state. All qualified investigators in the state, regardless of institution affiliation, shall have equal access and opportunity to compete for the research funding.

(b) Grants and fellowships shall be awarded by the Secretary of Health, after consultation with the council, on the basis of scientific merit, as determined by an open competitive peer review process that ensures objectivity, consistency, and high quality. The following types of applications shall be considered for funding:

1. Investigator-initiated research grants.

2. Institutional research grants.

3. Predoctoral and postdoctoral research fellowships.

(6) To ensure that all proposals for research funding are appropriate and are evaluated fairly on the basis of scientific merit, the Secretary of Health, in consultation with the council, shall appoint a peer review panel of independent, scientifically qualified individuals to review the scientific content of each proposal and establish its scientific priority score. The priority scores shall be forwarded to the council and must be considered in determining which proposals shall be recommended for funding.

(7) The council and the peer review panel shall establish and follow rigorous guidelines for ethical conduct and adhere to a strict policy with regard to conflict of interest. No member of the council or panel shall participate in any discussion or decision with respect to a research proposal by any firm, entity, or agency with which the member is associated as a member of the governing body or as an employee, or with which the member has entered into a contractual arrangement. Meetings of the council and the peer review panels shall be subject to the provisions of chapter 119, s. 286.011, and s. 24, Art. I of the State Constitution.

(8) The department may contract on a competitive-bid basis with an appropriate entity to administer the program. Administrative expenses may not exceed 15 percent of the total funds available to the program in any given year.

(9) The department, after consultation with the council, may adopt rules as necessary to implement this section.

(10) The council shall submit an annual progress report on the state of biomedical research in this state to the Governor, the Secretary of Health, the President of the Senate, and the Speaker of the House of Representatives by February 1. The report must include:

(a) A list of research projects supported by grants or fellowships awarded under the program.

(b) A list of recipients of program grants or fellowships.

(c) A list of publications in peer reviewed journals involving research supported by grants or fellowships awarded under the program.

(d) The total amount of biomedical research funding currently flowing into the state.

(e) New grants for biomedical research which were funded based on research supported by grants or fellowships awarded under the program.

(f) Progress in the treatment of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease.

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 trust funds; creating s. 215.5601, F.S.; creating the Lawton Chiles Endowment Fund for Health and Human Services; providing definitions; providing legislative intent; specifying the purposes and uses of endowment funds; providing for administration of the endowment by the State Board of Administration; providing for the availability of endowment funds; providing appropriations; providing for a plan of action when a deficit will occur with respect to appropriations from the Tobacco Settlement Trust Fund; creating s. 215.5602, F.S.; establishing the Florida Biomedical Research Program within the Lawton Chiles Endowment Fund; providing the goals of the program; specifying the use of funds appropriated under the program; creating the Biomedical Research Advisory Council within the Department of Health; providing for membership of the council; providing reimbursement for travel and other expenses for council members; providing duties of the council; providing for applications for funding under the program; requiring the Secretary of Health to award grants and fellowships, in consultation with the council; providing for the appointment of a peer review council to review proposals for funding; requiring the Department of Health to contract with an entity to administer the program; providing rulemaking authority; requiring the council to submit an annual report to the Governor, the Secretary of Health, and the Legislature; providing an effective date.

On motion by Senator Latvala, by two-thirds vote **HB 1885** as amended was read the third time by title, passed by the required constitutional three-fifths of the membership 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	Klein	Saunders
Burt	Forman	Kurth	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

MOTION

On motion by Senator McKay, by two-thirds vote debate on **CS for HB's 751, 753 and 755** was limited to 45 minutes per side.

SENATOR SILVER PRESIDING

THE PRESIDENT PRESIDING

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has accepted the Conference Committee Report as an entirety and passed CS for HB's 751, 753 and 755, as amended by the Conference Committee Report.

John B. Phelps, Clerk

CONFERENCE COMMITTEE REPORT ON CS FOR HB'S 751, 753 AND 755

The Honorable John Thrasher April 28, 1999
Speaker, House of Representatives

The Honorable Toni Jennings
President of the Senate

Dear Speaker Thrasher and President Jennings:

Your Conference Committee on the disagreeing votes of the two Houses on the Senate amendments to Committee Substitute for House Bills 751, 753, and 755, same being:

A bill to be entitled An act relating to a high-quality education system; amending s. 229.0535, F.S.; revising provisions relating to the authority of the State Board of Education to enforce school improvement; creating s. 229.0537, F.S.; providing findings and intent language; requiring private school opportunity scholarships to be provided to certain public school students; providing student eligibility requirements; providing school district requirements; providing an alternative to accepting a state opportunity scholarship; providing private school eligibility criteria; providing student attendance requirements; providing parental involvement requirements; providing a district reporting requirement; providing for calculation of the amount and distribution of state opportunity scholarship funds; authorizing the adoption of rules; amending s. 229.512, F.S.; revising provisions relating to the authority of the Commissioner of Education regarding the implementation of the program of school improvement and education accountability; amending s. 229.555, F.S., relating to educational planning and information systems; revising to conform; amending s. 229.565, F.S.; eliminating the requirement that the Commissioner of Education designate program categories and grade levels for which performance standards are to be approved; amending s. 229.57, F.S.; revising the purpose of the student assessment program; revising provisions relating to participation in the National Assessment of Educational Progress; revising the statewide assessment program; revising requirements relating to the annual report of the results of the statewide assessment program; providing for the identification of schools by performance grade category according to student and school performance data; providing for the identification of school improvement ratings; increasing the authority that each school identified in a certain performance grade category has over the allocation of the school's total budget; authorizing the negotiation of a contract for annual assessment; providing contract requirements; assigning responsibility for local assessments in subjects and grade levels other than those included in the statewide assessment program; providing for funding based on school performance; amending s. 229.58, F.S.; removing a reference to the Florida Commission on Education Reform and Accountability; amending s. 229.591, F.S.; revising provisions relating to the system of school improvement and education accountability to reflect that students are not required to attend schools designated in a certain performance grade category; revising the state education goals; revising the duties of the Department of Education with regard to school improvement; amending s. 229.592, F.S., relating to the implementation of the state system of school improvement and education accountability; removing obsolete language; removing references to the Florida Commission on Education Reform and Accountability; deleting the requirement that the Commissioner of Education appear before the Legislature; revising duties of the Department of Education; revising duties of the State Board of Education; revising provisions relating to waivers from statutes; correcting cross references; repealing s. 229.593, F.S., relating to the Florida Commission on Education Reform and Accountability; repealing s. 229.594, F.S., relating to the powers and duties of the commission; amending s. 229.595, F.S., relating to the implementation of the state system of educational accountability for school-to-work transition; revising provisions relating to the assessment of readiness to enter the workforce; removing a reference to the Florida Commission on Education Reform and Accountability; amending s. 230.23, F.S., relating to powers and duties of school boards; revising provisions relating to the compensation and salary schedules of school employees; revising provisions relating to courses of study and other instructional aids to include the term "instructional materials"; revising school board duties regarding the implementation and enforcement of school improvement and accountability; revising policies regarding public disclosure; requiring school board adoption of certain policies; amending s. 231.29, F.S.; revising the assessment procedure for school district instructional, administrative, and supervisory personnel; amending s. 231.2905, F.S.; revising provisions of the Florida School Recognition Program relating to financial awards based on employee performance; revising initial criteria for identification of schools; amending s. 232.245, F.S.; relating to pupil progression; revising requirements relating to the provision of remedial instruction; providing requirements for the use of resources for remedial instruction; requiring the adoption of rules regarding pupil progression; eliminating requirements relating to student academic improvement plans; deleting duplicative requirements relating to mandatory remedial reading instruction; amending s. 228.053, F.S., relating to developmental research schools; removing references to "Blueprint 2000"; correcting cross references; amending s. 228.054, F.S., relating to the Joint Developmental Research School Planning, Articulation, and Evaluation Committee; correcting a cross reference; amending s. 228.056, F.S.; conforming references to testing programs; amending s. 233.17, F.S., relating to the term of adoption of instructional materials; correcting cross references; amending s. 236.685, F.S., relating to educational funding accountability; correcting a cross reference; amending s. 20.15, F.S., relating to the creation of the Department of Education; removing a reference to the Florida Commission on Education Reform and Accountability; creating s. 236.08104, F.S.; establishing a supplemental academic instruction categorical fund; providing findings and intent; providing requirements for the use of funds; providing for dropout prevention program funding to be included in Group 1 FEFP programs; amending s. 236.013, F.S.; eliminating certain provisions relating to calculations of the equivalent of a full-time student; revising provisions relating to membership in programs scheduled for more than 180 days; amending s. 239.101, F.S., relating to career education; correcting cross references; amending s. 239.229, F.S., relating to vocational standards; correcting cross references; amending s. 240.529, F.S., relating to approval of teacher education programs; correcting a cross reference; creating s. 231.002, F.S.; stating an intent to increase standards for the preparation, certification, and professional development of educators; directing the Department of Education to review statutes and rules governing certification to increase efficiency, rigor, and alternatives in the certification process; requiring a report; amending s. 24.121, F.S.; specifying conditions for withholding allocations from the Educational Enhancement Trust Fund; amending s. 229.592, F.S.; prohibiting the waiver of a required report of out-of-field teachers; amending s. 230.23, F.S., relating to district school board powers and duties; requiring certain performance-based pay for school

administrators and instructional personnel; amending s. 231.02, F.S.; correcting a reference; amending s. 231.0861, F.S.; requiring the State Board of Education to approve criteria for selection of certain administrative personnel; authorizing school districts to contract with private entities for evaluation and training of such personnel; amending s. 231.085, F.S.; specifying principals' responsibilities for assessing performance of school personnel and implementing the Sunshine State Standards; amending s. 231.087, F.S.; requiring the State Board of Education to adopt rules governing the training of school district management personnel; providing for review and repeal of the Management Training Act; requiring recommendations; amending s. 231.09, F.S.; prescribing duties of instructional personnel; amending s. 231.096, F.S.; requiring a school board plan to ensure the competency of teachers with out-of-field teaching assignments; amending s. 231.145, F.S.; revising purpose to reflect increased requirements for certification; amending s. 231.15, F.S.; authorizing certification based on demonstrated competencies; requiring rules of the State Board of Education to specify certain competencies; requiring consultation with postsecondary education boards; amending s. 231.17, F.S.; revising prerequisites for certification; increasing the requirement that teachers know and use mathematics, technology, and intervention strategies with students; deleting alternative ways to demonstrate general knowledge competency; requiring demonstration of ability to maintain collaborative relationships with students' families; amending s. 231.1725, F.S.; providing legal protections for clinical field experience students; amending s. 231.174, F.S., relating to district programs for adding certification coverages; removing limitation to specific certification areas; amending s. 231.29, F.S.; revising assessment procedures for instructional personnel and school administrators; revising provisions relating to the probation of certain employees; amending s. 231.546, F.S.; specifying duties of the Education Standards Commission; amending s. 231.600, F.S.; prescribing the responsibilities of school district professional-development programs; amending s. 236.08106, F.S.; revising provisions of the Excellent Teaching Program; providing for withholding of wages to repay the certification fee subsidy owed the state by an employee who defaults; providing exceptions; authorizing the State Board of Education to adopt rules; amending s. 240.529, F.S.; requiring the Commissioner to appoint a Teacher Preparation Program Committee to recommend core curricula for state-approved teacher preparation programs and requiring the State Board of Education to adopt rules establishing uniform core curricula; revising criteria for initial and continuing approval of teacher-preparation programs; increasing the requirements for a student to enroll in and graduate from a teacher-education program; requiring preservice field experience programs to include supervised contact with lower achieving students; requiring annual reports of program performance; creating s. 231.6135, F.S.; establishing a statewide system for inservice professional development; authorizing professional development academies to meet human resource development and education instruction training needs of educators, schools, and school districts; providing for organization and operation by public and private partners; providing for funding; specifying duties of the Commissioner of Education; repealing s. 231.601, F.S., relating to purpose of inservice training for instructional personnel; amending s. 230.23, F.S.; requiring school improvement plans to include additional issues; amending s. 230.2316, F.S.; specifying the elements of dropout prevention and academic intervention programs; revising the intent of the program; revising student eligibility and program criteria; revising reporting requirements for district evaluation; providing for applications by school districts to the Department of Education for grants to operate second chance schools; establishing grant and program requirements; providing for the generation of operating funds through programs of the Florida Education Finance Program; providing new requirements for students seeking to reenter traditional schools; amending s. 231.085, F.S.; requiring principals to ensure the accuracy and timeliness of school reports; requiring principals to provide staff training opportunities; creating s. 232.001, F.S.; allowing certain district school boards to implement pilot projects to raise the compulsory age of attendance for children; providing requirements for school boards that choose to participate in pilot projects; providing for the applicability of state law and State Board of Education rule; providing an exception from the provisions relating to a declaration of intent to terminate school enrollment; requiring a study; amending s. 232.09, F.S.; clarifying scope of reference to term "criminal prosecution"; amending s. 232.17, F.S.; providing legislative findings; placing responsibility on school district superintendents for enforcing attendance; establishing requirements for school board policies; revising the current steps for enforcing regular school attendance; requiring public schools to follow the steps; establishing the requirements for school principals, primary teachers, child study teams, and parents; providing for parents to appeal; allowing the superintendent to seek criminal prosecution for parental noncompliance; requiring the parent or guardian or the superintendent to file certain petitions involving ungovernable children in certain circumstances; requiring the superintendent to provide the court with certain evidence; allowing for court enforcement for children who refuse to comply; revising the notice requirements to parents, guardians, or others; eliminating a current condition for notice; eliminating the option for referral to case staffing committees; requiring the superintendent to take steps to bring about criminal prosecution and requiring related notice; authorizing superintendents to file truancy petitions; allowing for the return of absent children to additional locations; requiring parental notification; deleting certain provisions relating to escalating series of truancy activities; amending s. 232.19, F.S., relating to habitual truancy; authorizing superintendents to file truancy petitions; requiring that a court order for school attendance be obtained as a part of services; revising the requirements that must be met prior to filing a petition; amending s. 236.081, F.S.; amending procedures that must be followed in determining the annual allocation to each school district for operation; requiring the average daily attendance of the student membership to be calculated by school and by district; requiring the district's FTE membership to be adjusted by multiplying by the average daily attendance factor; amending s. 240.529, F.S.; providing the criteria for continued program approval; providing for the requirements for instructors in postsecondary teacher preparation programs who instruct or supervise preservice field experience courses or internships; eliminating the requirement related to a commitment to teaching in the public schools for a period of time; providing additional requirements for school district and instructional personnel who supervise or direct certain teacher preparation students; amending s. 984.03, F.S.; redefining the term "habitual truant"; requiring the state attorney or the appropriate jurisdictional agency to file a child-in-need-of-services petition in certain circumstances; eliminating the requirement for referral for evaluation; providing definitions for "truancy court" and "truancy petition"; creating s. 984.151, F.S.; providing procedure for truancy petitions; providing for truancy hearings and penalties; reenacting s. 24.121(5)(b) and (c), F.S., relating to the Educational Enhancement Trust Fund, s. 120.81(1)(b), F.S., relating to tests, test scoring criteria, or testing procedures, s. 228.056(9)(e), F.S., relating to charter schools, s. 228.0565(6)(b), (c), and (d), F.S., relating to deregulated public schools, s. 228.301(1), F.S., relating to test security, s. 229.551(1)(c) and (3), F.S., relating to educational management, s. 230.03(4), F.S., relating to school district management, control, operation, administration, and supervision, s. 231.24(3)(a), F.S., relating to the process for renewal of professional certificates, s. 231.36(3)(e) and (f), F.S., relating to contracts with instructional staff, supervisors, and principals, s. 232.2454(1), F.S., relating to district student performance standards, instruments, and assessment procedures, s. 232.246(5)(a) and (b), F.S., relating to general requirements for high school graduation, s. 232.248, F.S., relating to confidentiality of assessment instruments, s. 232.2481(1), F.S., relating to graduation and promotion requirements for publicly operated schools, s. 233.09(4), F.S., relating to duties of instructional materials committees, s. 233.165(1)(b), F.S., relating to the selection of instructional materials, s. 233.25(3)(b), F.S., relating to publishers and manufacturers of instructional materials, s. 236.685(6), F.S., relating to educational funding accountability, s. 239.101(7), F.S., relating to career education, s. 239.229(1) and (3), F.S., relating to vocational standards, s. 240.118(4), F.S., relating to postsecondary feedback of information to high schools, s. 240.529(1), F.S., relating to approval of teacher preparation programs, to incorporate references; providing rulemaking authority for the State Board of Education to ensure access for nonprofit professional teacher associations; providing for severability; providing effective dates.

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

1. That the Senate recede from its Amendment 1.

2. That the House of Representatives adopt the Conference Committee amendments attached hereto, and by reference made a part of this report.

s/Evelyn J. Lynn
Chairman
s/Alex Diaz de la Portilla
s/Tom Feeney
s/Jerry G. Melvin
Beryl D. Roberts
Managers on the part of the
House of Representatives

s/Anna P. Cowin
Vice Chairman
s/Jim Horne
s/Tom Lee
s/Donald C. Sullivan, M.D.
s/Daniel Webster
Managers on the part
of the Senate

SUMMARY OF CONFERENCE COMMITTEE ACTION:

Authority to Enforce School Improvement:
SBE *must* intervene in the operation of a school district when one or more schools in the district have failed to make adequate process for *any 2 school years in a 4 year period*. "2 years in a 4 year period" means if a school has an "F" in one year and in any of the prior 3 years, then the school would be considered failing for 2 years in a 4 year period. SBE must allow parents to send children to another district school of their choice. SBE must consider whether or not the students in the failing school have available options for improved educational services.

Opportunity Scholarship Eligibility:
A public school student's parent or guardian may request an opportunity scholarship for the child to attend a private school if:

- the student has spent the prior school year at a public school that has been designated "F," and that school has had *2 school years in any 4 year period* of low performance; or the student has been assigned to such school for the next school year.
- the student has obtained acceptance in a private school eligible for the program, and the parent has notified the school district requesting an opportunity scholarship no later than July 1 of the first year in which the student intends to use the scholarship.

The provisions of the opportunity scholarship program do not apply to a student enrolled in a school operating for the purpose of providing educational services to youth in DJJ commitment programs.

For purposes of continuity of educational choice, the opportunity scholarship shall remain in force until the student returns to a public school or, if the student chooses to attend a private school the highest grade of which is grade 8, until the student matriculates to high school and the public high school to which the student is assigned is an accredited school with a performance grade of "C" or better.

School District Obligations:
For each student enrolled in or assigned to a school designated "F" for *2 school years within a 4 year period* the school district must offer the student's parent or guardian an opportunity to enroll the child in a public school within the district designated a performance grade category "C" or higher. For school designations in the 1998-1999 school year, "A"-"F" corresponds with DOE rule of "levels V-I". The opportunity to continue attending a higher performing public school remains in force until the student graduates from high school.

School districts are responsible for transportation costs of students whose parents or guardians choose to enroll their child in a higher performing public school within the district. The district may use state categorical transportation funds for this purpose.

If a parent or guardian of an eligible child chooses to enroll *and* transport the student to a higher performing public school that has available space in an adjacent school district, that adjacent district must accept and report the student for purposes of funding in the FEFP.

The school district must provide locations and times for students participating in the opportunity scholarship program to take all required statewide assessments.

Students with Disabilities:
Students with special needs who are eligible to receive services from the school district, and who participate in the opportunity scholarship program, remain eligible to receive services from the school district as provided by federal or state law.

Private School Eligibility:
A private school must be a Florida private school, may be sectarian or nonsectarian, and must do the following:

- Except for the first year of implementation, notify DOE and the local school district of its intent to participate in the opportunity scholarship program by May 1 of the school year preceding the school year in which it intends to participate. The notice must specify the grade levels and services available for the program.
- Demonstrate fiscal soundness by being in operation for one school year or provide the DOE with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu thereof, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the department.
- Comply with federal antidiscrimination provisions.
- Meet state and local health and safety laws and codes.
- Determine, on a random and religious-neutral basis *without regard to the student's past academic history* which opportunity scholarship students to accept. (Preference may be given to siblings of students already accepted under the program.)
- Be subject to the instruction, curriculum, and attendance criteria adopted by an appropriate nonpublic school accrediting body and be academically accountable to the parent or guardian as meeting the educational needs of the student. The private school must furnish a school profile which includes student performance.
- The status of accreditation, as well as the highest degree attained by each faculty member, must be included in the school's annual report to DOE.
- The private school must include in its school profile the percentage of teachers who hold regular Florida teaching certificates.
- The private school must employ or contract with teachers who hold a BS or higher degree, or have a least 3 years teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught.
- Comply with all state statutes relating to private schools.
- Accept the opportunity scholarship amount provided by the state as full tuition and fees for each student.
- Agree not to compel any opportunity scholarship student to profess a specific ideological belief, to pray, or to worship.
- The private school must adhere to the tenets of its published disciplinary procedures prior to the expulsion of an opportunity scholarship student.

Obligation of Program Participation:
In order for a student to remain eligible in the opportunity scholarship program, all of the following provisions must be met:

- The student must remain in attendance throughout the school year, unless excused by the school for illness or good cause.
- The student must comply fully with the school's code of conduct.
- The student's parent or guardian must comply fully with the private school's parental involvement requirements, unless excused by the school for illness or good cause.
- The student's parent or guardian must ensure that the student takes all required statewide assessments. The student may take the required tests at a location and time provided by the school district.
- A participant who fails to comply with the requirements of program participation forfeits the opportunity scholarship.

Opportunity Scholarship Funding and Payment:
The *maximum* opportunity scholarship granted is equivalent to the base student allocation multiplied by the weighted cost factor for the educational program provided for the student multiplied by the district cost differential. In addition, the calculated amount must include the per student share of instructional materials, technology, and other categorical funds as provided for the scholarships in the GAA.

The *amount* of the opportunity scholarship that a parent receives will be the calculated amount described above or the amount of the private school's tuition and fees, whichever is less. (Eligible fees include textbook fees, lab fees, and other related instructional fees, including transportation).

The school district must report all students attending a private school under this program separately from those students reported for purposes of the FEFP.

A public or private school that provides services to students with disabilities must receive the weighted funding for such services. For purposes of calculating the opportunity scholarship, a student will be eligible for the amount of the basic cost factor if: 1) the student currently participates in Group 1 and is not identified as having a disability, or 2) the student currently participates in Group 2 and the parent has chosen a

private school that does *not* provide additional services funded by Group 2 programs.

Following annual notification on July 1 of the number of participants from each district, DOE must transfer from the school district's appropriated funds the calculated amount from the FEFP and authorized categorical accounts for each participant to a separate account for the opportunity scholarship program.

Upon proper documentation, reviewed and approved by the DOE, the Comptroller shall make opportunity scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 1 of each academic year in which the opportunity scholarship is in force. The initial payment shall be made after DOE verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the private school. Payment must be by individual warrant made payable to the student's parent or guardian and mailed by DOE to the private school of the parent's or guardian's choice, and the parent or guardian shall restrictively endorse the warrant to the private school.

Liability:
No liability will arise on the part of the state based on any grant or use of an opportunity scholarship.

Rulemaking:
The SBE may adopt rules to implement the opportunity scholarship program. These rules must include penalties for noncompliance with the school district obligations and the program participant obligations. The regulatory authority of the state, its officers or any school district to impose additional regulation of private schools beyond those reasonably necessary to enforce requirements of the opportunity scholarship program is *not* expanded.

Students with Disabilities:
Creates a pilot program in Sarasota County to provide scholarships for students with disabilities who have failed to meet specific performance levels identified in the student's IEP. The parents may apply for a scholarship regardless of the grade of the school their child attends. Student participation is limited in the first year to 5% of students with disabilities, in the second year to 10% of students with disabilities, and in the third year and subsequent years to 20% of students with disabilities at the participating school.

Powers and Duties of the Commissioner:
Revises powers of the Commissioner to implement a program of school improvement and education accountability designed to provide all students the opportunity to make adequate learning gains in each year of school. The Commissioner shall *annually* prepare and publish reports giving statistics and other useful information pertaining to the Opportunity scholarship program.

Educational Planning:
Enhances the comprehensive management information system to clarify that the system must be able to collect, via electronic transfer, all student and school performance data and produce a comprehensive annual report on school and district performance.

Educational Evaluation Procedures:
Requires the SBE to approve student performance standards in key academic subject areas and grade levels, and eliminates the requirement that the Commissioner designate program categories and grade levels for which performance standards are to be approved.

Student Assessment Program:
Establishes requirements for the design of the student assessment program. Requires the Commissioner to direct Florida school districts to participate in the administration of the NAEP.

DOE must develop a statistical assessment tool for measuring pupil progress. The system must measure student learning on teacher, school, and district levels. The system must look at "effects" of instruction and must be able to express the distributions in linear scales.

The student achievement testing program of the statewide assessment program must be administered ***annually in grades 3 through 10*** to measure student proficiency in reading, writing, mathematics, and other content areas. Adds *science* to the areas of proficiency for which the statewide assessment must measure. Science proficiency must be measured statewide beginning in 2003.

All school districts must participate in the statewide assessment system, both the annual testing of children in grades 3 through 10 and the measurement for annual student learning and school performance. The districts must also report assessment results as required by the enhanced management information system.

Student performance data must be used in developing objectives of the school improvement plan, evaluation of instructional and administrative personnel, assignment of staff, allocation of resources, acquisition of instructional materials and technology, and promotion and assignment of students into educational programs.

The Commissioner must prepare annual reports that include the descriptions of the performance of all schools participating in the assessment program, including their *major student populations*. The reports must also include the median scores of all students who scored *at or in the lowest 25th percentile* of the state in the prior school year. Student records shall remain private.

Beginning with the 1998-99 school year, the annual report must identify schools as being "A" through "F", as defined by SBE rule:

- In the 1998-99 and 1999-2000 school years, a school's grade will be determined by students' FCAT scores and other appropriate performance data, including, but not limited to: attendance and dropout rates, school discipline data, and student readiness for college.
- Beginning with the 2000-2001 school year, a school's grade will be based on a combination of students' FCAT achievement scores, the learning gains of the students, and other appropriate performance data, including, but not limited to: attendance and dropout rates, school discipline data, and student readiness for college.
- Beginning with the 2001-2002 school year and thereafter, a school's grade will be based on student learning gains as measured by the annual student FCAT assessments in grades 3-10, and on other appropriate performance data, including, but not limited to: attendance and dropout rates, school discipline data, cohort graduation rate, and student readiness for college.

For purposes of implementing the opportunity scholarship program, a school identified as critically low performing based on both 1996-97 and 1997-98 school performance data and state board-adopted criteria, and that receives a school grade of "F" based upon 1998-99 school performance data is considered to have failed to make adequate progress for 2 years. All other schools that receive a school grade of "F" based on 1998-99 school performance data are considered to have failed to make adequate progress for 1 year. If any of the 4 schools that were critically low performing 96-97 and 97-98 receives an "F" in 98-99 they are considered as failing for 2 years.

Beginning in the 1999-2000 school year, each school designated in performance grade category "A," making excellent progress, or as having improved at least two performance grade categories, shall have greater authority over the allocation of the school's total budget generated from the FEFP, state categoricals, lottery funds, grants, and local funds, as specified in state board rule. The rule will provide that the increased budget authority shall remain in effect until the school's performance grade declines.

Student assessment data used in determining a school grade must include: 1) the median scores of all eligible students enrolled in the school who were assessed on the FCAT, and 2) the median scores of all eligible students enrolled in the school who were assessed on the FCAT and scored at or in the lowest 25th percentile in the state the prior school year. The DOE shall study the effects of mobility on the performance of highly mobile students and recommend programs to improve the performance of such students.

Beginning with the 1999-2000 school year, schools will be given an improvement rating. The annual report must identify each school's performance as having improved, remained the same, or declined. The improvement rating is based on a comparison of the current year's and prior year's student and school performance data. Schools that improve at least one grade are eligible for school recognition awards.

School report cards must be published annually by the DOE and the school district. They must be in an easy-to-read format. Parents and guardians are entitled to a school report card for the school in which their child is enrolled.

Statewide Assessments

- Must be capable of measuring a student's mastery of the Sunshine State Standards for that grade level and above.
- Must be capable of measuring the annual progress of each student in mastering the Sunshine State Standards.
- Must include measures in reading and mathematics in every grade

level and measures for writing in grades 4, 8, and 10.
- Must include a norm-referenced subtest.
- Adds science to the measures tested in grades 4, 8, and 10. Science is to begin statewide in 2003.
- Assessments must be designed to protect integrity of the data and prevent score inflation.
- Assessment system must use measures of student learning to determine student, classroom, school, and district.
- DOE and OPPAGA must use recognized approaches to statistical variance and estimating random effects.

Annual assessments that do not contain performance items shall be administered *no earlier* than March of each school year. Subtests that contain performance items may be given earlier than March, if they provide valid data on comparisons of student learning from year to year.

Local assessments must measure subject and *grade levels* other than those required by state assessments. Assessments must be implemented statewide no later than the spring of the 2000-2001 school year. The Legislature may factor in school performance in calculating performance-based funding policy provided for in the GAA.

Comprehensive Revision of System of School Improvement:
- Adds conforming language to implement changes in Art. IX of the State Constitution.
- Provides for schools designated "D" and "F" to receive assistance and intervention.

Implementation of System of School Improvement:
- Deletes requirements of the annual identification of the allocation and uses of Education Enhancement Trust Funds in annual reports by schools and school districts.
- Precludes waiver of requirement for *reporting of out-of-field teaching assignments*. Adds provisions for deregulated status for schools (upon request of the school) designated as making excellent progress or schools that have improved at least two performance grade categories.
- Requires DOE to assign a community assessment team to each school district with a school designated as "D" or "F" to review the school performance data and determine causes for low performance. The team must make recommendations to the school board, DOE, and SBE for implementing an assistance and intervention plan. The assessment team must be made up of a DOE representative, parents, business representatives, educators, and community activists and must represent the demographics of the community.
- District school boards are encouraged to prioritize the expenditures of funds received from specific appropriation 110A of the General Appropriations Act of FY 1999-2000 to improved student performance in schools that receive a performance grade category designation of "D" or "F."

Florida Commission on Education Reform & Accountability:
Repeals the Florida Commission on Education Reform & Accountability.

Powers of School Board:
The school board must develop a **2-year** plan of increasing individualized assistance and intervention for each school *in danger* of not meeting state standards or making adequate progress.

The school board must notify the Commissioner and the SBE by the end of **2 years** of any school that fails to make adequate progress *in any 4 year period*. School districts must provide intervention and assistance to schools in danger of being designated as "F," failing to make adequate progress.

Authorizes school boards to declare an emergency when it they have 1 or more schools that are "D" or "F" and with appropriate bargaining units are able to free these schools from contract restrictions that limit the school's ability to implement programs and strategies needed to improve student performance.

Assessment Procedures and Criteria:
Revises the assessment procedure for school district instructional, administrative, and supervisory personnel. Beginning with full implementation of annual learning gains, such assessments must be based *primarily* on student performance.

Florida School Recognition Program:
Revises program to provide greater autonomy in addition to financial awards to schools that sustain high performance. The program must add school grade criteria and student learning gains in its initial eligibility criteria. Adds graduation rate and cohort graduation rate to the initial criteria for eligibility.

Pupil Progression:
Students must receive remediation or may be retained with an intensive program that is different from the previous year's program and that takes into account the student's learning style. School boards may not assign a student to a grade level based solely upon the student's age or other factors that constitute social promotion. They are directed to allocate remedial and supplemental instructional resources first to students who fail to meet achievement performance levels required for promotion.

Requires the state board rules to specifically address the promotion of students with limited English proficiency and students with disabilities, and a school district to consider an appropriate alternative placement for a student who has been retained for 2 or more years.

Supplemental Academic Instruction Categorical Fund:
Creates the Supplemental Academic Instruction Categorical Fund to provide supplemental instruction to students in kindergarten through grade 12. Beginning with the 1999-2000 school year, FTE funding in the FEFP for instruction beyond the regular 180-day school year will only be provided for students enrolled in juvenile justice education programs.

Summer school FTE membership is as set forth in statute unless otherwise provided in GAA. Dropout prevention programs are included in Group 1 programs under s. 236.081(1)(d)3., F.S., meaning the cap on student enrollment in dropout prevention programs is removed.

Each school district receiving funds from the Supplemental Categorical must submit to DOE a plan which identifies students to be served and the scope of the supplemental instruction to be provided. Districts must also document the district's progress in the areas of academic improvement, graduation rate, dropout rate, attendance rate, retention/promotion rate. DOE must compile an annual report to be submitted to the presiding officers by Feb. 15.

FSU School:
Allows the FSU School to spend from its FEFP or lottery funds money for reading, writing or math remediation for any student who requires postsecondary remediation.

Definitions of FTE:
Eliminates certain provisions relating to calculations of the equivalent of a full-time student, and revises provisions relating to membership in programs scheduled for more than 180 days to include students enrolled in juvenile justice education programs.

Graduation and Dropout Rates:
Adopts new graduation and cohort graduation rates and study, which may include a 5-year rate as well as a 4-year rate.

Allocation of Lottery Revenue:
Effective July 1, 2002, failure of a district to adopt and implement a performance pay policy will also result in withholding allocations from the EETF.

Performance Pay Policy:
By June 30, 2002, school boards are required to adopt a performance pay policy which must base at least 5 percent of the salary of school administrators and instructional personnel on annual performance. The policy is subject to negotiation as provided in Ch. 447, F.S. Employees who demonstrate outstanding performance must be allowed to earn 5 percent of their individual salary. Failure to comply will result in withholding of lottery dollars.

Principals and Assistant Principals:
The SBE is required to approve criteria for selection of assistant principals and principals, and authorize school districts to contract with private entities for assessment, evaluation, and training.

Duties of Principals:
Principals are assigned the responsibility for performance of school personnel. They are required to apply a personnel assessment system approved by the school board.

Management Training Act:
The SBE must adopt rules regarding the training of school district management personnel. The bill directs OPPAGA, in consultation with DOE, to conduct a comprehensive review of the Management Training Act to determine its effectiveness and submit recommendations to the Legislature by January 1, 2000. The Management Training Act is repealed effective June 30, 2000.

Duties of Instructional Personnel:
The *primary* duties of instructional personnel are to help students meet or exceed learning goals, state and local achievement requirements, and to master skills to graduate from high school and be prepared for post-secondary education, technical education, or work. These duties apply to instructional personnel whether they teach or function in a support role. Adds provisions of technology-based instruction with regards to teacher's duty.

Teacher Teaching Out-of-Field:
School boards are required to adopt and implement a plan to ensure the *competency* of teachers with out-of-field teaching assignments. Out-of-field teachers must participate in a certification, staff development, or peer assistance program. The cost of the program must be funded by the school board.

Instructional Personnel Certification:
Legislative intent is to provide for high quality education and increased certification requirements to assure that educational personnel in public schools possess appropriate skills in reading, writing, and mathematics so as to demonstrate an acceptable level of professional performance. Adds adequate pedagogical knowledge to include the use of technology.

Position for which Certification Required:
The SBE rules must allow professional educators to **add** areas of certification to a professional certificate *without* completing associated course requirements if the certificateholder attains a passing score on an examination of competency in the subject area to be added and provides evidence of a least two years of satisfactory evaluations that considered performance. Individuals who have specific subject area expertise but who have not completed a standard teacher preparation program may participate in an alternative certification program for a professional certificate. Adds use of technology to enhance student learning to SBE school classification services.

Eligibility and Certification:
Requirements for individuals applying for a **temporary certificate** on or after July 1, 2000, are *expanded* to include a demonstrated mastery of general knowledge, including the ability to *read, write, and compute.* Acceptable ways of demonstrating mastery are passing scores on another state's general knowledge examination or another state's valid standard teacher's certificate. The other state must also have required general mastery. Adds the use of technology to teacher requirements under temporary and professional certificate.

Teacher Preparation:
While performing in a clinical field experience, *students* enrolled in a state approved teacher preparation program are given the same protections of law as certified teachers. Districts may design alternative preparation programs for certified teachers to add additional coverage to their certificates **beyond** the current limitations of certificates to teach exceptional education classes or other areas of critical shortage.

Assessment Procedures and Criteria:
School administrators are *added* to personnel subject to the assessment procedure. A new assessment criteria indicator is added relating to performance of students as measured by state assessments and by local assessments for subjects and grade levels not measured by the state assessment program. The ability to communicate with parents criterion is strengthened by new language requiring establishment and maintenance of a positive collaborative relationship with students' families to increase student achievement. Provides for the performance of students to be the primary basis for assessment procedure.

Education Standards Commission:
The Education Standards Commission is required to recommend to the SBE **high** standards. The standards must be consistent with the state's duty to provide a high-quality system of public education to all students.

Professional Development System:
The purpose of the professional development system is *expanded* to include enabling the school community to meet state and local student achievement standards and the state education goals.

Excellent Teaching Program:
Removes 50 percent bonus to districts for teachers who apply for the Excellent Teaching Program, which will free up additional dollars to serve more teachers.

Adds provisions for repayment of the certification fee within 60 days of notice of default by the employee through payroll deductions. Authorizes SBE to adopt rules for implementation of payment of fee subsidies, incentives, bonuses, and repayment of defaulted certification fees.

Public Accountability:
Revises legislative intent to establish a system that is *accountable* for producing graduates with competencies and skills necessary to achieve the state education goals; help students meet high standards for academic achievement; maintain safe, secure classroom learning environments; and sustain school improvement and accountability.

Statewide System for Inservice Professional Development:
A statewide system of professional development is established to provide a wide range of targeted inservice training to teachers and administrators, designed to upgrade skills and knowledge needed to reach world class standards in education. A network of professional development academies in each region of the state operated in partnership with area business partners is established to develop and deliver high quality training programs purchased by the school districts.

School Safety and Discipline:
School improvement plans are required to include specific *school safety* and discipline strategies. Requires dropout prevention programs to employ diagnostic and assessment procedures. The educational program must provide *character* and law education, along with curricula and related services. Dropout prevention programs are *expanded* to include eligible students in *grades 1 through 3*.

DOE provides 1 year startup grants for school districts seeking partnerships with private nonprofit or for-profit providers or public entities to start second chance schools. Students seeking to reenter traditional schools must complete a *character education* program and demonstrate preparedness to reenter rather than have an evaluation by school district personnel.

Adds a provision that a child cannot be labeled as a potential dropout by being from a single parent family. Requires notification of parent prior to placement of student in academic intervention program.

Duties of Principals:
Principals must ensure the accuracy and timeliness of all school reports and provide staff training opportunities in addition to other duties. Principals who fail to comply are *ineligible* for performance pay policy incentives.

Raising Compulsory Age:
As authorized in the GAA, Manatee County may implement a pilot project to raise the compulsory age of attendance from 16 to 18.

Enforcement of School Attendance:
Superintendents are responsible for enforcing attendance, including recommendations to the school board. School board policies must require that absences have parental justification, and provide for tracking of absences and contacting homes. Revises court procedures and penalties for habitual truancy cases. The superintendent may file a truancy or Children-In-Need-of-Services petition for a habitual truant.

Beginning in the 1999-2000 school year, an average daily attendance factor will be computed by dividing the total daily attendance for all students by the total student membership; this figure is then divided by the number of days in the regular school year (180 days). Beginning in the 2001-2002 school year, the district's FTE membership will be adjusted by multiplying by the average daily attendance factor.

The definition of habitually truant is revised. Creates provisions for truancy petition, prosecution, and disposition.

Professional Teacher Associations:
SBE must adopt rules to ensure that not-for-profit, professional teacher associations which offer membership to teachers, non-instructional personnel, and administrators, and which offer teacher training at no fee to the district be given equal access to voluntary teacher meetings, and teacher mailboxes for distribution of professional literature, and be authorized to collect voluntary membership fees.

Conference Committee Amendment (761259)(with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Section 229.0535, Florida Statutes, is amended to read:

229.0535 Authority to enforce school improvement.—It is the intent of the Legislature that all public schools be held accountable for ~~ensuring that~~ students *performing* ~~perform~~ at acceptable levels. A system of school improvement and accountability that assesses student performance by school, identifies schools *in which students are not making* ~~not~~

~~providing~~ adequate progress *toward state standards*, ~~and~~ institutes appropriate measures for enforcing improvement, *and provides rewards and sanctions based on performance* shall be the responsibility of the State Board of Education.

(1) Pursuant to Art. IX of the State Constitution prescribing the duty of the State Board of Education to supervise Florida's public school system and notwithstanding any other statutory provisions to the contrary, the State Board of Education shall ~~have the authority to~~ intervene in the operation of a district school system *when* ~~in cases where~~ one or more schools in *the* ~~a~~ school district have failed to make adequate progress for *2* ~~3 consecutive~~ school years *in a 4-year period. For purposes of determining when a school is eligible for state board action and opportunity scholarships for its students, the terms "2 years in any 4-year period" and "2 years in a 4-year period" mean that in any year that a school has a grade of "F," the school is eligible for state board action and opportunity scholarships for its students if it also has had a grade of "F" in any of the previous 3 school years. Except as otherwise provided in s. 229.57(8), a performance rating based on data before the 1998-1999 school year data may not be included in a 4-year period*. The state board may determine that the school district *or* ~~and/or~~ school has not taken steps sufficient *for* ~~to ensure that~~ students in the school *to be academically* ~~in question are~~ well served. Considering recommendations of the Commissioner of Education, the state board *shall* ~~is authorized to~~ recommend action to a district school board ~~that is~~ intended to *improve* ~~ensure improved~~ educational services to students in *each school that is designated as performance grade category "F."* ~~the low-performing schools in question.~~ Recommendations for actions to be taken in the school district shall be made only after thorough consideration of the unique characteristics of a school, which shall ~~also~~ include student mobility rates, ~~and~~ the number and type of exceptional students enrolled in the school*, and the availability of options for improved educational services*. The state board shall adopt by rule steps to follow in this process. Such steps shall *provide* ~~ensure that~~ school districts ~~have~~ sufficient time to improve student performance in schools and ~~have had~~ the opportunity to present evidence of assistance and interventions that the school board has implemented.

(2) The state board is specifically authorized to recommend one or more of the following actions to school boards to *enable* ~~ensure that~~ students in ~~low-performing~~ schools *designated as performance grade category "F" to be academically* ~~are~~ well served by the public school system:

(a) Provide additional resources, change certain practices, and provide additional assistance if the state board determines the causes of inadequate progress to be related to school district policy or practice;

(b) Implement a plan that satisfactorily resolves the education equity problems in the school;

(c) Contract for the educational services of the school, or reorganize the school at the end of the school year under a new principal who is authorized to hire new staff and implement a plan that addresses the causes of inadequate progress;

(d) Allow parents of students in the school to send their children to another district school of their choice~~, if appropriate~~; or

(e) Other action ~~as deemed~~ appropriate to improve the school's performance.

(3) In recommending actions to school boards, the State Board of Education shall specify the length of time available to implement the recommended action. The state board may adopt rules to further specify how it may respond in specific circumstances. No action taken by the state board shall relieve a school from state accountability requirements.

(4) The State Board of Education is authorized to require the Department of Education or Comptroller to withhold any transfer of state funds to the school district if, within the timeframe specified in state board action, the school district has failed to comply with *the* ~~said~~ action ordered to improve *the district's* low-performing schools. Withholding the transfer of funds shall occur only after all other recommended actions for school improvement have failed to improve ~~the~~ performance ~~of the school~~. The State Board of Education may invoke the same penalty to any school board that fails to develop and implement a plan for assistance and intervention for low-performing schools as specified in s. 230.23(16)(c).

Section 2. Section 229.0537, Florida Statutes, is created to read:

229.0537 Opportunity Scholarship Program.—

(1) FINDINGS AND INTENT.—The purpose of this section is to provide enhanced opportunity for students in this state to gain the knowledge and skills necessary for postsecondary education, a technical education, or the world of work. The Legislature recognizes that the voters of the State of Florida, in the November 1998 general election, amended s. 1, Art. IX, of the Florida Constitution so as to make education a paramount duty of the state. The Legislature finds that the State Constitution requires the state to provide the opportunity to obtain a high-quality education. The Legislature further finds that a student should not be compelled, against the wishes of the student's parent or guardian, to remain in a school found by the state to be failing for 2 years in a 4-year period. The Legislature shall make available opportunity scholarships in order to give parents and guardians the opportunity for their children to attend a public school that is performing satisfactorily or to attend an eligible private school when the parent or guardian chooses to apply the equivalent of the public education funds generated by his or her child to the cost of tuition in the eligible private school as provided in paragraph (6)(a). Eligibility of a private school shall include the control and accountability requirements that, coupled with the exercise of parental choice, are reasonably necessary to secure the educational public purpose, as delineated in subsection (4).

(2) OPPORTUNITY SCHOLARSHIP ELIGIBILITY.—A public school student's parent or guardian may request and receive from the state an opportunity scholarship for the child to enroll in and attend a private school in accordance with the provisions of this section if:

(a) By assigned school attendance area or by special assignment, the student has spent the prior school year in attendance at a public school that has been designated pursuant to s. 229.57 as performance grade category "F," failing to make adequate progress, and that has had two school years in a 4-year period of such low performance, and the student's attendance occurred during a school year in which such designation was in effect; or the parent or guardian of a student who has been in attendance elsewhere in the public school system or who is entering kindergarten or first grade has been notified that the student has been assigned to such school for the next school year;

(b) The parent or guardian has obtained acceptance for admission of the student to a private school eligible for the program pursuant to subsection (4), and has notified the Department of Education and the school district of the request for an opportunity scholarship no later than July 1 of the first year in which the student intends to use the scholarship.

The provisions of this section shall not apply to a student who is enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs. For purposes of continuity of educational choice, the opportunity scholarship shall remain in force until the student returns to a public school or, if the student chooses to attend a private school the highest grade of which is grade 8, until the student matriculates to high school and the public high school to which the student is assigned is an accredited school with a performance grade category designation of "C" or better. However, at any time upon reasonable notice to the Department of Education and the school district, the student's parent or guardian may remove the student from the private school and place the student in a public school, as provided in subparagraph (3)(a)2.

(3) SCHOOL DISTRICT OBLIGATIONS.—

(a) A school district shall, for each student enrolled in or assigned to a school that has been designated as performance grade category "F" for 2 school years in a 4-year period:

1. Timely notify the parent or guardian of the student as soon as such designation is made of all options available pursuant to this section; and

2. Offer that student's parent or guardian an opportunity to enroll the student in the public school within the district that has been designated by the state pursuant to s. 229.57 as a school performing higher than that in which the student is currently enrolled or to which the student has been assigned, but not less than performance grade category "C." For purposes

of identifying higher performing public schools eligible for parental choice for the 1999-2000 school year, school performance grade category designations for the 1998-1999 school year shall be the equivalent of the corresponding performance level I-V specified in state board rule at the time this act becomes a law. Levels I through V shall correspond to school performance grade categories "F" through "A," respectively. The parent or guardian is not required to accept this offer in lieu of requesting a state opportunity scholarship to a private school. The opportunity to continue attending the higher performing public school shall remain in force until the student graduates from high school.

(b) The parent or guardian of a student enrolled in or assigned to a school that has been designated performance grade category "F" for 2 school years in a 4-year period may choose as an alternative to enroll the student in and transport the student to a higher-performing public school that has available space in an adjacent school district, and that school district shall accept the student and report the student for purposes of the district's funding pursuant to the Florida Education Finance Program.

(c) For students in the district who are participating in the state Opportunity Scholarship Program, the district shall provide locations and times to take all statewide assessments required pursuant to s. 229.57.

(d) Students with disabilities who are eligible to receive services from the school district under federal or state law, and who participate in this program, remain eligible to receive services from the school district as provided by federal or state law.

(e) If for any reason a qualified private school is not available for the student or if the parent or guardian chooses to request that the student be enrolled in the higher performing public school, rather than choosing to request the state opportunity scholarship, transportation costs to the higher performing public school shall be the responsibility of the school district. The district may utilize state categorical transportation funds or state-appropriated public school choice incentive funds for this purpose.

(4) PRIVATE SCHOOL ELIGIBILITY.—To be eligible to participate in the opportunity scholarship program, a private school must be a Florida private school, may be sectarian or nonsectarian, and must:

(a) Demonstrate fiscal soundness by being in operation for one school year or provide the Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such a statement, a surety bond or letter of credit for the amount equal to the opportunity scholarship funds for any quarter may be filed with the department.

(b) Except for the first year of implementation, notify the Department of Education and the school district in whose service area the school is located of its intent to participate in the program under this section by May 1 of the school year preceding the school year in which it intends to participate. The notice shall specify the grade levels and services that the private school has available for the opportunity scholarship program.

(c) Comply with the antidiscrimination provisions of 42 U.S.C. s. 2000d.

(d) Meet state and local health and safety laws and codes.

(e) Accept scholarship students on an entirely random and religious-neutral basis without regard to the student's past academic history; however, the private school may give preference in accepting applications to siblings of students who have already been accepted on a random and religious-neutral basis.

(f) Be subject to the instruction, curriculum, and attendance criteria adopted by an appropriate nonpublic school accrediting body and be academically accountable to the parent or guardian for meeting the educational needs of the student. The private school must furnish a school profile which includes student performance.

(g) Employ or contract with teachers who hold a baccalaureate or higher degree, or have at least 3 years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught.

(h) Comply with all state statutes relating to private schools.

(i) Accept as full tuition and fees the amount provided by the state for each student.

(j) Agree not to compel any student attending the private school on an opportunity scholarship to profess a specific ideological belief, to pray, or to worship.

(k) Adhere to the tenets of its published disciplinary procedures prior to the expulsion of any opportunity scholarship student.

(5) OBLIGATION OF PROGRAM PARTICIPATION.—

(a) Any student participating in the opportunity scholarship program must remain in attendance throughout the school year, unless excused by the school for illness or other good cause, and must comply fully with the school's code of conduct.

(b) The parent or guardian of each student participating in the opportunity scholarship program must comply fully with the private school's parental involvement requirements, unless excused by the school for illness or other good cause.

(c) The parent or guardian shall ensure that the student participating in the opportunity scholarship program takes all statewide assessments required pursuant to s. 229.57.

(d) A participant who fails to comply with this subsection shall forfeit the opportunity scholarship.

(6) OPPORTUNITY SCHOLARSHIP FUNDING AND PAYMENT.—

(a)1. The maximum opportunity scholarship granted for an eligible student shall be a calculated amount equivalent to the base student allocation multiplied by the appropriate cost factor for the educational program that would have been provided for the student in the district school to which he or she was assigned, multiplied by the district cost differential. In addition, the calculated amount shall include the per-student share of instructional materials funding, technology funding, and other categorical funds as provided for this purpose in the General Appropriations Act. The amount of the opportunity scholarship shall be the calculated amount or the amount of the private school's tuition and fees, whichever is less. Fees eligible shall include textbook fees, lab fees, and other fees related to instruction, including transportation. The district shall report all students who are attending a private school under this program. The students attending private schools on opportunity scholarships shall be reported separately from those students reported for purposes of the Florida Education Finance Program. The public or private school that provides services to students with disabilities shall receive the weighted funding for such services at the appropriate funding level consistent with the provisions of s. 236.025.

2. For purposes of calculating the opportunity scholarship, a student will be eligible for the amount of the appropriate basic cost factor if:

a. The student currently participates in a Group I program funded at the basic cost factor and is not subsequently identified as having a disability; or

b. The student currently participates in a Group II program and the parent has chosen a private school that does not provide the additional services funded by the Group II program.

3. Following annual notification on July 1 of the number of participants, the Department of Education shall transfer from each school district's appropriated funds the calculated amount from the Florida Education Finance Program and authorized categorical accounts to a separate account for the Opportunity Scholarship Program for quarterly disbursement to the parents or guardians of participating students.

(b) Upon proper documentation reviewed and approved by the Department of Education, the Comptroller shall make opportunity scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 1 of each academic year in which the opportunity scholarship is in force. The initial payment shall be made after Department of Education verification of admission acceptance and subsequent payments shall be made upon verification of continued enroll-

ment and attendance at the private school. Payment must be by individual warrant made payable to the student's parent or guardian and mailed by the Department of Education to the private school of the parent's or guardian's choice and the parent or guardian shall restrictively endorse the warrant to the private school.

(7) LIABILITY.—No liability shall arise on the part of the state based on any grant or use of an opportunity scholarship.

(8) RULES.—The State Board of Education may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section. Rules shall include penalties for noncompliance with subsections (3) and (5). However, the inclusion of eligible private schools within options available to Florida public school students does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.

Section 3. *(1) PILOT PROGRAM.—There is established a pilot program, which is separate and distinct from the Opportunity Scholarship Program, in the Sarasota school district, to provide scholarships to a public or private school of choice for students with disabilities whose academic progress in at least two areas has not met expected levels for the previous year, as determined by the student's individual education plan. Student participation in the pilot program is limited to 5 percent of the students with disabilities in the school district during the first year, 10 percent of students with disabilities during the second year, and 20 percent of students with disabilities during the third and subsequent years. The following applies to the pilot program:*

(a) To be eligible to participate in the pilot program, a private school must meet all requirements of s. 229.0537(4), Florida Statutes, except for the accreditation requirements of s. 229.0537(4)(f), Florida Statutes. For purposes of the pilot program, notification under s. 229.0537(4)(b), Florida Statutes, must be separate from the notification under the Opportunity Scholarship Program.

(b) The school district that participates in the pilot program must comply with the requirements in s. 229.0537(3)(a)2., (c), and (d), Florida Statutes.

(c) The amount of the scholarship in the pilot program shall be equal to the amount the student would have received under the Florida Education Finance Program in the public school to which he or she is assigned.

(d) To be eligible for a scholarship under the pilot program, a student or parent must:

1. Comply with the eligibility criteria in s. 229.0537(2)(b), Florida Statutes, and all provisions of s. 229.0537, Florida Statutes, which apply to students with disabilities;

2. For the school year immediately prior to the year in which the scholarship will be in effect, have documented the student's failure to meet specific performance levels identified in the individual education plan; or, absent specific performance levels identified in the individual education plan, the student must have performed below grade level on state or local assessments and the parent must believe that the student is not progressing adequately toward the goals in the individual education plan; and

3. Have requested the scholarship prior to the time at which the number of valid requests exceeds the district's cap for the year in which the scholarship will be awarded.

(2) The provisions s. 229.0537(6) and (8), Florida Statutes, shall apply to the pilot program authorized in this section. This pilot program is not intended to affect the eligibility of the state or school district to receive federal funds for students with disabilities.

Section 4. Subsection (14) of section 229.512, Florida Statutes, is amended, present subsections (15) and (16) are renumbered as subsections (18) and (19), respectively, and new subsections (15), (16), and (17) are added to that section, to read:

229.512 Commissioner of Education; general powers and duties.—The Commissioner of Education is the chief educational officer of the state, and has the following general powers and duties:

(14) To implement a program of school improvement and education accountability *designed to provide all students the opportunity to make adequate learning gains in each year of school* as provided by statute and State Board of Education rule ~~which is~~ based upon the achievement of the state education goals, recognizing the State Board of Education as the body corporate responsible for the supervision of the system of public education, the school board as responsible for school and student performance, and the individual school as the unit for education accountability.~~;~~

(15) To arrange for the preparation, publication, and distribution of materials relating to the state system of public education which ~~will~~ supply information concerning needs, problems, plans, and possibilities.~~;~~

(16)(a) To prepare and publish annually reports giving statistics and other useful information pertaining to the state system of public education; and

(b) To prepare and publish annually reports giving statistics and other useful information pertaining to the Opportunity Scholarship Program.

(17) To have printed copies of school laws, forms, instruments, instructions, and regulations of the State Board of Education and ~~to~~ provide for *their* ~~the~~ distribution ~~of the same~~.

Section 5. Section 229.555, Florida Statutes, is amended to read:

229.555 Educational planning and information systems.—

(1) EDUCATIONAL PLANNING.—

(a) The commissioner shall be responsible for all planning functions for the department, including collection, analysis, and interpretation of all data, information, test results, evaluations, and other indicators that are used to formulate policy, identify areas of concern and need, and serve as the basis for short-range and long-range planning. Such planning shall include assembling data, conducting appropriate studies and surveys, and sponsoring research and development activities designed to provide information about educational needs and the effect of alternative educational practices.

(b) Each district school board shall maintain a continuing system of planning and budgeting ~~which shall be~~ designed to aid in identifying and meeting the educational needs of students and the public. Provision shall be made for coordination between district school boards and community college district boards of trustees concerning the planning for vocational and adult educational programs. The major emphasis of the system shall be upon locally determined goals and objectives, the state plan for education, and the *Sunshine State* ~~minimum performance~~ Standards developed by the Department of Education *and adopted by the State Board of Education*. The district planning and budgeting system must include consideration of student achievement data obtained pursuant to s. 229.57. The system shall be structured to meet the specific management needs of the district *and to align*~~. The system of planning and budgeting shall ensure that~~ the budget adopted by the district school board *with* ~~reflect~~ the plan the board has also adopted. Each district school board shall utilize its system of planning and budgeting to emphasize a system of school-based management in which individual school centers become the principal planning units and ~~eventually~~ to integrate planning and budgeting at the school level.

(2) COMPREHENSIVE MANAGEMENT INFORMATION SYSTEMS.—The commissioner shall develop and implement an integrated information system for educational management. *The system must be designed to collect, via electronic transfer, all student and school performance data required to ascertain the degree to which schools and school districts are meeting state performance standards, and must be capable of producing data for a comprehensive annual report on school and district performance. In addition,* the system shall support, as feasible, the management decisions to be made in each division of the department and at the individual school and district levels. Similar data elements among divisions and levels shall be compatible. The system shall be based on an overall conceptual design; the information needed for such decisions, including fiscal, student, program, personnel, facility, community, evaluation, and other relevant data; and the relationship between cost and effectiveness. The system shall be managed and administered by the commissioner and shall include a district subsystem component

to be administered at the district level, with input from the reports-and-forms control management committees. Each district school system with a unique management information system shall assure that compatibility exists between its unique system and the district component of the state system *so* ~~to the extent~~ that all data required as input to the state system *is* ~~shall be~~ made available *via electronic transfer and* in the appropriate input format.

(a) The specific responsibilities of the commissioner shall include:

1. Consulting with school district representatives in the development of the system design model and implementation plans for the management information system for public school education management;

2. Providing operational definitions for the proposed system;

3. Determining the information and specific data elements required for the management decisions made at each educational level, recognizing that the primary unit for information input *is* ~~shall be~~ the individual school and recognizing that time and effort of instructional personnel expended in collection and compilation of data should be minimized;

4. Developing standardized terminology and procedures to be followed at all levels of the system;

5. Developing a standard transmittal format to be used for collection of data from the various levels of the system;

6. Developing appropriate computer programs to assure integration of the various information components dealing with students, personnel, facilities, fiscal, program, community, and evaluation data;

7. Developing the necessary programs to provide statistical analysis of the integrated data provided in subparagraph 6. in such a way that required reports may be disseminated, comparisons may be made, and relationships may be determined in order to provide the necessary information for making management decisions at all levels;

8. Developing output report formats which will provide district school systems with information for making management decisions at the various educational levels;

9. Developing a phased plan for distributing computer services equitably among all public schools and school districts in *the* ~~this~~ state as rapidly as possible. The plan shall describe alternatives available to the state in providing such computing services and shall contain estimates of the cost of each alternative, together with a recommendation for action. In developing *the* ~~such~~ plan, the feasibility of shared use of computing hardware and software by school districts, community colleges, and universities shall be examined. Laws or administrative rules regulating procurement of data processing equipment, communication services, or data processing services by state agencies shall not be construed to apply to local agencies which share computing facilities with state agencies;

10. Assisting the district school systems in establishing their subsystem components and assuring compatibility with current district systems;

11. Establishing procedures for continuous evaluation of system efficiency and effectiveness;

12. Initiating a reports-management and forms-management system to ascertain that duplication in collection of data does not exist and that forms and reports for reporting under state and federal requirements and other forms and reports are prepared in a logical and uncomplicated format, resulting in a reduction in the number and complexity of required reports, particularly at the school level; and

13. Initiating such other actions as are necessary to carry out the intent of the Legislature that a management information system for public school management needs be implemented. Such other actions shall be based on criteria including, but not limited to:

a. The purpose of the reporting requirement;

b. The origination of the reporting requirement;

c. The date of origin of the reporting requirement; and

d. The date of repeal of the reporting requirement.

(b) The specific responsibilities of each district school system shall include:

1. Establishing, at the district level, a reports-control and forms-control management system committee composed of school administrators and classroom teachers. The district school board shall appoint school administrator members and classroom teacher members; or, in school districts where appropriate, the classroom teacher members shall be appointed by the bargaining agent. Teachers shall constitute a majority of the committee membership. The committee shall periodically recommend procedures to the district school board for eliminating, reducing, revising, and consolidating paperwork and data collection requirements and shall submit to the district school board an annual report of its findings.

2. With assistance from the commissioner, developing systems compatibility between the state management information system and unique local systems.

3. Providing, with the assistance of the department, inservice training dealing with management information system purposes and scope, a method of transmitting input data, and the use of output report information.

4. Establishing a plan for continuous review and evaluation of local management information system needs and procedures.

5. Advising the commissioner of all district management information needs.

6. Transmitting required data input elements to the appropriate processing locations in accordance with guidelines established by the commissioner.

7. Determining required reports, comparisons, and relationships to be provided to district school systems by the system output reports, continuously reviewing these reports for usefulness and meaningfulness, and submitting recommended additions, deletions, and change requirements in accordance with the guidelines established by the commissioner.

8. Being responsible for the accuracy of all data elements transmitted to the department.

(c) It is the intent of the Legislature that the expertise in the state system of public education, as well as contracted services, be utilized to hasten the plan for full implementation of a comprehensive management information system.

Section 6. Subsection (1) of section 229.565, Florida Statutes, is amended to read:

229.565 Educational evaluation procedures.—

(1) STUDENT PERFORMANCE STANDARDS.—

(a) The State Board of Education shall approve student performance standards in *key academic subject areas and* ~~the various program categories and chronological~~ grade levels ~~which the Commissioner of Education designates as necessary for maintaining a good educational system~~. The standards must apply, without limitation, to language arts, mathematics, science, social studies, the arts, health and physical education, foreign language, reading, writing, history, government, geography, economics, and computer literacy. The commissioner shall obtain opinions and advice from citizens, educators, and members of the business community in developing the standards. For purposes of this section, the term "student performance standard" means a statement describing a skill or competency students are expected to learn.

(b) The student performance standards must address the skills and competencies that a student must learn in order to graduate from high school. The commissioner shall also develop performance standards for students who learn a higher level of skills and competencies.

Section 7. Section 229.57, Florida Statutes, 1998 Supplement, is amended to read:

229.57 Student assessment program.—

(1) PURPOSE.—The primary *purposes* ~~purpose~~ of the statewide assessment program *are* ~~is~~ to provide information needed *to improve* ~~for the improvement of~~ the public schools *by maximizing the learning gains of all students and to inform parents of the educational progress of their public school children*. The program must be designed to:

(a) Assess the annual learning gains of each student toward achieving the Sunshine State Standards appropriate for the student's grade level.

(b) Provide data for making decisions regarding school accountability and recognition.

(c)~~(a)~~ Identify the educational strengths and needs of students *and the readiness of students to be promoted to the next grade level or to graduate from high school with a standard high school diploma.*

(d)~~(b)~~ Assess how well educational goals and performance standards are met at the school, district, and state levels.

(e)~~(c)~~ Provide information to aid in the evaluation and development of educational programs and policies.

(f) Provide information on the performance of Florida students compared with others across the United States.

(2) NATIONAL EDUCATION COMPARISONS.—It is Florida's intent to participate in the measurement of national educational goals ~~set by the President and governors of the United States~~. The Commissioner of Education *shall direct Florida* ~~is directed to provide for~~ school districts to participate in the administration of the National Assessment of Educational Progress, or a similar national assessment program, both for the national sample and for any state-by-state comparison programs which may be initiated. Such assessments must be conducted using the data collection procedures, the student surveys, the educator surveys, and other instruments included in the National Assessment of Educational Progress or a similar program. The results of these assessments shall be included in the annual report of the Commissioner of Education specified in this section. The administration of the National Assessment of Educational Progress or a similar program shall be in addition to and separate from the administration of the statewide assessment program ~~otherwise described in this section~~.

(3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner *shall* ~~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. ~~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, *science,* and mathematics. The skills and competencies must include problem-solving and higher-order skills as appropriate *and shall be known as the Sunshine State Standards*. 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 competencies 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 *annually in grades 3 through 10* ~~at designated times at the elementary, middle, and high school levels~~ to measure reading, writing, *science,* 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. *Science proficiency must be measured statewide beginning in 2003.* 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 *a combination of norm-referenced and* 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. *Except as provided in subparagraph 6.,* 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. Students who enroll in grade 9 in the fall of 1999 and thereafter must earn a passing score on the grade 10 assessment test described in this paragraph instead of the high school competency test described in subparagraph 5. Such students must earn a passing score in reading, writing, and mathematics to qualify for a regular high school diploma. Upon recommendation of the commissioner, the state board shall designate a passing score for each part of the grade 10 assessment test. In establishing passing scores, the state board shall consider any possible negative impact of the test on minority students.

7.~~6.~~ Participation in the testing program is mandatory for all students, 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.

8.~~7.~~ A student seeking an adult high school diploma must meet the same testing requirements that a regular high school student must meet.

9. School districts must provide instruction to prepare students to demonstrate proficiency in the skills and competencies necessary for successful grade-to-grade progression and high school graduation. The commissioner shall conduct studies as necessary to verify that the required skills and competencies are part of the district instructional programs.

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.~~

(d)~~(c)~~ 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.

(e)~~(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.

(f)~~(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.

(4) DISTRICT TESTING PROGRAMS.—Each district shall periodically assess student performance and achievement within each school of the district. The assessment programs must be based upon local goals and objectives that are compatible with the state plan for education and that supplement the skills and competencies adopted by the State Board of Education. *All school districts must participate in the state assessment program designed to measure annual student learning and school performance. All school districts shall report assessment results as required by the management information system.* ~~In grades 4 and 8, each district shall administer a nationally normed achievement test selected from a list approved by the state board; the data resulting from these tests must be provided to the Department of Education according to procedures specified by the commissioner. The commissioner may request achievement data for other grade levels as necessary.~~

(5) SCHOOL TESTING PROGRAMS.—Each public school, *unless specifically exempted by state board rule based on serving a specialized population for which standardized testing is not appropriate, shall participate in the state assessment program. Student performance data shall be analyzed and reported to parents, the community, and the state. Student performance data shall be used in developing objectives of the school improvement plan, evaluation of instructional personnel, evaluation of administrative personnel, assignment of staff, allocation of resources, acquisition of instructional materials and technology, performance-based budgeting, and promotion and assignment of students into educational programs* ~~administering an achievement test, whether at the elementary, middle, or high school level, and each public school administering the high school competency test, shall prepare an analysis of the resultant data after each administration~~. The analysis *of student performance data also* must identify strengths and needs in the educational program and trends over time. The analysis must be used in conjunction with the budgetary planning processes developed pursuant to s. 229.555 and the development of the programs of remediation described in s. 233.051.

(6) ANNUAL REPORTS.—The commissioner shall prepare annual reports of the results of the statewide assessment program which describe student achievement in the state, each district, and each school. The commissioner shall prescribe the design and content of these reports, which must include, without limitation, descriptions of the performance of *all schools participating in the assessment program and all of their major student populations as determined by the Commissioner of Education, and must also include the median scores of all eligible students who scored at or in the lowest 25th percentile of the state in the previous school year, provided, however, that the provisions of s. 228.093 pertaining to student records apply to this section. Until such time as annual assessments prescribed in this section are fully implemented, annual reports shall include student performance data based on existing assessments* ~~students at both low levels and exemplary levels, as well as the performance of students scoring in the middle 50 percent of the test population~~.

(7) SCHOOL PERFORMANCE GRADE CATEGORIES.—Beginning with the 1998-1999 school year's student and school performance data, the annual report shall identify schools as being in one of the following grade categories defined according to rules of the state board:

(a) "A," schools making excellent progress.

(b) "B," schools making above average progress.

(c) "C," schools making satisfactory progress.

(d) "D," schools making less than satisfactory progress.

(e) "F," schools failing to make adequate progress.

Beginning in the 1999-2000 school year, each school designated in performance grade category "A," making excellent progress, or as having improved at least two performance grade categories, shall have greater authority over the allocation of the school's total budget generated from the FEFP, state categoricals, lottery funds, grants, and local funds, as specified in state board rule. The rule must provide that the increased budget authority shall remain in effect until the school's performance grade declines.

(8) DESIGNATION OF SCHOOL PERFORMANCE GRADE CATEGORIES.—School performance grade category designations itemized in subsection (7) shall be based on the following:

(a) Timeframes.—

1. School performance grade category designations shall be based on one school year of performance.

2. In school years 1998-1999 and 1999-2000, a school's performance grade category designation shall be determined by the student achievement levels on the FCAT, and on other appropriate performance data, including, but not limited to, attendance, dropout rate, school discipline data, and student readiness for college, in accordance with state board rule.

3. Beginning with the 2000-2001 school year, a school's performance grade category designation shall be based on a combination of student achievement scores as measured by the FCAT, on the degree of measured learning gains of the students, and on other appropriate performance data, including, but not limited to, attendance, dropout rate, school discipline data, and student readiness for college.

4. Beginning with the 2001-2002 school year and thereafter, a school's performance grade category designation shall be based on student learning gains as measured by annual FCAT assessments in grades 3 through 10, and on other appropriate performance data, including, but not limited to, attendance, dropout rate, school discipline data, cohort graduation rate, and student readiness for college.

For the purpose of implementing ss. 229.0535 and 229.0537, if any of the four schools that were identified as critically low performing, based on both 1996-1997 and 1997-1998 school performance data and state board adopted criteria, receives a performance grade category designation of "F," based on 1998-1999 school performance data, that school shall be considered as having failed to make adequate progress for 2 years in a 4-year period. All other schools that receive a performance grade category designation of "F," based on 1998-1999 school performance data, shall be considered as having failed to make adequate progress for 1 year.

(b) Student assessment data.—Student assessment data used in determining school performance grade categories shall include:

1. The median scores of all eligible students enrolled in the school who have been assessed on the FCAT.

2. The median scores of all eligible students enrolled in the school who have been assessed on the FCAT and who have scored at or in the lowest 25th percentile of the state in the previous school year.

The Department of Education shall study the effects of mobility on the performance of highly mobile students and recommend programs to improve the performance of such students. The state board shall adopt appropriate criteria for each school performance grade category. The criteria must also give added weight to student achievement in reading. Schools designated as performance grade category "C," making satisfactory progress, shall be required to demonstrate that adequate progress has been made by students who have scored among the lowest 25 percent of students in the state as well as by the overall population of students in the school.

(9) SCHOOL IMPROVEMENT RATINGS.—Beginning with the 1999-2000 school year's student and school performance data, the annual report shall identify each school's performance as having improved, remained the same, or declined. This school improvement rating shall be based on a comparison of the current year's and previous year's student and school performance data. Schools that improve at least one perform-

ance grade category are eligible for school recognition awards pursuant to s. 231.2905.

(10) SCHOOL PERFORMANCE GRADE CATEGORY AND IMPROVEMENT RATING REPORTS.—School performance grade category designations and improvement ratings shall apply to each school's performance for the year in which performance is measured. Each school's designation and rating shall be published annually by the Department of Education and the school district. Parents and guardians shall be entitled to an easy-to-read report card about the designation and rating of the school in which their child is enrolled.

(11) STATEWIDE ASSESSMENTS.—The Department of Education is authorized, subject to appropriation, to negotiate a multiyear contract for the development, field testing, and implementation of annual assessments of students in grades 3 through 10. Such assessments must comply with the following criteria:

(a) Assessments for each grade level shall be capable of measuring each student's mastery of the Sunshine State Standards for that grade level and above.

(b) Assessments shall be capable of measuring the annual progress each student makes in mastering the Sunshine State Standards.

(c) Assessments shall include measures in reading and mathematics in each grade level and must include writing and science in grades 4, 8, and 10. Science assessment is to begin statewide in 2003.

(d) Assessments shall be designed to protect the integrity of the data and prevent score inflation.

(e) The statistical system shall use measures of student learning, such as the FCAT, to determine teacher, school, and school district statistical distributions, which distributions:

1. Shall be determined using available data from the FCAT, and other data collection as deemed appropriate by the Department of Education, to measure the differences in student prior year achievement against the current year achievement or lack thereof, such that the "effects" of instruction to a student by a teacher, school, and school district may be estimated on a per-student and constant basis.

2. Shall, to the extent possible, be able to be expressed in linear scales such that the effects of ceiling and floor dispersions are minimized.

(f) The statistical system shall provide for an approach which provides for best linear unbiased prediction for the teacher, school, and school district effects on pupil progress. These estimates should adequately be able to determine effects of and compare teachers who teach multiple subjects to the same groups of students, and team teaching situations where teachers teach a single subject to multiple groups of students, or other teaching situations as appropriate.

1. The department, in consultation with the Office of Program Policy Analysis and Government Accountability, and other sources as appropriate, shall use recognized approaches to statistical variance and estimating random effects.

2. The approach used by the department shall be approved by the State Board of Education before implementation for pupil progression assessment.

(g) Assessments shall include a norm-referenced subtest that allows for comparisons of Florida students with the performance of students nationally.

(h) The annual testing program shall be administered to provide for valid statewide comparisons of learning gains to be made for purposes of accountability and recognition. Annual assessments that do not contain performance items shall be administered no earlier than March of each school year, with results being returned to schools prior to the end of the academic year. Subtests that contain performance items may be given earlier than March, provided that the remaining subtests are sufficient to provide valid data on comparisons of student learning from year to year. The time of administration shall be aligned such that a comparable amount of instructional time is measured in all school districts. District school boards shall not establish school calendars that jeopardize or limit the valid testing and comparison of student learning gains.

(i) Assessments shall be implemented statewide no later than the spring of the 2000-2001 school year.

(12) LOCAL ASSESSMENTS.—Measurement of the learning gains of students in all subjects and grade levels other than subjects and grade levels required for the state assessment program is the responsibility of the school districts.

(13)~~(7)~~ APPLICABILITY OF TESTING STANDARDS.—A student must meet the testing requirements for high school graduation which were in effect at the time the student entered 9th grade, provided the student's enrollment was continuous.

(14)~~(8)~~ RULES.—The State Board of Education shall adopt rules *pursuant to ss. 120.536(1) and 120.54* ~~as necessary~~ to implement the provisions of this section.

(15) PERFORMANCE-BASED FUNDING.—The Legislature may factor in the performance of schools in calculating any performance-based funding policy that is provided for annually in the General Appropriations Act.

Section 8. Section 229.58, Florida Statutes, 1998 Supplement, is amended to read:

229.58 District and school advisory councils.—

(1) ESTABLISHMENT.—

(a) The school board shall establish an advisory council for each school in the district, and shall develop procedures for the election and appointment of advisory council members. Each school advisory council shall include in its name the words "school advisory council." The school advisory council shall be the sole body responsible for final decisionmaking at the school relating to implementation of the provisions of ss. 229.591, 229.592, and 230.23(16). A majority of the members of each school advisory council must be persons who are not employed by the school. Each advisory council shall be composed of the principal and an appropriately balanced number of teachers, education support employees, students, parents, and other business and community citizens who are representative of the ethnic, racial, and economic community served by the school. Vocational-technical center and high school advisory councils shall include students, and middle and junior high school advisory councils may include students. School advisory councils of vocational-technical and adult education centers are not required to include parents as members. Council members representing teachers, education support employees, students, and parents shall be elected by their respective peer groups at the school in a fair and equitable manner as follows:

1. Teachers shall be elected by teachers.

2. Education support employees shall be elected by education support employees.

3. Students shall be elected by students.

4. Parents shall be elected by parents.

The school board shall establish procedures for use by schools in selecting business and community members. Such procedures shall include means of ensuring wide notice of vacancies and for taking input on possible members from local business, chambers of commerce, community and civic organizations and groups, and the public at large. The school board shall review the membership composition of each advisory council. Should the school board determine that the membership elected by the school is not representative of the ethnic, racial, and economic community served by the school, the board shall appoint additional members to achieve proper representation. The *Commissioner of* ~~Florida Commission on~~ Education ~~Reform and Accountability~~ shall ~~serve as a review body to~~ determine if schools have maximized their efforts to include on their advisory councils minority persons and persons of lower socioeconomic status. Although schools should be strongly encouraged to establish school advisory councils, any school district that has a student population of 10,000 or fewer may establish a district advisory council which shall include at least one duly elected teacher from each school in the district. For the purposes of school advisory councils and district advisory councils, the term "teacher" shall include classroom teachers, certified student services personnel, and media specialists. For purposes of this paragraph, "education support employee" means any person employed by a school who is not defined as instructional or administrative

personnel pursuant to s. 228.041 and whose duties require 20 or more hours in each normal working week.

(b) The school board may establish a district advisory council representative of the district and composed of teachers, students, parents, and other citizens or a district advisory council which may be comprised of representatives of each school advisory council. Recognized schoolwide support groups which meet all criteria established by law or rule may function as school advisory councils.

(2) DUTIES.—Each advisory council shall perform such functions as are prescribed by regulations of the school board; however, no advisory council shall have any of the powers and duties now reserved by law to the school board. Each school advisory council shall assist in the preparation and evaluation of the school improvement plan required pursuant to s. 230.23(16). By the 1999-2000 academic year, with technical assistance from the Department of Education, each school advisory council shall assist in the preparation of the school's annual budget and plan as required by s. 229.555(1). A portion of funds provided in the annual General Appropriations Act for use by school advisory councils must be used for implementing the school improvement plan.

Section 9. Section 229.591, Florida Statutes, 1998 Supplement, is amended to read:

229.591 Comprehensive revision of Florida's system of school improvement and education accountability.—

(1) INTENT.—The Legislature recognizes that the children and youth of the state are its future and its most precious resource. To provide these developing citizens with the sound education needed to grow to a satisfying and productive adulthood, the Legislature intends that~~, by the year 2000,~~ Florida establish a system of school improvement and education accountability based on the performance of students and educational programs. The intent of the Legislature is to provide clear guidelines for achieving this purpose and for returning the responsibility for education to those closest to the students, *their* ~~that is the~~ schools, teachers, and parents. The Legislature recognizes, however, its ultimate responsibility and that of the Governor, the Commissioner of Education, and the State Board of Education and other state policymaking bodies in providing the strong leadership needed to forge a new concept of school improvement and in making adequate *provision by law* ~~provisions~~ for a uniform, *efficient, safe, secure, and high-quality* system of free public schools as required by s. 1, Art. IX of the State Constitution. It is further the intent of the Legislature to build upon the foundation established by the Educational Accountability Act of 1976 and to implement a program of education accountability and school improvement based upon the achievement of state goals, recognizing the State Board of Education as the body corporate responsible for the supervision of the system of public education, the district school board as responsible for school and student performance, and the individual school as the unit for education accountability.

(2) REQUIREMENTS.—Florida's system for school improvement and education accountability shall:

(a) Establish state and local educational goals.

(b) Increase the use of educational outcomes over educational processes in assessing educational programs.

(c) Redirect state fiscal and human resources to assist school districts and schools to meet state and local goals for student success in school and in later life.

(d) Provide methods for measuring, and public reporting of, state, school district, and individual school progress toward the education goals.

(e) Recognize successful schools.

(f) *Provide for* ~~Ensure that unsuccessful~~ schools *designated as performance grade category "D" or "F" to receive* ~~are provided~~ assistance and intervention *sufficient to attain adequate* ~~such that~~ improvement ~~occurs,~~ and *provide* ~~further ensure that~~ action *that* should occur when schools do not improve.

(g) Provide that parents or guardians are not required to send their children to schools that have been designated in performance grade category "F," as defined in state board rule, for two school years in a 4-year period.

(3) EDUCATION GOALS.—The state as a whole shall work toward the following goals:

(a) Readiness to start school.—Communities and schools collaborate *in a statewide comprehensive school readiness program* to prepare children and families for children's success in school.

(b) Graduation rate and readiness for postsecondary education and employment.—Students graduate and are prepared to enter the workforce and postsecondary education.

(c) Student performance.—Students *make annual learning gains sufficient to acquire the knowledge, skills, and competencies needed to master state standards;* successfully compete at the highest levels nationally and internationally*;* and *be* ~~are~~ prepared to make well-reasoned, thoughtful, and healthy lifelong decisions.

(d) Learning environment.—School boards provide a learning environment conducive to teaching and learning, *in which education programs are based on student performance data, and which strive to eliminate achievement gaps by improving the learning of all students.*

(e) School safety and environment.—Communities *and schools* provide an environment that is drug-free and protects students' health, safety, and civil rights.

(f) Teachers and staff.—The schools, district, all postsecondary institutions, and state *work collaboratively to provide* ~~ensure~~ professional teachers and staff *who possess the competencies and demonstrate the performance needed to maximize learning among all students.*

(g) Adult literacy.—Adult Floridians are literate and have the knowledge and skills needed to compete in a global economy, *prepare their children for success in school,* and exercise the rights and responsibilities of citizenship.

(h) Parental, *family, and community* involvement.—Communities, school boards, and schools provide opportunities for involving parents, *families,* ~~and~~ guardians, *and other community stakeholders* as *collaborative* ~~active~~ partners in achieving school improvement and education accountability. ~~The State Board of Education shall adopt standards for indicating progress toward this state education goal by January 1, 1997.~~

Section 10. Section 229.592, Florida Statutes, 1998 Supplement, is 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 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 *Commissioner of* ~~Florida Commission on~~ Education ~~Reform and Accountability~~ and the school districts and schools shall carry out the duties assigned to them by *s.* ~~ss. 229.594 and~~ 230.23(16)~~, respectively~~.

~~(2) ESTABLISHMENT.—Based upon the recommendations of the Florida Commission on Education Reform and Accountability, the Legislature may enact such laws as it considers necessary to establish and maintain a state system of school improvement and accountability. If, after considering the recommendations of the commission, the Legislature determines an adequate system of accountability to be in place to protect the public interest, the Legislature may repeal or revise laws, including fiscal policies, deemed to stand in the way of school improvement.~~

(2)~~(3)~~ COMMISSIONER.—The commissioner shall be responsible for implementing and maintaining a system of intensive school improvement and stringent education accountability, *which shall include policies and programs to*~~.~~

~~(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~~:

(a)~~1.~~ A system of data collection and analysis that will improve information about the educational success of individual students and schools. The information and analyses must be capable of identifying educational programs or activities in need of improvement, and reports prepared pursuant to this *paragraph* ~~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.

(b)~~2.~~ A program of school improvement that will analyze information to identify schools, educational programs, or educational activities in need of improvement.

(c)~~3.~~ A method of delivering services to assist school districts and schools to improve.

(d)~~4.~~ A method of coordinating with the state educational goals and school improvement plans any other state program that creates incentives for school improvement.

(3)~~(b)~~ The commissioner shall be held responsible for the implementation and maintenance of the system of school improvement and education accountability outlined in this *section* ~~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.

(4)~~(c)~~ The annual feedback report shall be developed by ~~the commission and~~ the Department of Education.

(5)~~(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.

(6)~~(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 *to the Legislature* 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 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.

(7)~~(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, 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 *schools designated as performance grade category "D" or "F" and* 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 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.

(d) The department shall assign a community assessment team to each school district with a school designated as performance grade category "D" or "F" to review the school performance data and determine causes for the low performance. The team shall make recommendations to the school board, to the department, and to the State Board of Education for implementing an assistance and intervention plan that will address the causes of the school's low performance. The assessment team shall include, but not be limited to, a department representative, parents, business representatives, educators, and community activists, and shall represent the demographics of the community from which they are appointed.

(8)~~(5)~~ STATE BOARD.—The State Board of Education shall adopt rules *pursuant to ss. 120.536(1) and 120.54* ~~necessary~~ to implement a state system of school improvement and education accountability *and shall specify required annual reports by schools and school districts*. ~~Such rules must be based on recommendations of the Commission on Education Reform and Accountability and must include, but need not be limited to, a requirement that each school report identify the annual Education Enhancement Trust Fund allocations to the district and the school and how those allocations were used for educational enhancement and supporting school improvement.~~

(9)~~(6)~~ EXCEPTIONS TO LAW.—To facilitate innovative practices and to allow local selection of educational methods, the commissioner may waive, upon the request of a school board, requirements of chapters 230 through 239 of the Florida School Code that relate to instruction and school operations, except those pertaining to civil rights, and student health, safety, and welfare. The Commissioner of Education is not authorized to grant waivers for any provisions of law pertaining to the allocation and appropriation of state and local funds for public education; the election, compensation, and organization of school board members and superintendents; graduation and state accountability standards; financial reporting requirements; *reporting of out-of-field teaching assignments under s. 231.095;* public meetings; public records; or due process hearings governed by chapter 120. Prior to approval, the commissioner shall report pending waiver requests to the state board on a monthly basis, and shall, upon request of any state board member, bring a waiver request to the state board for consideration. If, within 2 weeks of receiving the report, no member requests that a waiver be considered by the state board, the commissioner may act on the original waiver request. No later than January 1 of each year, the commissioner shall report to the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives all approved waiver requests in the preceding year.

(a) Graduation requirements in s. 232.246 must be met by demonstrating performance of intended outcomes for any course in the Course Code Directory unless a waiver is approved by the commissioner. In developing procedures for awarding credits based on performance outcomes, districts may request waivers from State Board of Education rules relating to curriculum frameworks and credits for courses and programs in the Course Code Directory. Credit awarded for a course or program beyond that allowed by the Course Code Directory counts as credit for electives. Upon request by any school district, the commissioner shall evaluate and establish procedures for variations in academic credits awarded toward graduation by a high school offering six periods per day compared to those awarded by high schools operating on other schedules.

1. A school board may originate a request for waiver and submit the request to the commissioner if such a waiver is required to implement districtwide improvements.

2. A school board may submit a request to the commissioner for a waiver if such request is presented to the school board by a school advisory council established pursuant to s. 229.58 and if such a waiver is required to implement a school improvement plan required by s. 230.23(16). The school board shall report annually to the *Commissioner*

of ~~Florida Commission on~~ Education ~~Reform and Accountability~~, in conjunction with the feedback report required pursuant to *this section* ~~subsection (3)~~, the number of waivers requested by school advisory councils, the number of such waiver requests approved and submitted to the commissioner, and the number of such waiver requests not approved and not submitted to the commissioner. For each waiver request not approved, the school board shall report the statute or rule for which the waiver was requested, the rationale for the school advisory council request, and the reason the request was not approved.

3. When approved by the commissioner, a waiver requested under this paragraph is effective for a 5-year period.

(b) Notwithstanding the provisions of chapter 120 and for the purpose of implementing this subsection, the commissioner may waive State Board of Education rules if the school board has submitted a written request to the commissioner for approval pursuant to this subsection.

(c) The written request for waiver of statute or rule must indicate at least how ~~the general statutory purpose will be met, how~~ granting the waiver will assist schools in improving student outcomes related to the student performance standards adopted *by the state board* ~~pursuant to subsection (5)~~, and how student improvement will be evaluated and reported. ~~In considering any waiver,~~ The commissioner shall *not grant any waiver that would impair the* ~~ensure~~ protection of the health, safety, welfare, *or* ~~and~~ civil rights of the students *or the* ~~and~~ protection of the public interest.

(d) Upon denying a request for a waiver, the commissioner must state with particularity the grounds or basis for the denial. The commissioner shall report the specific statutes and rules for which waivers are requested and the number and disposition of such requests to the *Legislature and the State Board of Education* ~~Florida Commission on Education Reform and Accountability~~ for use in determining which statutes and rules stand in the way of school improvement.

(e)1. Schools designated in performance grade category "A," making excellent progress, shall, if requested by the school, be given deregulated status as specified in s. 228.0565(5), (7), (8), (9), and (10).

2. Schools that have improved at least two performance grade categories and that meet the criteria of the Florida School Recognition Program pursuant to s. 231.2905 may be given deregulated status as specified in s. 228.0565(5), (7), (8), (9), and (10).

Section 11. *Section 229.593, Florida Statutes, 1998 Supplement, is repealed.*

Section 12. *Section 229.594, Florida Statutes, is repealed.*

Section 13. Subsection (5) of section 229.595, Florida Statutes, is amended to read:

229.595 Implementation of state system of education accountability for school-to-work transition.—

(5) *Prior to each student's graduation from high school, the school shall* ~~Any assessment required for student receipt of a high school diploma shall include items designed to~~ assess *the student's* ~~student~~ preparation to enter the workforce *and provide the student and the student's parent or guardian with the results of such assessment.* The *Commissioner of* ~~Florida Commission on~~ Education ~~Reform and Accountability~~ shall identify the employability skills associated with successful entry into the workforce from which such items shall be derived.

Section 14. Paragraphs (c) and (g) of subsection (5), paragraph (b) of subsection (7), and subsections (16) and (17) of section 230.23, Florida Statutes, 1998 Supplement, are amended, present subsection (18) is amended and renumbered as subsection (20), and new subsections (18) and (19) are added to that section, 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:

(5) PERSONNEL.—Designate positions to be filled, prescribe qualifications for those positions, and provide for the appointment, compensation, promotion, suspension, and dismissal of employees as follows, subject to the requirements of chapter 231:

(c) Compensation and salary schedules.—Adopt a salary schedule or salary schedules *designed to furnish incentives for improvement in training and for continued efficient service* to be used as a basis for paying all school employees, ~~such schedules to be arranged, insofar as practicable, so as to furnish incentive for improvement in training and for continued and efficient service~~ and fix and authorize the compensation of school employees on the basis *thereof* ~~of such schedules~~. A district school board, in determining the salary schedule for instructional personnel, must base a portion of each employee's compensation on performance demonstrated under s. 231.29 and must consider the prior teaching experience of a person who has been designated state teacher of the year by any state in the United States. In developing the salary schedule, the school board shall seek input from parents, teachers, and representatives of the business community. *By June 30, 2002, the salary schedule adopted by the school board must base at least 5 percent of the salary of school administrators and instructional personnel on annual performance measured under s. 231.29. The district's performance-pay policy is subject to negotiation as provided in chapter 447; however, the adopted salary schedule must allow employees who demonstrate outstanding performance to earn 5 percent of their individual salary. The Commissioner of Education shall determine whether the board's adopted salary schedule complies with the requirement for performance-based pay. If the board fails to comply by June 30, 2002, the commissioner shall withhold disbursements from the Educational Enhancement Trust Fund to the district until compliance is verified.*

(g) Awards and incentives.—Provide for recognition of district employees, students, school volunteers, *and* ~~or~~ advisory committee members who have contributed outstanding and meritorious service in their fields or service areas. After considering recommendations of the superintendent, the board shall adopt rules establishing and regulating the meritorious service awards necessary for the efficient operation of the program. An award or incentive granted under this paragraph may not be considered in determining the salary schedules required by paragraph (c). Monetary awards shall be limited to persons who propose procedures or ideas ~~which are~~ adopted by the board ~~and~~ which will result in eliminating or reducing school board expenditures or improving district or school center operations. Nonmonetary awards shall include, but *are* ~~need~~ not ~~be~~ limited to, certificates, plaques, medals, ribbons, and photographs. The school board *may* ~~is authorized to~~ expend funds for such recognition and awards. No award granted under ~~the provisions of~~ this paragraph shall exceed $2,000 or 10 percent of the first year's gross savings, whichever is greater.

(7) COURSES OF STUDY AND OTHER INSTRUCTIONAL AIDS.—Provide adequate instructional aids for all children as follows and in accordance with the requirements of chapter 233.

(b) Textbooks.—Provide for proper requisitioning, distribution, accounting, storage, care, and use of all *instructional materials* ~~textbooks and other books~~ furnished by the state and furnish such other *instructional materials* ~~textbooks and library books~~ as may be needed. The school board is responsible for assuring that instructional materials used in the district are consistent with the district goals and objectives and the curriculum frameworks approved by the State Board of Education, as well as with the state and district performance standards provided for in ss. 229.565 and 232.2454.

(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 *is* 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. 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, *specific school safety and discipline strategies,* and other matters of resource allocation, as determined by school board policy, *and shall be based on an analysis of student achievement and other school performance data.*

(b) Approval process.—Develop a process for approval of a school improvement plan presented by an individual school and its advisory council. In the event a board does not approve a school improvement plan after exhausting this process, the *Department of Education* ~~Florida Commission on Education Reform and Accountability~~ shall be notified of the need for assistance.

(c) Assistance and intervention.—Develop a *2-year* ~~3-year~~ plan of increasing individualized assistance and intervention for each school *in danger of* ~~that does~~ not *meeting state standards* ~~meet~~ or *making* ~~make~~ adequate progress, ~~based upon the recommendations of the commission,~~ as defined pursuant to statute and State Board of Education rule, toward meeting the goals and standards of its approved school improvement plan. *A school that is identified as being in performance grade category "D" pursuant to s. 229.57 is in danger of failing and must be provided assistance and intervention. District school boards are encouraged to prioritize the expenditures of funds received from specific appropriation 110A of the General Appropriations Act of fiscal year 1999-2000 to improve student performance in schools that receive a performance grade category designation of "D" or "F."*

(d) After *2* ~~3~~ years.—Notify the *Commissioner of* ~~Florida Commission on~~ Education ~~Reform and Accountability~~ and the State Board of Education in the event any school does not make adequate progress toward meeting the goals and standards of a school improvement plan by the end of *2* ~~3 consecutive~~ years of *failing to make adequate progress* ~~district assistance and intervention~~ and proceed according to guidelines developed pursuant to statute and State Board of Education rule. *School districts shall provide intervention and assistance to schools in danger of being designated as performance grade category "F," failing to make adequate progress.*

(e) Public disclosure.—Provide information regarding performance of students and educational programs as required pursuant to *ss.* ~~s.~~ 229.555 *and 229.57(5)* and implement a system of school reports as required by statute and State Board of Education rule. *Annual public disclosure reports shall be in an easy-to-read report card format, and shall include the school's student and school performance grade category designation and performance data as specified in state board rule.*

(f) School improvement funds.—Provide funds to schools for developing and implementing school improvement plans. Such funds shall include those funds appropriated for the purpose of school improvement pursuant to s. 24.121(5)(c).

(17) LOCAL-LEVEL DECISIONMAKING.—

(a) Adopt policies that clearly encourage and enhance maximum decisionmaking appropriate to the school site. Such policies must include guidelines for schools in the adoption and purchase of district and school site instructional materials and technology, staff training, school advisory council member training, student support services, budgeting, and the allocation of staff resources.

(b) Adopt waiver process policies to enable all schools to exercise maximum flexibility and notify advisory councils of processes to waive school district and state policies.

(c) Develop policies for periodically monitoring the membership composition of school advisory councils to ensure compliance with requirements established in s. 229.58.

(d) Adopt policies that assist in giving greater autonomy, including authority over the allocation of the school's budget, to schools designated as performance grade category "A," making excellent progress, and schools rated as having improved at least two performance grade categories.

(18) OPPORTUNITY SCHOLARSHIPS.—Adopt policies allowing students attending schools that have been designated as performance grade category "F," failing to make adequate progress, for two school years in a 4-year period to attend a higher performing school in the district or an adjoining district or be granted a state opportunity scholarship to a private school, in conformance with s. 229.0537 and state board rule.

(19) AUTHORITY TO DECLARE AN EMERGENCY.—The school board is authorized to declare an emergency in cases in which one or more schools in the district are failing or are in danger of failing and to negotiate special provisions of its contract with the appropriate bargaining units to free these schools from contract restrictions that limit the school's ability to implement programs and strategies needed to improve student performance.

(20)~~(18)~~ ADOPT RULES.—Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement ~~the provisions of~~ this section.

Section 15. Subsection (2) of section 231.2905, Florida Statutes, is amended, and subsection (4) is added to said section, to read:

231.2905 Florida School Recognition Program.—

(2) The Florida School Recognition Program is created to provide *greater autonomy and* financial awards to ~~faculty and staff of~~ schools that sustain high performance or that demonstrate exemplary improvement due to innovation and effort. The Commissioner of Education shall establish statewide objective criteria for schools to be invited to apply for the Florida School Recognition Program. The selection of schools must be based on at least 2 school years of data, when available. ~~To participate in the program, a school district must have incorporated a performance incentive program into its employee salary structure.~~ All public schools, including charter schools, are eligible to participate in the program.

~~(a)~~ Initial criteria for identification of schools must rely on the school's data and statewide data and must include, but *is* not ~~be~~ limited to:

(a)~~1.~~ Improvement in the school's student achievement data.

(b)~~2.~~ Statewide student achievement data.

(c) Student learning gains when such data becomes available.

(d)~~3.~~ Readiness for postsecondary education data.

(e)~~4.~~ Dropout rates.

(f)~~5.~~ Attendance rates.

(g) Graduation rates.

(h) Cohort graduation rates.

~~(b) After a pool of eligible schools has been identified, schools must apply for final recognition and financial awards based on established criteria. Criteria must include, but not be limited to:~~

~~1. School climate, including rates of school violence and crime.~~

~~2. Indicators of innovation in teaching and learning.~~

~~3. Indicators of successful challenging school improvement plans.~~

~~4. Parent, community, and student involvement in learning.~~

~~(c) After identification of schools for final recognition and financial awards, awards must be distributed based on employee performance criteria established in district school board policy.~~

(4) The School Recognition Program shall utilize the school performance grade category designations in s. 229.57.

Section 16. Section 232.245, Florida Statutes, is amended to read:

232.245 Pupil progression; remedial instruction; reporting requirements.—

(1) It is the intent of the Legislature that each student's progression from one grade to another be determined, in part, upon proficiency in reading, writing, *science,* and mathematics; that school district policies facilitate such proficiency; and that each student and his or her parent or legal guardian be informed of that student's academic progress.

(2) Each district school board shall establish a comprehensive program for pupil progression which must include:

(a) Standards for evaluating each pupil's performance, including how well he or she masters the performance standards approved by the state board according to s. 229.565; and

(b) Specific levels of performance in reading, writing, *science,* and mathematics for each grade level, including the levels of performance on statewide assessments ~~at selected grade levels in elementary school, middle school, and high school~~ as defined by the Commissioner of Education, below which a student must receive remediation, *or* ~~and may~~ be retained *within an intensive program that is different from the previous year's program and that takes into account the student's learning style. No student may be assigned to a grade level based solely on age or other factors that constitute social promotion. School boards shall allocate remedial and supplemental instruction resources first to students who fail to meet achievement performance levels required for promotion. The state board shall adopt rules to prescribe limited circumstances in which a student may be promoted without meeting the specific assessment performance levels prescribed by the district's pupil progression plan. Such rules shall specifically address the promotion of students with limited English proficiency and students with disabilities. A school district must consider an appropriate alternative placement for a student who has been retained 2 or more years.*

(3) Each student must participate in the statewide assessment tests required by s. 229.57. Each student who does not meet specific levels of performance as determined by the district school board in reading, writing, *science,* and mathematics for each grade level, or who does not meet specific levels of performance, determined by the Commissioner of Education, on statewide assessments at selected grade levels, must be provided with additional diagnostic assessments to determine the nature of the student's difficulty and areas of academic need. The school in which the student is enrolled must develop, in consultation with the student's parent or legal guardian, and *must* implement an academic improvement plan designed to assist the student in meeting state and district expectations for proficiency. Each plan must include the provision of intensive remedial instruction in the areas of weakness ~~through one or more of the following activities, as considered appropriate by the school administration:~~

~~(a) Summer school coursework;~~

~~(b) Extended-day services;~~

~~(c) Parent tutorial programs;~~

~~(d) Contracted academic services;~~

~~(e) Exceptional education services; or~~

~~(f) Suspension of curriculum other than reading, writing, and mathematics~~. Remedial instruction provided during high school may not be in lieu of English and mathematics credits required for graduation.

Upon subsequent evaluation, if the documented deficiency has not been corrected in accordance with the academic improvement plan, the student may be retained. Each student who does not meet the minimum performance expectations defined by the Commissioner of Education for the statewide assessment tests in reading, writing, *science,* and mathematics must ~~retake the state assessment test in the subject area of deficiency and must~~ continue remedial *or supplemental* instruction until the expectations are met or the student graduates from high school or is not subject to compulsory school attendance.

(4) Any student who exhibits substantial deficiency in reading skills, based on locally determined assessments conducted before the end of grade 1 *or*~~, grade~~ 2, ~~and grade 3,~~ or based on teacher recommendation, must be given intensive reading instruction immediately following the identification of the reading deficiency. The student's reading proficiency must be reassessed by locally determined assessment or based on teacher recommendation at the beginning of the grade following the intensive reading instruction, and the student must continue to be given intensive reading instruction until the reading deficiency is remedied. If the student's reading deficiency, as determined by the locally determined assessment *at grades 1 and 2, or by the statewide assessment at grade 3,* is not remedied by the end of grade *4, and* ~~2 or grade 3, or~~ if the student scores below the specific level of performance~~, determined by the local school board,~~ on the statewide assessment test in reading ~~and writing given in elementary school~~, the student must be retained. The local school board may exempt a student from mandatory retention for good cause.

~~(5) Beginning with the 1997-1998 school year, any student who exhibits substantial deficiency in reading skills, based on locally determined assessments conducted at the beginning of grade 2, grade 3, and grade 4, or based on teacher recommendation, must be given intensive reading instruction immediately following the identification of the reading deficiency. The student's reading proficiency must be reassessed by locally determined assessment or based on teacher recommendation at the beginning of the grade following the intensive reading instruction, and the student must continue to be given intensive reading instruction until the reading deficiency is remedied. If the student's reading deficiency is not remedied by the end of grade 5, the student may be retained.~~

(5)~~(6)~~ Each district must annually report to the parent or legal guardian of each student the progress of the student towards achieving state and district expectations for proficiency in reading, writing, *science,* and mathematics. The district must report to the parent or legal guardian the student's results on each statewide assessment test. The evaluation of each student's progress must be based upon the student's classroom work, observations, tests, district and state assessments, and other relevant information. Progress reporting must be provided to the parent or legal guardian in writing in a format adopted by the district school board.

(6)~~(7)~~ The Commissioner of Education shall adopt rules *pursuant to ss. 120.536(1) and 120.54* ~~necessary~~ for the administration of this section.

(7)~~(8)~~ The Department of Education shall provide technical assistance as needed to aid school districts in administering this section.

Section 17. Subsections (3), (8), and (12) of section 228.053, Florida Statutes, are amended to read:

228.053 Developmental research schools.—

(3) MISSION.—The mission of a developmental research school shall be the provision of a vehicle for the conduct of research, demonstration, and evaluation regarding management, teaching, and learning. Programs to achieve the mission of a developmental research school shall embody the goals and standards ~~of "Blueprint 2000"~~ established pursuant to ss. 229.591 and 229.592 and shall ensure an appropriate education for its students.

(a) Each developmental research school shall emphasize mathematics, science, computer science, and foreign languages. The primary goal of a developmental research school is to enhance instruction and research in such specialized subjects by using the resources available on a state university campus, while also providing an education in nonspecialized subjects. Each developmental research school shall provide sequential elementary and secondary instruction where appropriate. A developmental research school may not provide instruction at grade levels higher than grade 12 without authorization from the State Board of Education. Each developmental research school shall develop and implement a school improvement plan pursuant to s. 230.23(16).

(b) Research, demonstration, and evaluation conducted at a developmental research school may be generated by the college of education with which the school is affiliated.

(c) Research, demonstration, and evaluation conducted at a developmental research school may be generated by the Education Standards Commission. Such research shall respond to the needs of the education community at large, rather than the specific needs of the affiliated college.

(d) Research, demonstration, and evaluation conducted at a developmental research school may consist of pilot projects to be generated by the affiliated college, the Education Standards Commission, or the Legislature.

(e) The exceptional education programs offered at a developmental research school shall be determined by the research and evaluation goals and the availability of students for efficiently sized programs. The fact that a developmental research school offers an exceptional education program in no way lessens the general responsibility of the local school district to provide exceptional education programs.

(8) ADVISORY BOARDS.~~—"Blueprint 2000" provisions and intent specify that~~ Each public school in the state shall establish a school advisory council that is reflective of the population served by the school, pursuant to s. 229.58, and is responsible for the development and implementation of the school improvement plan pursuant to s. 230.23(16).

Developmental research schools shall comply with the provisions of s. 229.58 in one of two ways:

(a) Two advisory bodies.—Each developmental research school may:

1. Establish an advisory body pursuant to the provisions and requirements of s. 229.58 to be responsible for the development and implementation of the school improvement plan, pursuant to s. 230.23(16).

2. Establish an advisory board to provide general oversight and guidance. The dean of the affiliated college of education shall be a standing member of the board, and the president of the university shall appoint three faculty members from the college of education, one layperson who resides in the county in which the school is located, and two parents or legal guardians of students who attend the developmental research school to serve on the advisory board. The term of each member shall be for 2 years, and any vacancy shall be filled with a person of the same classification as his or her predecessor for the balance of the unexpired term. The president shall stagger the terms of the initial appointees in a manner that results in the expiration of terms of no more than two members in any year. The president 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 appointments to the board or successive terms that may be served by a chair or vice chair. The board shall adopt internal organizational procedures or bylaws necessary for efficient operation as provided in chapter 120. Board members shall not receive per diem or travel expenses for the performance of their duties. The board shall:

a. Meet at least quarterly.

b. Monitor the operations of the school and the distribution of moneys allocated for such operations.

c. Establish necessary policy, program, and administration modifications.

d. Evaluate biennially the performance of the director and principal and recommend corresponding action to the dean of the college of education.

e. Annually review evaluations of the school's operation and research findings.

(b) One advisory body.—Each developmental research school may establish an advisory body responsible for the development and implementation of the school improvement plan, pursuant to s. 230.23(16), in addition to general oversight and guidance responsibilities. The advisory body shall reflect the membership composition requirements established in s. 229.58, but may also include membership by the dean of the college of education and additional members appointed by the president of the university that represent faculty members from the college of education, the university, or other bodies deemed appropriate for the mission of the school.

(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.

(b) The following statutes or related rules may be waived for any developmental research school so requesting, provided the general statutory purpose of each section is met and the developmental research school has submitted a written request to the Joint Developmental Research School Planning, Articulation, and Evaluation Committee for approval pursuant to this subsection: ss. 229.555; 231.291; 232.2462; 232.36; 233.34; 237.01; 237.02; 237.031; 237.041; 237.061; 237.081; 237.111; 237.121; 237.131; 237.141; 237.151; 237.161; 237.162; 237.171; 237.181; 237.211; and 237.34. Notwithstanding reference to the responsibilities of the superintendent or school board in chapter 237, developmental research schools shall follow the policy intent of the chapter and shall, at least, adhere to the general state agency accounting procedures established in s. 11.46.

1. Two or more developmental research schools may jointly originate a request for waiver and submit the request to the committee if such waiver is approved by the school advisory council of each developmental research school desiring the waiver.

2. A developmental research school may submit a request to the committee for a waiver if such request is presented by a school advisory council established pursuant to s. 229.58, if such waiver is required to implement a school improvement plan required by s. 230.23(16), and if such request is made using forms established pursuant to s. 229.592~~(6)~~. The Joint Developmental Research School Planning, Articulation, and Evaluation Committee shall monitor the waiver activities of all developmental research schools and shall report annually to the department ~~and the Florida Commission on Education Reform and Accountability~~, in conjunction with the feedback report required pursuant to s. 229.592~~(3)~~, the number of waivers requested and submitted to the committee by developmental research schools, and the number of such waiver requests not approved. For each waiver request not approved, the committee shall report the statute or rule for which the waiver was requested, the rationale for the developmental research school request, and the reason the request was not approved.

(c) The written request for waiver of statute or rule shall indicate at least how the general statutory purpose will be met, how granting the waiver will assist schools in improving student outcomes related to the student performance standards adopted pursuant to s. 229.592~~(5)~~, and how student improvement will be evaluated and reported. In considering any waiver, the committee shall ensure protection of the health, safety, welfare, and civil rights of the students and protection of the public interest.

(d) ~~The procedure established in s. 229.592(6)(f) shall be followed for any request for a waiver which is not denied, or for which a request for additional information is not issued.~~ 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. Paragraph (e) of subsection (2) of section 228.054, Florida Statutes, is amended to read:

228.054 Joint Developmental Research School Planning, Articulation, and Evaluation Committee.—

(2) The committee shall have the duty and responsibility to:

(e) Provide assistance to schools in the waiver process established under s. 228.053(12), review and approve or disapprove waivers requested pursuant to ss. 228.053(12) and 229.592~~(6)~~, and annually review, identify, and report to the Legislature additional barriers and statutes that hinder the implementation of s. 228.053.

Section 19. Subsection (3) of section 233.17, Florida Statutes, is amended to read:

233.17 Term of adoption for instructional materials.—

(3) The department shall publish annually an official schedule of subject areas to be called for adoption for each of the succeeding 2 years, and a tentative schedule for years 3, 4, 5, and 6. If extenuating circumstances warrant, the Commissioner of Education may order the department to add one or more subject areas to the official schedule, in which event the commissioner shall develop criteria for such additional subject

area or areas pursuant to s. 229.512*(18)*~~(15)~~ and make them available to publishers as soon as practicable. Notwithstanding the provisions of s. 229.512*(18)*~~(15)~~, the criteria for such additional subject area or areas may be provided to publishers less than 24 months before the date on which bids are due. The schedule shall be developed so as to promote balance among the subject areas so that the required expenditure for new instructional materials is approximately the same each year in order to maintain curricular consistency.

Section 20. Subsection (6) of section 236.685, Florida Statutes, is amended to read:

236.685 Educational funding accountability.—

(6) The annual school public accountability report required by ss. 229.592~~(5)~~ and 230.23*(16)*~~(18)~~ must include a school financial report. The purpose of the school financial report is to better inform parents and the public concerning how revenues were spent to operate the school during the prior fiscal year. Each school's financial report must follow a uniform, districtwide format that is easy to read and understand.

(a) Total revenue must be reported at the school, district, and state levels. The revenue sources that must be addressed are state and local funds, other than lottery funds; lottery funds; federal funds; and private donations.

(b) Expenditures must be reported as the total expenditures per unweighted full-time equivalent student at the school level and the average expenditures per full-time equivalent student at the district and state levels in each of the following categories and subcategories:

1. Teachers, excluding substitute teachers, and teacher aides who provide direct classroom instruction to students enrolled in programs classified by s. 236.081 as:

a. Basic programs;

b. Students-at-risk programs;

c. Special programs for exceptional students;

d. Career education programs; and

e. Adult programs.

2. Substitute teachers.

3. Other instructional personnel, including school-based instructional specialists and their assistants.

4. Contracted instructional services, including training for instructional staff and other contracted instructional services.

5. School administration, including school-based administrative personnel and school-based education support personnel.

6. The following materials, supplies, and operating capital outlay:

a. Textbooks;

b. Computer hardware and software;

c. Other instructional materials;

d. Other materials and supplies; and

e. Library media materials.

7. Food services.

8. Other support services.

9. Operation and maintenance of the school plant.

(c) The school financial report must also identify the types of district-level expenditures that support the school's operations. The total amount of these district-level expenditures must be reported and expressed as total expenditures per full-time equivalent student.

As used in this subsection, the term "school" means a "school center" as defined by s. 228.041.

Section 21. Subsection (6) of section 20.15, Florida Statutes, 1998 Supplement, is amended to read:

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

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

Section 22. Effective July 1, 1999, section 236.08104, Florida Statutes, is created to read:

236.08104 Supplemental academic instruction; categorical fund.—

(1) There is created a categorical fund to provide supplemental academic instruction to students in kindergarten through grade 12. This section may be cited as the "Supplemental Academic Instruction Categorical Fund."

(2) Categorical funds for supplemental academic instruction shall be allocated annually to each school district in the amount provided in the General Appropriations Act. These funds shall be in addition to the funds appropriated on the basis of full-time equivalent student (FTE) membership in the Florida Education Finance Program and shall be included in the total potential funds of each district. These funds shall be used only to provide supplemental academic instruction to students enrolled in the K-12 program. Supplemental instruction strategies may include, but are not limited to: modified curriculum, reading instruction, after-school instruction, tutoring, mentoring, class size reduction, extended school year, intensive skills development in summer school, and other methods for improving student achievement. Supplemental instruction may be provided to a student in any manner and at any time during or beyond the regular 180-day term identified by the school as being the most effective and efficient way to best help that student progress from grade to grade and to graduate.

(3) Effective with the 1999-2000 fiscal year, funding on the basis of FTE membership beyond the 180-day regular term shall be provided in the FEFP only for students enrolled in juvenile justice education programs. Funding for instruction beyond the regular 180-day school year for all other K-12 students shall be provided through the supplemental academic instruction categorical fund and other state, federal, and local fund sources with ample flexibility for schools to provide supplemental instruction to assist students in progressing from grade to grade and graduating.

(4) The Florida State University School, as a developmental research school, is authorized to expend from its FEFP or Lottery Enhancement Trust Fund allocation the cost to the student of remediation in reading, writing, or mathematics for any graduate who requires remediation at a postsecondary institution.

(5) Beginning in the 1999-2000 school year, dropout prevention programs as defined in ss. 230.2316(3)(a), (b), and (c), 230.23161, and 230.23166 shall be included in Group 1 programs under s. 236.081(1)(d)3.

(6) Each school district receiving funds from the Supplemental Academic Instruction Categorical Fund shall submit to the Department of Education a plan which identifies the students to be served and the scope of supplemental academic instruction to be provided. Districts shall also submit information through the department's database documenting the district's progress in the areas of academic improvement, graduation rate, dropout rate, attendance rate, and retention/promotion rate. The department shall compile this information into an annual report which shall be submitted to the presiding officers of the Legislature by February 15.

Section 23. Effective July 1, 1999, paragraph (c) of subsection (2) of section 236.013, Florida Statutes, is amended to read:

236.013 Definitions.—Notwithstanding the provisions of s. 228.041, the following terms are defined as follows for the purposes of this act:

(2) A "full-time equivalent student" in each program of the district is defined in terms of full-time students and part-time students as follows:

(c)1. A "full-time equivalent student" is:

a. A full-time student in any one of the programs listed in s. 236.081(1)(c); or

b. A combination of full-time or part-time students in any one of the programs listed in s. 236.081(1)(c) which is the equivalent of one full-time student based on the following calculations:

(I) A full-time student, except a postsecondary or adult student or a senior high school student enrolled in adult education when such courses are required for high school graduation, in a combination of programs listed in s. 236.081(1)(c) shall be a fraction of a full-time equivalent membership in each special program equal to the number of net hours per school year for which he or she is a member, divided by the appropriate number of hours set forth in subparagraph (a)1. or subparagraph (a)2.; the difference between that fraction or sum of fractions and the maximum value as set forth in subsection (5) for each full-time student is presumed to be the balance of the student's time not spent in such special education programs and shall be recorded as time in the appropriate basic program.

~~(II) A student in the basic half-day kindergarten program of not less than 450 net hours shall earn one-half of a full-time equivalent membership.~~

~~(III) A half-day kindergarten student in a combination of programs listed in s. 236.081(1)(c) is a fraction of a full-time equivalent membership in each special program equal to the number of net hours or major portion thereof per school year for which he or she is a member divided by the number of hours set forth in sub-sub-subparagraph (II); the difference between that fraction and the number of hours set forth in sub-sub-subparagraph (II) for each full-time student in membership in a half-day kindergarten program is presumed to be the balance of the student's time not spent in such special education programs and shall be recorded as time in the appropriate basic program.~~

~~(IV) A part-time student, except a postsecondary or adult student, is a fraction of a full-time equivalent membership in each basic and special program equal to the number of net hours or major fraction thereof per school year for which he or she is a member, divided by the appropriate number of hours set forth in subparagraph (a)1. or subparagraph (a)2.~~

~~(V) A postsecondary or adult student or a senior high school student enrolled in adult education when such courses are required for high school graduation is a portion of a full-time equivalent membership in each special program equal to the net hours or major fraction thereof per fiscal year for which he or she is a member, divided by the appropriate number of hours set forth in subparagraph (a)1. or subparagraph (a)2.~~

~~(VI) A full-time student who is part of a program authorized by subparagraph (a)3. in a combination of programs listed in s. 236.081(1)(c) is a fraction of a full-time equivalent membership in each regular or special program equal to the number of net hours per school year for which he or she is a member, divided by the appropriate number of hours set forth in subparagraph (a)1. or subparagraph (a)2.~~

(II)~~(VII)~~ A prekindergarten handicapped student shall meet the requirements specified for kindergarten students.

2. A student in membership in a program scheduled for more or less than 180 school days is a fraction of a full-time equivalent membership equal to the number of instructional hours in membership divided by the appropriate number of hours set forth in subparagraph (a)1.; however, for the purposes of this subparagraph, membership in programs scheduled for more than 180 days is limited to *students enrolled in juvenile justice education programs*~~:~~

~~a. Special programs for exceptional students;~~

~~b. Special vocational-technical programs;~~

~~c. Special adult general education programs;~~

~~d. Dropout prevention programs as defined in s. 230.2316 for students in residential programs operated by the Department of Children and Family Services; programs operated by the Department of Juvenile Justice as defined in s. 230.23161 in which students receive educational services; or teenage parent programs as defined in s. 230.23166 for students who are in need of such additional instruction;~~

~~e. Dropout prevention programs as defined in s. 230.2316 in which students are placed for academic or disciplinary purposes or programs in English for speakers of other languages as defined in s. 233.058 for students who were in membership for all of the last 15 days of the 180-day term or a total of 30 days within the 180-day term and are in need of such additional instruction;~~

~~f. Other basic programs offered for promotion or credit instruction as defined by rules of the state board; and~~

~~g. Programs which modify the school year to accommodate the needs of children who have moved with their parents for the purpose of engaging in the farm labor or fish industries, provided such programs are approved by the commissioner~~.

The department shall determine and implement an equitable method of equivalent funding for experimental schools and for schools operating under emergency conditions, which schools have been approved by the department under the provisions of s. 228.041(13) to operate for less than the minimum school day.

Section 24. Subsection (7) of section 239.101, Florida Statutes, is amended to read:

239.101 Legislative intent.—

(7) The Legislature finds that career education is a crucial component of the educational programs conducted within school districts and community colleges. Accordingly, career education must be represented in accountability processes undertaken for educational institutions. It is the intent of the Legislature that the vocational standards articulated in s. 239.229(2) be considered in the development of accountability measures for public schools pursuant to ss. 229.591, 229.592, ~~229.593, 229.594,~~ and 230.23(16) and for community colleges pursuant to s. 240.324.

Section 25. Subsection (1) of section 239.229, Florida Statutes, 1998 Supplement, is amended to read:

239.229 Vocational standards.—

(1) The purpose of career education is to enable students who complete vocational programs to attain and sustain employment and realize economic self-sufficiency. The purpose of this section is to identify issues related to career education for which school boards and community college boards of trustees are accountable. It is the intent of the Legislature that the standards articulated in subsection (2) be considered in the development of accountability standards for public schools pursuant to ss. 229.591, 229.592, ~~229.593, 229.594,~~ and 230.23(16) and for community colleges pursuant to s. 240.324.

Section 26. Paragraphs (b), (c), and (d) of subsection (5) of section 24.121, Florida Statutes, 1998 Supplement, are reenacted and amended to read:

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

(5)

(b) Except as provided in paragraphs (c), (d), and (e), the Legislature shall equitably apportion moneys in the trust fund among public schools, community colleges, and universities.

(c) A portion of such net revenues, as determined annually by the Legislature, shall be distributed to each school district and shall be made available to each public school in the district for enhancing school performance through development and implementation of a school improvement plan pursuant to s. 230.23(16). A portion of these moneys, as determined annually in the General Appropriations Act, must be allocated to each school in an equal amount for each student enrolled. These

moneys may be expended only on programs or projects selected by the school advisory council or by a parent advisory committee created pursuant to this paragraph. If a school does not have a school advisory council, the district advisory council must appoint a parent advisory committee composed of parents of students enrolled in that school, which committee is representative of the ethnic, racial, and economic community served by the school, to advise the school's principal on the programs or projects to be funded. A principal may not override the recommendations of the school advisory council or the parent advisory committee. These moneys may not be used for capital improvements, nor may they be used for any project or program that has a duration of more than 1 year; however, a school advisory council or parent advisory committee may independently determine that a program or project formerly funded under this paragraph should receive funds in a subsequent year.

(d) No funds shall be released for any purpose from the Educational Enhancement Trust Fund to any school district in which one or more schools do not have an approved school improvement plan pursuant to s. 230.23(16) or do not comply with school advisory council membership composition requirements pursuant to s. 229.58(1). *Effective July 1, 2002, the Commissioner of Education shall withhold disbursements from the trust fund to any school district that fails to adopt the performance-based salary schedule required by s. 230.23(5).*

Section 27. Paragraphs (b), (c), and (d) of subsection (6) of section 228.0565, Florida Statutes, 1998 Supplement, are amended to read:

228.0565 Deregulated public schools.—

(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.

(b) The school shall make annual progress reports to the district, which upon verification shall be forwarded to the Commissioner of Education at the same time as other annual school accountability reports. The report shall contain at least the following information:

1. The school's progress towards achieving the goals outlined in its proposal.

2. The information required in the annual school report pursuant to s. 229.592.

3. Financial records of the school, including revenues and expenditures.

4. Salary and benefit levels of school employees.

(c) A school district shall ensure that the proposal is innovative and consistent with the state education goals established by s. 229.591.

(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).

Section 28. For the purpose of incorporating the amendments made by this act to section 229.57, Florida Statutes, 1998 Supplement, and 232.245, Florida Statutes, in references thereto, paragraph (b) of subsection (1) of section 120.81, Florida Statutes, is reenacted to read:

120.81 Exceptions and special requirements; general areas.—

(1) EDUCATIONAL UNITS.—

(b) Notwithstanding s. 120.52(15), any tests, test scoring criteria, or testing procedures relating to student assessment which are developed or administered by the Department of Education pursuant to s. 229.57, s. 232.245, s. 232.246, or s. 232.247, or any other statewide educational tests required by law, are not rules.

Section 29. For the purpose of incorporating the amendments made by this act to section 229.57, Florida Statutes, 1998 Supplement, in references thereto, subsection (1) of section 228.301, Florida Statutes, is reenacted to read:

228.301 Test security.—

(1) It is unlawful for anyone knowingly and willfully to violate test security rules adopted by the State Board of Education or the Commissioner of Education for mandatory tests administered by or through the State Board of Education or the Commissioner of Education to students, educators, or applicants for certification or administered by school districts pursuant to s. 229.57, or, with respect to any such test, knowingly and willfully to:

(a) Give examinees access to test questions prior to testing;

(b) Copy, reproduce, or use in any manner inconsistent with test security rules all or any portion of any secure test booklet;

(c) Coach examinees during testing or alter or interfere with examinees' responses in any way;

(d) Make answer keys available to examinees;

(e) Fail to follow security rules for distribution and return of secure test as directed, or fail to account for all secure test materials before, during, and after testing;

(f) Fail to follow test administration directions specified in the test administration manuals; or

(g) Participate in, direct, aid, counsel, assist in, or encourage any of the acts prohibited in this section.

Section 30. For the purpose of incorporating the amendments made by this act to sections 229.555, 229.565, and 229.57, Florida Statutes, in references thereto, subsections (1) and (3) of section 229.551, Florida Statutes, 1998 Supplement, are reenacted to read:

229.551 Educational management.—

(1) The department is directed to identify all functions which under the provisions of this act contribute to, or comprise a part of, the state system of educational accountability and to establish within the department the necessary organizational structure, policies, and procedures for effectively coordinating such functions. Such policies and procedures shall clearly fix and delineate responsibilities for various aspects of the system and for overall coordination of the total system. The commissioner shall perform the following duties and functions:

(a) Coordination of department plans for meeting educational needs and for improving the quality of education provided by the state system of public education;

(b) Coordination of management information system development for all levels of education and for all divisions of the department, to include the development and utilization of cooperative education computing networks for the state system of public education;

(c) Development of database definitions and all other items necessary for full implementation of a comprehensive management information system as required by s. 229.555;

(d) Coordination of all planning functions for all levels and divisions within the department;

(e) Coordination of all cost accounting and cost reporting activities for all levels of education, including public schools, vocational programs, community colleges, and institutions in the State University System;

(f) Development and coordination of a common course designation and numbering system for postsecondary education in school districts, community colleges, participating nonpublic postsecondary education institutions, and the State University System which will improve program planning, increase communication among all postsecondary delivery systems, and facilitate the transfer of students. The system shall not encourage or require course content prescription or standardization or uniform course testing, and the continuing maintenance of the system shall be accomplished by appropriate faculty committees representing

public and participating nonpublic institutions. The Articulation Coordinating Committee, whose membership represents public and nonpublic postsecondary institutions, shall:

1. Identify the highest demand degree programs within the State University System.

2. Conduct a study of courses offered by universities and accepted for credit toward a degree. The study shall identify courses designated as either general education or required as a prerequisite for a degree. The study shall also identify these courses as upper-division level or lower-division level.

3. Appoint faculty committees representing both community college and university faculties to recommend a single level for each course included in the common course numbering and designation system. Any course designated as an upper-division level course must be characterized by a need for advanced academic preparation and skills that a student would be unlikely to achieve without significant prior coursework. A course that is offered as part of an associate in science degree program and as an upper-division course for a baccalaureate degree shall be designated for both the lower and upper division. Of the courses required for each baccalaureate degree, at least half of the credit hours required for the degree shall be achievable through courses designated as lower-division courses, except in degree programs approved by the Board of Regents pursuant to s. 240.209(5)(e). A course designated as lower-division may be offered by any community college. The Articulation Coordinating Committee shall recommend to the State Board of Education the levels for the courses. The common course numbering and designation system shall include the courses at the recommended levels, and, by fall semester of 1996, the registration process at each state university and community college shall include the courses at their designated levels and common course numbers.

4. Appoint faculty committees representing both community college and university faculties to recommend those courses identified to meet general education requirements within the subject areas of communication, mathematics, social sciences, humanities, and natural sciences. The Articulation Coordinating Committee shall recommend to the State Board of Education those courses identified to meet these general education requirements by their common course code number. All community colleges and state universities shall accept these general education courses.

5. Appoint faculty committees representing both community colleges and universities to recommend common prerequisite courses and identify course substitutions when common prerequisites cannot be established for degree programs across all institutions. Faculty work groups shall adopt a strategy for addressing significant differences in prerequisites, including course substitutions. The Board of Regents shall be notified by the Articulation Coordinating Committee when significant differences remain. Common degree program prerequisites shall be offered and accepted by all state universities and community colleges, except in cases approved by the Board of Regents pursuant to s. 240.209(5)(f). The Board of Regents shall work with the State Board of Community Colleges on the development of a centralized database containing the list of courses and course substitutions that meet the prerequisite requirements for each baccalaureate degree program;

(g) Expansion and ongoing maintenance of the common course designation and numbering system to include the numbering and designation of postsecondary vocational courses and facilitate the transfer of credits between public schools, community colleges, and state universities. The Articulation Coordinating Committee shall:

1. Adopt guidelines for the participation of public school districts and community colleges in offering courses that may be transferred to a certificate, diploma, or degree program. These guidelines shall establish standards addressing faculty qualifications, admissions, program curricula, participation in the common course designation and numbering system, and other issues identified by the Task Force on Workforce Development and the Commissioner of Education. Guidelines should also address the role of accreditation in the designation of courses as transferable credit. Such guidelines must not jeopardize the accreditation status of educational institutions and must be based on data related to the history of credit transfer among institutions in this state and others.

2. Identify postsecondary vocational programs offered by community colleges and public school districts. The list shall also identify vocational courses designated as college credit courses applicable toward a vocational diploma or degree. Such courses must be identified within the common course numbering and designation system.

3. Appoint faculty committees representing both community college and public school faculties to recommend a standard program length and appropriate occupational completion points for each postsecondary vocational certificate program, diploma, and degree; and

(h) Development of common definitions necessary for managing a uniform coordinated system of career education for all levels of the state system of public education.

(3) As a part of the system of educational accountability, the department shall:

(a) Develop minimum performance standards for various grades and subject areas, as required in ss. 229.565 and 229.57.

(b) Administer the statewide assessment testing program created by s. 229.57.

(c) Develop and administer an educational evaluation program, including the provisions of the Plan for Educational Assessment developed pursuant to s. 9, chapter 70-399, Laws of Florida, and adopted by the State Board of Education.

(d) Review the school advisory councils of each district as required by s. 229.58.

(e) Conduct the program evaluations required by s. 229.565.

(f) Maintain a listing of college-level communication and computation skills defined by the Articulation Coordinating Committee as being associated with successful student performance through the baccalaureate level and submit the same to the State Board of Education for approval.

(g) Maintain a listing of tests and other assessment procedures which measure and diagnose student achievement of college-level communication and computation skills and submit the same to the State Board of Education for approval.

(h) Maintain for the information of the State Board of Education and the Legislature a file of data compiled by the Articulation Coordinating Committee to reflect achievement of college-level communication and computation competencies by students in state universities and community colleges.

(i) Develop or contract for, and submit to the State Board of Education for approval, tests which measure and diagnose student achievement of college-level communication and computation skills. Any tests and related documents developed are exempt from the provisions of s. 119.07(1). The commissioner shall maintain statewide responsibility for the administration of such tests and may assign administrative responsibilities for the tests to any public university or community college. The state board, upon recommendation of the commissioner, is authorized to enter into contracts for such services beginning in one fiscal year and continuing into the next year which are paid from the appropriation for either or both fiscal years.

(j) Perform any other functions that may be involved in educational planning, research, and evaluation or that may be required by the commissioner, the State Board of Education, or law.

Section 31. For the purpose of incorporating the amendments made by this act to section 230.23, Florida Statutes, 1998 Supplement, in references thereto, subsection (4) of section 230.03, Florida Statutes, is reenacted to read:

230.03 Management, control, operation, administration, and supervision.—The district school system must be managed, controlled, operated, administered, and supervised as follows:

(4) PRINCIPAL OR HEAD OF SCHOOL.—Responsibility for the administration of any school or schools at a given school center, for the supervision of instruction therein, and for providing leadership in the

development or revision and implementation of a school improvement plan required pursuant to s. 230.23(16) shall be delegated to the principal or head of the school or schools as hereinafter set forth and in accordance with rules established by the school board.

Section 32. For the purpose of incorporating the amendments made by this act to sections 229.591 and 229.592, Florida Statutes, 1998 Supplement, in references thereto, paragraph (a) of subsection (3) of section 231.24, Florida Statutes, 1998 Supplement, is reenacted to read:

231.24 Process for renewal of professional certificates.—

(3) For the renewal of a professional certificate, the following requirements must be met:

(a) The applicant must earn a minimum of 6 college credits or 120 inservice points or a combination thereof. For each area of specialization to be retained on a certificate, the applicant must earn at least 3 of the required credit hours or equivalent inservice points in the specialization area. Education in "clinical educator" training pursuant to s. 240.529(5)(b) and credits or points that provide training in the area of exceptional student education, normal child development, and the disorders of development may be applied toward any specialization area. Credits or points that provide training in the areas of drug abuse, child abuse and neglect, strategies in teaching students having limited proficiency in English, or dropout prevention, or training in areas identified in the educational goals and performance standards adopted pursuant to ss. 229.591(3) and 229.592 may be applied toward any specialization area. Credits or points earned through approved summer institutes may be applied toward the fulfillment of these requirements. Inservice points may also be earned by participation in professional growth components approved by the State Board of Education and specified pursuant to s. 236.0811 in the district's approved master plan for inservice educational training, including, but not limited to, serving as a trainer in an approved teacher training activity, serving on an instructional materials committee or a state board or commission that deals with educational issues, or serving on an advisory council created pursuant to s. 229.58.

Section 33. For the purpose of incorporating the amendments made by this act to section 231.29, Florida Statutes, 1998 Supplement, in references thereto, paragraphs (e) and (f) of subsection (3) of section 231.36, Florida Statutes, are reenacted to read:

231.36 Contracts with instructional staff, supervisors, and principals.—

(3)

(e) A professional service contract shall be renewed each year unless the superintendent, after receiving the recommendations required by s. 231.29, charges the employee with unsatisfactory performance and notifies the employee of performance deficiencies as required by s. 231.29. An employee who holds a professional service contract on July 1, 1997, is subject to the procedures set forth in paragraph (f) during the term of the existing professional service contract. The employee is subject to the procedures set forth in s. 231.29(3)(d) upon the next renewal of the professional service contract; however, if the employee is notified of performance deficiencies before the next contract renewal date, the procedures of s. 231.29(3)(d) do not apply until the procedures set forth in paragraph (f) have been exhausted and the professional service contract is subsequently renewed.

(f) The superintendent shall notify an employee who holds a professional service contract on July 1, 1997, in writing, no later than 6 weeks prior to the end of the postschool conference period, of performance deficiencies which may result in termination of employment, if not corrected during the subsequent year of employment (which shall be granted for an additional year in accordance with the provisions in subsection (1)). Except as otherwise hereinafter provided, this action shall not be subject to the provisions of chapter 120, but the following procedures shall apply:

1. On receiving notice of unsatisfactory performance, the employee, on request, shall be accorded an opportunity to meet with the superintendent or the superintendent's designee for an informal review of the determination of unsatisfactory performance.

2. An employee notified of unsatisfactory performance may request an opportunity to be considered for a transfer to another appropriate position, with a different supervising administrator, for the subsequent year of employment.

3. During the subsequent year, the employee shall be provided assistance and inservice training opportunities to help correct the noted performance deficiencies. The employee shall also be evaluated periodically so that he or she will be kept apprised of progress achieved.

4. Not later than 6 weeks prior to the close of the postschool conference period of the subsequent year, the superintendent, after receiving and reviewing the recommendation required by s. 231.29, shall notify the employee, in writing, whether the performance deficiencies have been corrected. If so, a new professional service contract shall be issued to the employee. If the performance deficiencies have not been corrected, the superintendent may notify the school board and the employee, in writing, that the employee shall not be issued a new professional service contract; however, if the recommendation of the superintendent is not to issue a new professional service contract, and if the employee wishes to contest such recommendation, the employee will have 15 days from receipt of the superintendent's recommendation to demand, in writing, a hearing. In such hearing, the employee may raise as an issue, among other things, the sufficiency of the superintendent's charges of unsatisfactory performance. Such hearing shall be conducted at the school board's election in accordance with one of the following procedures:

a. A direct hearing conducted by the school board within 60 days of receipt of the written appeal. The hearing shall be conducted in accordance with the provisions of ss. 120.569 and 120.57. A majority vote of the membership of the school board shall be required to sustain the superintendent's recommendation. The determination of the school board shall be final as to the sufficiency or insufficiency of the grounds for termination of employment; or

b. A hearing conducted by an administrative law judge assigned by the Division of Administrative Hearings of the Department of Management Services. The hearing shall be conducted within 60 days of receipt of the written appeal in accordance with chapter 120. The recommendation of the administrative law judge shall be made to the school board. A majority vote of the membership of the school board shall be required to sustain or change the administrative law judge's recommendation. The determination of the school board shall be final as to the sufficiency or insufficiency of the grounds for termination of employment.

Section 34. For the purpose of incorporating the amendments made by this act to section 232.245, Florida Statutes, in references thereto, subsection (1) of section 232.2454, Florida Statutes, is reenacted to read:

232.2454 District student performance standards, instruments, and assessment procedures.—

(1) School districts are required to obtain or develop and implement assessments of student achievement as necessary to accurately measure student progress and to report this progress to parents or legal guardians according to s. 232.245. Each school district shall implement the assessment program pursuant to the procedures it adopts.

Section 35. For the purpose of incorporating the amendments made by this act to section 232.245, Florida Statutes, in references thereto, paragraphs (a) and (b) of subsection (5) of section 232.246, Florida Statutes, 1998 Supplement, are reenacted and amended to read:

232.246 General requirements for high school graduation.—

(5) Each district school board shall establish standards for graduation from its schools, and these standards must include:

(a) Earning passing scores on the high school competency test *or FCAT, as* defined in s. 229.57(3)(c).

(b) Completion of all other applicable requirements prescribed by the district school board pursuant to s. 232.245.

Section 36. For the purpose of incorporating the amendments made by this act to section 229.57, Florida Statutes, 1998 Supplement, and 232.245, Florida Statutes, in references thereto, section 232.248, Florida Statutes, is reenacted to read:

232.248 Confidentiality of assessment instruments.—All examination and assessment instruments, including developmental materials

and workpapers directly related thereto, which are prepared, prescribed, or administered pursuant to ss. 229.57, 232.245, 232.246, and 232.247 shall be confidential and exempt from the provisions of s. 119.07(1) and from ss. 229.781 and 230.331. Provisions governing access, maintenance, and destruction of such instruments and related materials shall be prescribed by rules of the state board.

Section 37. For the purpose of incorporating the amendments made by this act to section 232.245, Florida Statutes, in references thereto, subsection (1) of section 232.2481, Florida Statutes, is reenacted to read:

232.2481 Graduation and promotion requirements for publicly operated schools.—

(1) Each state or local public agency, including the Department of Health and Rehabilitative Services, the Department of Corrections, the Board of Regents, boards of trustees of community colleges, and the Board of Trustees of the Florida School for the Deaf and the Blind, which agency is authorized to operate educational programs for students at any level of grades kindergarten through 12 shall be subject to all applicable requirements of ss. 232.245, 232.246, 232.247, and 232.248. Within the content of these cited statutes each such state or local public agency shall be considered a "district school board."

Section 38. For the purpose of incorporating the amendments made by this act to section 229.565, Florida Statutes, in references thereto, subsection (4) of section 233.09, Florida Statutes, is reenacted to read:

233.09 Duties of each state instructional materials committee.—The duties of each state instructional materials committee shall be:

(4) EVALUATION OF INSTRUCTIONAL MATERIALS.—To evaluate carefully all instructional materials submitted, to ascertain which instructional materials, if any, submitted for consideration best implement the selection criteria developed by the Commissioner of Education and those curricular objectives included within applicable performance standards provided for in s. 229.565.

(a) When recommending instructional materials for use in the schools, each committee shall include only instructional materials that accurately portray the ethnic, socioeconomic, cultural, and racial diversity of our society, including men and women in professional, vocational, and executive roles, and the role and contributions of the entrepreneur and labor in the total development of this state and the United States.

(b) When recommending instructional materials for use in the schools, each committee shall include only materials which accurately portray, whenever appropriate, humankind's place in ecological systems, including the necessity for the protection of our environment and conservation of our natural resources and the effects on the human system of the use of tobacco, alcohol, controlled substances, and other dangerous substances.

(c) When recommending instructional materials for use in the schools, each committee shall require such materials as it deems necessary and proper to encourage thrift, fire prevention, and humane treatment of people and animals.

(d) When recommending instructional materials for use in the schools, each committee shall require, when appropriate to the comprehension of pupils, that materials for social science, history, or civics classes contain the Declaration of Independence and the Constitution of the United States. No instructional materials shall be recommended by any committee for use in the schools which contain any matter reflecting unfairly upon persons because of their race, color, creed, national origin, ancestry, gender, or occupation.

(e) All instructional materials recommended by each committee for use in the schools shall be, to the satisfaction of each committee, accurate, objective, and current and suited to the needs and comprehension of pupils at their respective grade levels. Instructional materials committees shall consider for adoption materials developed for academically talented students such as those enrolled in advanced placement courses.

(f) When recommending instructional materials for use in the schools, each committee shall have the recommendations of all districts which submit evaluations on the materials submitted for adoption in that particular subject area aggregated and presented to the members to aid them in the selection process; however, such aggregation shall be weighted in accordance with the full-time equivalent student percentage of each district. Each committee shall prepare an additional aggregation, unweighted, with each district recommendation given equal consideration. No instructional materials shall be evaluated or recommended for adoption unless each of the district committees shall have been loaned the specified number of samples.

(g) In addition to relying on statements of publishers or manufacturers of instructional material, any committee may conduct, or cause to be conducted, an independent investigation as to the compliance of submitted materials with the requirements of this section.

Section 39. For the purpose of incorporating the amendments made by this act to section 229.565, Florida Statutes, in references thereto, paragraph (b) of subsection (1) of section 233.165, Florida Statutes, is reenacted to read:

233.165 Standards for selection.—

(1) In the selection of instructional materials, library books, and other reading material used in the public school system, the standards used to determine the propriety of the material shall include:

(b) The educational purpose to be served by the material. In considering instructional materials for classroom use, priority shall be given to the selection of materials which encompass the state and district performance standards provided for in ss. 229.565 and 232.2454 and which include the instructional objectives contained within the curriculum frameworks approved by the State Board of Education, to the extent that appropriate curriculum frameworks have been approved by the board.

Section 40. For the purpose of incorporating the amendments made by this act to section 229.565, Florida Statutes, in references thereto, paragraph (b) of subsection (3) of section 233.25, Florida Statutes, is reenacted to read:

233.25 Duties, responsibilities, and requirements of publishers and manufacturers of instructional materials.—Publishers and manufacturers of instructional materials, or their representatives, shall:

(3) Submit, at a time designated in s. 233.14, the following information:

(b) Written proof that the publisher has provided written correlations to appropriate curricular objectives included within applicable performance standards provided for in s. 229.565.

Section 41. For the purpose of incorporating the amendments made by this act to section 230.23, Florida Statutes, 1998 Supplement, in references thereto, subsection (3) of section 239.229, Florida Statutes, 1998 Supplement, is reenacted to read:

239.229 Vocational standards.—

(3) Each area technical center operated by a school board shall establish a center advisory council pursuant to s. 229.58. The center advisory council shall assist in the preparation and evaluation of center improvement plans required pursuant to s. 230.23(16) and may provide assistance, upon the request of the center director, in the preparation of the center's annual budget and plan as required by s. 229.555(1).

Section 42. For the purpose of incorporating the amendments made by this act to section 229.592, Florida Statutes, 1998 Supplement, in references thereto, subsection (4) of section 240.118, Florida Statutes, is reenacted to read:

240.118 Postsecondary feedback of information to high schools.—

(4) As a part of the school improvement plan pursuant to s. 229.592, the State Board of Education shall ensure that each school district and high school develops strategies to improve student readiness for the public postsecondary level based on annual analysis of the feedback report data.

Section 43. Subsections (29), (40), and (42) of section 228.041, Florida Statutes, 1998 Supplement, are amended 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:

(29) DROPOUT.—A dropout is a student ~~not subject to compulsory school attendance, as defined in s. 232.01,~~ who meets any one or more of the following criteria:

(a) The student has voluntarily removed himself or herself from the school system before graduation for reasons that include, but are not limited to, marriage, or the student has withdrawn from school because he or she has failed the statewide student assessment test and thereby does not receive any of the certificates of completion;

(b) The student has not met the relevant attendance requirements of the school district pursuant to State Board of Education rules, or the student was expected to attend a school but did not enter as expected for unknown reasons, or the student's whereabouts are unknown;

(c) The student has withdrawn from school, but has not transferred to another public or private school or enrolled in any vocational, adult, *home education,* or alternative educational program;

(d) The student has withdrawn from school due to hardship, unless such withdrawal has been granted under the provisions of s. 322.091, court action, expulsion, medical reasons, or pregnancy; or

(e) The student is not eligible to attend school because of reaching the maximum age for an exceptional student program in accordance with the district's policy.

~~Students not exempt from attendance pursuant to s. 232.06 and who are subject to compulsory school attendance under s. 232.01 and who stop attending school are habitual truants as defined in subsection (28) and are not considered dropouts.~~ The State Board of Education may adopt rules to implement the provisions of this subsection.

(40) GRADUATION RATE.—The term "graduation rate" means the percentage *of students who graduate from high school within 4 years after entering 9th grade for the first time, not counting students who transfer out of the student population to enroll in another school system; students who withdraw to enroll in a private school, a home education program, or an adult education program; or deceased students. Incoming transfer students, at the time of their enrollment, are included in the count of the class with which they are scheduled to graduate. For this rate calculation, students are counted as graduates upon receiving a standard high school diploma, as provided in s. 232.246, or a special diploma, as provided in s. 232.247. Also counted as graduates are* ~~calculated by dividing the number of entering 9th graders into the number of students who receive, 4 years later, a high school diploma, a special diploma, or a certificate of completion, as provided for in s. 232.246, or who receive a special certificate of completion, as provided in s. 232.247, and~~ students 19 years of age or younger who receive a general equivalency diploma, as provided in s. 229.814. The number of 9th grade students used in the calculation of a graduation rate for this state shall be students enrolling in the grade for the first time. *In conjunction with calculating the graduation rate for this state, the Department of Education shall conduct a study to evaluate the impact of the rate of students who withdraw from high school to attend adult education programs and the students in exceptional student education programs. The department shall report its findings to the Legislature by February 1, 2000. The Department of Education may calculate a 5-year graduation rate using the same methodology described in this section.*

(42) DROPOUT RATE.—The term "*high school* dropout rate" means the annual percentage calculated by dividing the number of students *in grades 9 through 12 who are classified as dropouts, pursuant to subsection (29), by the total number of students in grades 9-12 in attendance at any time during the school year* ~~over the age of compulsory school attendance, pursuant to s. 232.01, at the time of the fall membership count, into the number of students who withdraw from school during a given school year and who are classified as dropouts pursuant to subsection (29)~~. *The Department of Education shall report the number of students initially classified as students who transfer to an adult education program but who do not enroll in an adult education program.*

Section 44. Paragraph (f) of subsection (9) of section 228.056, Florida Statutes, 1998 Supplement, is amended to read:

228.056 Charter schools.—

(9) CHARTER.—The major issues involving the operation of a charter school shall be considered in advance and written into the charter. The charter shall be signed by the governing body of the charter school and the sponsor, following a public hearing to ensure community input.

(f) Upon receipt of the annual report required by paragraph (d), 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 an analysis and comparison of the overall performance of charter school students, to include all students whose scores are counted as part of the *state* ~~norm-referenced~~ assessment *program* ~~tests~~, versus comparable public school students in the district as determined by *the state* ~~norm-referenced~~ assessment *program* ~~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).

Section 45. Section 231.002, Florida Statutes, is created to read:

231.002 Teacher quality; legislative findings and purpose.—

(1) The Legislature intends to implement a comprehensive approach to increase students' academic achievement and improve teaching quality. The Legislature recognizes that professional educators shape the future of this state and the nation by developing the knowledge and skills of our future workforce and laying the foundation for good citizenship and full participation in community and civic life. The Legislature also recognizes its critical role in meeting the state's educational goals and preparing all students to achieve at the high levels set by the Sunshine State Standards.

(2) The purpose of this act is to raise standards for certifying professional educators, establish a statewide system for inservice professional development, increase accountability for postsecondary programs that prepare future educators, and increase accountability for administrators who evaluate teacher performance. To further this initiative, the Department of Education must review the provisions of chapter 231, Florida Statutes, and related administrative rules governing the certification of individuals who must hold state certification as a condition of employment in any district school system. The purpose of the review is to identify ways to make the certification process more efficient and responsive to the needs of district school systems and educators, to maintain rigorous standards for initial and continuing certification, and to provide more alternative certification options for individuals who have specific subject-area expertise but have not completed a standard teacher preparation program. The department must evaluate the rigor of the assessment instruments and passing scores required for certification and should consider components of more rigorous and efficient certification systems in other states. The department may request assistance from the Education Standards Commission. By January 1, 2000, the department must submit its findings and recommendations for revision of statutes and administrative rules to the presiding officers of the Senate, the House of Representatives, and the State Board of Education.

Section 46. Subsection (1) of section 231.02, Florida Statutes, 1998 Supplement, is amended to read:

231.02 Qualifications of personnel.—

(1) To be eligible for appointment in any position in any district school system, a person shall be of good moral character; shall have attained the age of 18 years, if he or she is to be employed in an instructional capacity; and shall, when required by law, hold a certificate or license issued under rules of the State Board of Education or the Department of Health ~~and Rehabilitative Services~~, except when employed pursuant to s. 231.15 or under the emergency provisions of s. 236.0711. Previous residence in this state shall not be required in any school of the state as a prerequisite for any person holding a valid Florida certificate or license to serve in an instructional capacity.

Section 47. Subsection (2) of section 231.0861, Florida Statutes, is amended to read:

231.0861 Principals and assistant principals; selection.—

(2) ~~By July 1, 1986,~~ Each district school board shall adopt and implement an objective-based process for the screening, selection, and appointment of assistant principals and principals in the public schools of this state which meets the criteria approved by the *State Board of Education* ~~Florida Council on Educational Management~~. Each school district

may contract with other local school districts, agencies, associations, *private entities,* or universities to conduct the assessments, evaluations, and training programs required under this section.

Section 48. Section 231.085, Florida Statutes, is amended to read:

231.085 Duties of principals.—A district school board shall employ, through written contract, public school principals who shall supervise the operation and management of the schools and property as the board determines necessary. *Each principal is responsible for the performance of all personnel employed by the school board and assigned to the school to which the principal is assigned. The principal shall faithfully and effectively apply the personnel assessment system approved by the school board pursuant to s. 231.29.* Each principal shall perform such duties as may be assigned by the superintendent pursuant to the rules of the school board. Such rules shall include, but not be limited to, rules relating to administrative responsibility, instructional leadership *in implementing the Sunshine State Standards and* ~~of~~ the *overall* educational program of the school to which the principal is assigned, submission of personnel recommendations to the superintendent, administrative responsibility for records and reports, administration of corporal punishment, and student suspension. Each principal shall provide leadership in the development or revision and implementation of a school improvement plan pursuant to s. 230.23(16).

Section 49. Paragraph (a) of subsection (5) of section 231.087, Florida Statutes, is amended, and subsection (7) is added to that section, to read:

231.087 Management Training Act; Florida Council on Educational Management; Florida Academy for School Leaders; Center for Interdisciplinary Advanced Graduate Study.—

(5) DISTRICT MANAGEMENT TRAINING PROGRAMS.—

(a) Pursuant to *rules* ~~guidelines~~ to be adopted by the *State Board of Education* ~~Florida Council on Educational Management~~, each school board may submit to the commissioner a proposed program designed to train district administrators and school-based managers, including principals, assistant principals, school site administrators, and persons who are potential candidates for employment in such administrative positions, in the competencies which have been identified by the *Florida Council on Educational Management* ~~council~~ as being necessary for effective school management. The proposed program shall include a statement of the number of individuals to be included in the program and an itemized statement of the estimated total cost of the program, which shall be paid in part by the district and in part by the department.

(7) REPEAL AND REVIEW OF MANAGEMENT ACT.—The Office of Program Policy Analysis and Governmental Accountability, in consultation with the Department of Education, shall conduct a comprehensive review of the Management Training Act to determine its effectiveness and by January 1, 2000, shall make recommendations to the presiding officers of the Legislature for the repeal, revision, or reauthorization of the act. This section is repealed effective June 30, 2000.

Section 50. Section 231.09, Florida Statutes, is amended to read:

231.09 Duties of instructional personnel.—*The primary duty of instructional personnel is to work diligently and faithfully to help students meet or exceed annual learning goals, to meet state and local achievement requirements, and to master the skills required to graduate from high school prepared for postsecondary education and work. This duty applies to instructional personnel whether they teach or function in a support role.* Members of the instructional staff of the public schools shall perform duties prescribed by rules of the school board. Such rules shall include, but not be limited to, rules relating to *a teacher's duty to help students master challenging standards and meet all state and local requirements for achievement;* teaching efficiently and faithfully, using prescribed materials and methods, *including technology-based instruction*; recordkeeping; and fulfilling the terms of any contract, unless released from the contract by the school board.

Section 51. Section 231.096, Florida Statutes, 1998 Supplement, is amended to read:

231.096 Teacher teaching out-of-field; assistance.—Each ~~school~~ district *school board* shall *adopt and implement* ~~have~~ a plan to assist any teacher teaching out-of-field, and priority consideration in professional development activities shall be given to teachers who are teaching out-of-field. *The school board shall require that such teachers participate in a certification or staff development program designed to ensure that the teacher has the competencies required for the assigned duties. The board-approved assistance plan must include duties of administrative personnel and other instructional personnel to ensure that students receive high-quality instructional services.*

Section 52. Section 231.145, Florida Statutes, is amended to read:

231.145 Purpose of instructional personnel certification.—It is the intent of the Legislature that school personnel certified in this state possess the credentials, knowledge, and skills necessary to provide *a high-quality* ~~quality~~ education in the public schools. The purpose of school personnel certification is to protect the educational interests of students, parents, and the public at large by assuring that teachers in this state are professionally qualified. In fulfillment of its duty to the citizens of this state, the Legislature has established certification requirements to assure that educational personnel in public schools possess *appropriate skills in reading, writing, and mathematics, and* adequate pedagogical knowledge, *including the use of technology to enhance student learning,* and relevant subject matter competence *so as to* ~~and can~~ demonstrate an acceptable level of professional performance. Further, the Legislature has established a certificate renewal process which promotes the continuing professional improvement of school personnel, thereby enhancing public education in all areas of the state.

Section 53. Section 231.15, Florida Statutes, 1998 Supplement, is amended to read:

231.15 Positions for which certificates required.—

(1) The State Board of Education shall classify school services, designate the certification subject areas, establish competencies, *including the use of technology to enhance student learning,* and certification requirements for all school-based personnel, and prescribe rules in accordance with which the professional, temporary, and part-time certificates shall be issued by the Department of Education to applicants who meet the standards prescribed by such rules for their class of service. *The rules must allow the holder of a valid professional certificate to add an area of certification without completing the associated course requirements if the certificateholder attains a passing score on an examination of competency in the subject area to be added, and provides evidence of at least 2 years of satisfactory performance evaluations that considered the performance of students taught by the certificateholder. The rules must allow individuals who have specific subject area expertise, but who have not completed a standard teacher preparation program, to participate in a state-approved alternative certification program for a professional certificate. As appropriate, this program must provide for demonstration competencies in lieu of completion of a specific number of college course credit hours in the areas of assessment, communication, critical thinking, human development and learning, classroom management, planning, technology, diversity, teacher responsibility, code of ethics, and continuous professional improvement. The State Board of Education shall consult with the State Board of Independent Colleges and Universities, the State Board of Nonpublic Career Education, the Board of Regents, and the State Board of Community Colleges before adopting any changes to training requirements relating to entry into the profession. This consultation must allow the educational board to provide advice regarding the impact of the proposed changes in terms of the length of time necessary to complete the training program and the fiscal impact of the changes. The educational board must be consulted only when an institution offering the training program falls under its jurisdiction.* Each person employed or occupying a position as school supervisor, principal, teacher, library media specialist, school counselor, athletic coach, or other position in which the employee serves in an instructional capacity, in any public school of any district of this state shall hold the certificate required by law and by rules of the state board in fulfilling the requirements of the law for the type of service rendered. However, the state board shall adopt rules authorizing school boards to employ selected noncertificated personnel to provide instructional services in the individuals' fields of specialty or to assist instructional staff members as education paraprofessionals.

(2) Each person who is employed and renders service as an athletic coach in any public school in any district of this state shall hold a valid part-time, temporary, or professional certificate. *The provisions of this subsection do not apply to any athletic coach who voluntarily renders service and who is not employed by any public school district of this state.*

(3) Each person employed as a school nurse shall hold a license to practice nursing in the state, and each person employed as a school physician shall hold a license to practice medicine in the state. ~~The provisions of this subsection shall not apply to any athletic coach who renders service in a voluntary capacity and who is not employed by any public school of any district in this state.~~

(4)~~(2)~~ A commissioned or noncommissioned military officer who is an instructor of junior reserve officer training shall be exempt from requirements for teacher certification, except for the filing of fingerprints pursuant to s. 231.02, if he or she meets the following qualifications:

(a) Is retired from active military duty with at least 20 years of service and draws retirement pay or is retired, or transferred to retired reserve status, with at least 20 years of active service and draws retirement pay or retainer pay.

(b) Satisfies criteria established by the appropriate military service for certification by the service as a junior reserve officer training instructor.

(c) Has an exemplary military record.

If such instructor is assigned instructional duties other than junior reserve officer training, he or she shall hold the certificate required by law and rules of the state board for the type of service rendered.

Section 54. Paragraph (c) of subsection (3) and subsections (4), (5), and (8) of section 231.17, Florida Statutes, 1998 Supplement, are amended to read:

231.17 Official statements of eligibility and certificates granted on application to those meeting prescribed requirements.—

(3) TEMPORARY CERTIFICATE.—

(c) To qualify for a temporary certificate, the applicant must:

1. File a written statement under oath that the applicant subscribes to and will uphold the principles incorporated in the Constitutions of the United States and of the State of Florida.

2. Be at least 18 years of age.

3. Document receipt of a bachelor's or higher degree from an accredited institution of higher learning, as defined by state board rule. Credits and degrees awarded by a newly created Florida state institution that is part of the State University System shall be considered as granted by an accredited institution of higher learning during the first 2 years of course offerings while accreditation is gained. Degrees from foreign institutions, or degrees from other institutions of higher learning that are in the accreditation process, may be validated by a process established in state board rule. Once accreditation is gained, the institution shall be considered as accredited beginning with the 2-year period prior to the date of accreditation. The bachelor's or higher degree may not be required in areas approved in rule by the State Board of Education as nondegreed areas. Each applicant seeking initial certification must have attained at least a 2.5 overall grade point average on a 4.0 scale in the applicant's major field of study. The applicant may document the required education by submitting official transcripts from institutions of higher education or by authorizing the direct submission of such official transcripts through established electronic network systems.

4. Be competent and capable of performing the duties, functions, and responsibilities of a teacher.

5. Be of good moral character.

6. Demonstrate mastery of general knowledge, including the ability to read, write, compute, and use technology for classroom instruction. Individuals who apply for certification on or after July 1, 2000, must demonstrate these minimum competencies in order to receive a temporary certificate. Acceptable means of demonstrating such mastery is an individual's achievement of passing scores on another state's general knowledge examinations or a valid standard teaching certificate issued by another state that requires mastery of general knowledge.

Rules adopted pursuant to this section shall provide for the review and acceptance of credentials from foreign institutions of higher learning.

(4) PROFESSIONAL CERTIFICATE.—The department shall issue a professional certificate for a period not to exceed 5 years to any applicant who meets the requirements for a temporary certificate and documents mastery of the minimum competencies required by subsection (5). Mastery of the minimum competencies must be documented on a comprehensive written examination or through other criteria as specified by rules of the state board. Mastery of minimum competencies required under subsection (5) must be demonstrated in the following areas:

(a) General knowledge, including the ability to read, write, and compute, *and use technology for classroom instruction. However, individuals who apply for certification on or after July 1, 2000, must demonstrate these minimum competencies in order to receive a temporary certificate. Acceptable means of demonstrating such mastery is an individual's achievement of passing scores on another state's general knowledge examinations or a valid standard teaching certificate issued by another state that requires mastery of general knowledge.*

(b) Professional skills and knowledge of the standards of professional practice.

(c) The subject matter in each area for which certification is sought.

(5) MINIMUM COMPETENCIES FOR PROFESSIONAL CERTIFICATE.—

(a) The state board must specify, by rule, the minimum essential competencies that educators must possess and demonstrate in order to qualify to teach students the standards of student performance adopted by the state board. The minimum competencies must include but are not limited to the ability to:

1. Write in a logical and understandable style with appropriate grammar and sentence structure.

2. Read, comprehend, and interpret professional and other written material.

3. Comprehend and work with ~~fundamental~~ mathematical concepts, *including algebra.*

4. Recognize signs of students' difficulty with the reading process and apply appropriate measures to improve students' reading performance.

5.~~4.~~ Recognize signs of severe emotional distress in students and apply techniques of crisis intervention with an emphasis on suicide prevention and positive emotional development.

6.~~5.~~ Recognize signs of alcohol and drug abuse in students and *know how to appropriately work with such students and seek assistance designed to prevent* ~~apply counseling techniques with emphasis on intervention and prevention of~~ future abuse.

7.~~6.~~ Recognize the physical and behavioral indicators of child abuse and neglect, know rights and responsibilities regarding reporting, know how to care for a child's needs after a report is made, and know recognition, intervention, and prevention strategies pertaining to child abuse and neglect which can be related to children in a classroom setting in a nonthreatening, positive manner.

8.~~7.~~ Comprehend patterns of physical, social, and academic development in students, including exceptional students in the regular classroom, and counsel these students concerning their needs in these areas.

9.~~8.~~ Recognize and be aware of the instructional needs of exceptional students.

10.~~9.~~ Comprehend patterns of normal development in students and employ appropriate intervention strategies for disorders of development.

11.~~10.~~ Identify and comprehend the codes and standards of professional ethics, performance, and practices adopted pursuant to s. 231.546(2)(b), the grounds for disciplinary action provided by s. 231.28, and the procedures for resolving complaints filed pursuant to this chapter, including appeal processes.

12.~~11.~~ Recognize and demonstrate awareness of the educational needs of students who have limited proficiency in English and employ appropriate teaching strategies.

13.~~12.~~ Use *and integrate* appropriate technology in teaching and learning processes *and in managing, evaluating, and improving instruction*.

14.~~13.~~ Use assessment *and other diagnostic* strategies to assist the continuous development of the learner.

15.~~14.~~ Use teaching and learning strategies that include considering each student's culture, learning styles, special needs, and socioeconomic background.

16.~~15.~~ Demonstrate knowledge and understanding of the subject matter that is aligned with the subject knowledge and skills specified in the *Sunshine State Standards and* student performance standards approved by the state board.

17. Recognize the early signs of truancy in students and identify effective interventions to avoid or resolve nonattendance behavior.

18. Demonstrate knowledge and skill in managing student behavior inside and outside the classroom. Such knowledge and skill must include techniques for preventing and effectively responding to incidents of disruptive or violent behavior.

19. Demonstrate knowledge of and skill in developing and administering appropriate classroom assessment instruments designed to measure student learning gains.

20. Demonstrate the ability to maintain a positive collaborative relationship with students' families to increase student achievement.

(b) The state board shall designate the certification areas for subject area tests. However, an applicant may satisfy the subject area and professional knowledge testing requirements by attaining scores on corresponding tests from the National Teachers Examination series, and successors to that series, that meet standards established by the state board. The College Level Academic Skills Test, a similar test approved by the state board, or *corresponding tests from*~~, beginning January 1, 1996,~~ the National Teachers Examination *series* must be used ~~by degreed personnel~~ to demonstrate mastery of general knowledge as required in *paragraphs (3)(c) and* ~~paragraph~~ (4)(a). *All required tests may be taken prior to graduation.* The College Level Academic Skills Test shall be waived for any applicant who passed the reading, writing, and mathematics subtest of the former Florida Teacher Certification Examination or the College Level Academic Skills Test and subsequently obtained a certificate pursuant to this chapter.

(8) EXAMINATIONS.—

(a) The commissioner, with the approval of the state board, may contract for developing, printing, administering, scoring, and appropriate analysis of the written tests required.

(b) The state board shall, by rule, specify the examination scores that are required for the issuance of a professional certificate and ~~certain~~ temporary *certificate* ~~certificates~~. ~~When the College Level Academic Skills Test is used to demonstrate general knowledge,~~ Such rules ~~must provide an alternative method by which an applicant may demonstrate mastery of general knowledge, including the ability to read, write, or compute;~~ must define generic subject area competencies~~;~~ and must establish uniform evaluation guidelines. *Individuals who apply for their professional certificate before July 1, 2000, may demonstrate mastery of general knowledge pursuant to the alternative method specified by state board rule which* ~~The alternative method~~ must:

1. Apply only to an applicant who has successfully completed all prerequisites for issuance of the professional certificate, except passing one specific subtest of the College Level Academic Skills Test, and who has taken and failed to achieve a passing score on that subtest at least four times.

2. Require notification from the superintendent of the employing school district, the governing authority of the employing developmental research school, or the governing authority of the employing state-supported school or nonpublic school that the applicant has satisfactorily demonstrated mastery of the subject area covered by that specific subtest through successful experience in the professional application of generic subject area competencies and proficient academic performance in that subject area. The decision of the superintendent or governing authority shall be based on a review of the applicant's official academic transcript and notification from the applicant's principal, a peer teacher, and a district-level supervisor that the applicant has demonstrated successful professional experience in that subject area.

(c) If an applicant takes an examination developed by this state and does not achieve the score necessary for certification, the applicant may review his or her completed examination and bring to the attention of the department any errors that would result in a passing score.

(d) The department and the board shall maintain confidentiality of the examination, developmental materials, and workpapers, and the examination, developmental materials, and workpapers are exempt from s. 119.07(1).

Section 55. Subsection (3) is added to section 231.1725, Florida Statutes, 1998 Supplement, to read:

231.1725 Employment of substitute teachers, teachers of adult education, and nondegreed teachers of career education; students performing clinical field experience.—

(3) A student who is enrolled in a state-approved teacher preparation program in an institution of higher education which is approved by rules of the State Board of Education and who is jointly assigned by the institution of higher education and a school board to perform a clinical field experience under the direction of a regularly employed and certified educator shall, while serving such supervised clinical field experience, be accorded the same protection of law as that accorded to the certified educator except for the right to bargain collectively as employees of the school board.

Section 56. Section 231.174, Florida Statutes, is amended to read:

231.174 Alternative preparation programs for certified teachers to add additional coverage.—A district school board may design alternative teacher preparation programs to enable persons already certificated to add an additional coverage to their certificates ~~to teach exceptional education classes or in other areas of critical shortage~~. Each alternative teacher preparation program shall be reviewed and approved by the Department of Education to assure that persons who complete the program are competent in the necessary areas of subject matter specialization. Two or more school districts may jointly participate in an alternative preparation program for teachers.

Section 57. Subsection (3) of section 231.29, Florida Statutes, 1998 Supplement, is amended to read:

231.29 Assessment procedures and criteria.—

(3) The assessment procedure for instructional personnel *and school administrators must be primarily based on the performance of students assigned to their classrooms or schools, as appropriate. The procedures must* ~~shall~~ comply with, but *need* ~~shall~~ not be limited to, the following requirements:

(a) An assessment *must* ~~shall~~ be conducted for each employee at least once a year. The assessment *must* ~~shall~~ be based upon sound educational principles and contemporary research in effective educational practices. *Beginning with the full implementation of an annual assessment of learning gains,* the assessment must *primarily* use data and indicators of improvement in student performance *assessed annually as specified in s. 229.57* and may consider results of peer reviews in evaluating the employee's performance. *Student performance must be measured by state assessments required under s. 229.57 and by local assessments for subjects and grade levels not measured by the state assessment program.* The assessment criteria must include, but are not limited to, indicators that relate to the following:

1. Performance of students.

2.~~1.~~ Ability to maintain appropriate discipline.

3.~~2.~~ Knowledge of subject matter. The district school board shall make special provisions for evaluating teachers who are assigned to teach out-of-field.

4.~~3.~~ Ability to plan and deliver instruction, *including the use of technology in the classroom*.

5.~~4.~~ Ability to evaluate instructional needs.

6.~~5.~~ Ability to *establish and maintain a positive collaborative relationship with students' families to increase student achievement* ~~communicate with parents~~.

7.~~6.~~ Other professional competencies, responsibilities, and requirements as established by rules of the State Board of Education and policies of the district school board.

(b) All personnel *must* ~~shall~~ be fully informed of the criteria and procedures associated with the assessment process before the assessment takes place.

(c) The individual responsible for supervising the employee must assess the employee's performance. The evaluator must submit a written report of the assessment to the superintendent for the purpose of reviewing the employee's contract. *If the employee is assigned to a school designated in performance grade category "D" or "F" and was rated unsatisfactory on any function related to the employee's instructional or administrative duties, the superintendent, in consultation with the employee's evaluator, shall review the employee's performance assessment. If the superintendent determines that the lack of general knowledge, subject area expertise, or other professional competencies contributed to the employee's unsatisfactory performance, the superintendent shall notify the district school board of that determination. The district school board shall require those employees, as part of their performance probation, to take and receive a passing score on a test of general knowledge, subject area expertise, or professional competencies, whichever is appropriate. The tests required by this paragraph shall be those required for certification under chapter 231 and rules of the State Board of Education.* The evaluator must submit the written report to the employee no later than 10 days after the assessment takes place. The evaluator must discuss the written report of assessment with the employee. The employee shall have the right to initiate a written response to the assessment, and the response shall become a permanent attachment to his or her personnel file.

(d) If an employee is not performing his or her duties in a satisfactory manner, the evaluator shall notify the employee in writing of such determination. The notice must describe such unsatisfactory performance and include notice of the following procedural requirements:

1. Upon delivery of a notice of unsatisfactory performance, the evaluator must confer with the employee, make recommendations with respect to specific areas of unsatisfactory performance, and provide assistance in helping to correct deficiencies within a prescribed period of time.

2.*a. If the employee holds a professional service contract as provided in s. 231.36,* the employee shall be placed on performance probation and governed by the provisions of this section for 90 calendar days *following* ~~from~~ the receipt of the notice of unsatisfactory performance to demonstrate corrective action. School holidays and school vacation periods are not counted when calculating the 90-calendar-day period. During the 90 calendar days, the employee *who holds a professional service contract* must be evaluated periodically and apprised of progress achieved and must be provided assistance and inservice training opportunities to help correct the noted performance deficiencies. At any time during the 90 calendar days, the employee *who holds a professional service contract* may request a transfer to another appropriate position with a different supervising administrator; however, a transfer does not extend the period for correcting performance deficiencies.

b.~~3.~~ Within 14 days after the close of the 90 calendar days, the evaluator must assess whether the performance deficiencies have been corrected and forward a recommendation to the superintendent. Within 14 days after receiving the evaluator's recommendation, the superintendent must notify the employee *who holds a professional service contract* in writing whether the performance deficiencies have been satisfactorily corrected and whether the superintendent will recommend that the school board continue or terminate his or her employment contract. If the employee wishes to contest the superintendent's recommendation, the employee must, within 15 days after receipt of the superintendent's recommendation, submit a written request for a hearing. Such hearing shall be conducted at the school board's election in accordance with one of the following procedures:

(I)~~a.~~ A direct hearing conducted by the school board within 60 days after receipt of the written appeal. The hearing shall be conducted in accordance with the provisions of ss. 120.569 and 120.57. A majority vote of the membership of the school board shall be required to sustain the superintendent's recommendation. The determination of the school board shall be final as to the sufficiency or insufficiency of the grounds for termination of employment; or

(II)~~b.~~ A hearing conducted by an administrative law judge assigned by the Division of Administrative Hearings of the Department of Management Services. The hearing shall be conducted within 60 days after receipt of the written appeal in accordance with chapter 120. The recommendation of the administrative law judge shall be made to the school board. A majority vote of the membership of the school board shall be required to sustain or change the administrative law judge's recommendation. The determination of the school board shall be final as to the sufficiency or insufficiency of the grounds for termination of employment.

Section 58. Subsections (1), (4), and (6) of section 231.36, Florida Statutes, are amended to read:

231.36 Contracts with instructional staff, supervisors, and principals.—

(1)(a) Each person employed as a member of the instructional staff in any district school system shall be properly certificated pursuant to s. 231.17 or employed pursuant to s. 231.1725 and shall be entitled to and shall receive a written contract as specified in chapter 230. All such contracts, except continuing contracts as specified in subsection (4), shall contain provisions for dismissal during the term of the contract only for just cause. Just cause includes, but is not limited to, *the following instances, as defined by rule of the State Board of Education:* misconduct in office, incompetency, gross insubordination, willful neglect of duty, or conviction of a crime involving moral turpitude.

(b) A supervisor or principal shall be properly certified and shall receive a written contract as specified in chapter 230. Such contract may be for an initial period not to exceed 3 years, subject to annual review and renewal. The first 97 days of an initial contract is a probationary period. During the probationary period, the employee may be dismissed without cause or may resign from the contractual position without breach of contract. After the first 3 years, the contract may be renewed for a period not to exceed 3 years and shall contain provisions for dismissal during the term of the contract only for just cause, in addition to such other provisions as are prescribed by the school board.

(4)(a) An employee who has continuing contract status prior to July 1, 1984, shall be entitled to retain such contract and all rights arising therefrom in accordance with existing laws, rules of the State Board of Education, or any laws repealed by this act, unless the employee voluntarily relinquishes his or her continuing contract.

(b) Any member of the district administrative or supervisory staff and any member of the instructional staff, including any principal, who is under continuing contract may be dismissed or may be returned to annual contract status for another 3 years in the discretion of the school board, at the end of the school year, when a recommendation to that effect is submitted in writing to the school board on or before April 1 of any school year, giving good and sufficient reasons therefor, by the superintendent, by the principal if his or her contract is not under consideration, or by a majority of the school board. The employee whose contract is under consideration shall be duly notified in writing by the party or parties preferring the charges at least 5 days prior to the filing of the written recommendation with the school board, and such notice shall include a copy of the charges and the recommendation to the school board. The school board shall proceed to take appropriate action. Any decision adverse to the employee shall be made by a majority vote of the full membership of the school board. Any such decision adverse to the employee may be appealed by the employee pursuant to s. 120.68.

(c) Any member of the district administrative or supervisory staff and any member of the instructional staff, including any principal, who is under continuing contract may be suspended or dismissed at any time during the school year; however, the charges against him or her must be based on immorality, misconduct in office, incompetency, gross insubordination, willful neglect of duty, drunkenness, or conviction of a crime involving moral turpitude, *as these terms are defined by rule of the State Board of Education*. Whenever such charges are made against any such

employee of the school board, the school board may suspend such person without pay; but, if the charges are not sustained, he or she shall be immediately reinstated, and his or her back salary shall be paid. In cases of suspension by the school board or by the superintendent, the school board shall determine upon the evidence submitted whether the charges have been sustained and, if the charges are sustained, shall determine either to dismiss the employee or fix the terms under which he or she may be reinstated. If such charges are sustained by a majority vote of the full membership of the school board and such employee is discharged, his or her contract of employment shall be thereby canceled. Any such decision adverse to the employee may be appealed by the employee pursuant to s. 120.68, provided such appeal is filed within 30 days after the decision of the school board.

(6)(a) Any member of the instructional staff, excluding an employee specified in subsection (4), may be suspended or dismissed at any time during the term of the contract for just cause as provided in paragraph (1)(a). The school board must notify the employee in writing whenever charges are made against the employee and may suspend such person without pay; but, if the charges are not sustained, the employee shall be immediately reinstated, and his or her back salary shall be paid. If the employee wishes to contest the charges, the employee must, within 15 days after receipt of the written notice, submit a written request for a hearing. Such hearing shall be conducted at the school board's election in accordance with one of the following procedures:

1. A direct hearing conducted by the school board within 60 days after receipt of the written appeal. The hearing shall be conducted in accordance with the provisions of ss. 120.569 and 120.57. A majority vote of the membership of the school board shall be required to sustain the superintendent's recommendation. The determination of the school board shall be final as to the sufficiency or insufficiency of the grounds for termination of employment; or

2. A hearing conducted by an administrative law judge assigned by the Division of Administrative Hearings of the Department of Management Services. The hearing shall be conducted within 60 days after receipt of the written appeal in accordance with chapter 120. The recommendation of the administrative law judge shall be made to the school board. A majority vote of the membership of the school board shall be required to sustain or change the administrative law judge's recommendation. The determination of the school board shall be final as to the sufficiency or insufficiency of the grounds for termination of employment.

Any such decision adverse to the employee may be appealed by the employee pursuant to s. 120.68, provided such appeal is filed within 30 days after the decision of the school board.

(b) Any member of the district administrative or supervisory staff, including any principal but excluding an employee specified in subsection (4), may be suspended or dismissed at any time during the term of the contract; however, the charges against him or her must be based on immorality, misconduct in office, incompetency, gross insubordination, willful neglect of duty, drunkenness, or conviction of any crime involving moral turpitude, *as these terms are defined by rule of the State Board of Education*. Whenever such charges are made against any such employee of the school board, the school board may suspend the employee without pay; but, if the charges are not sustained, he or she shall be immediately reinstated, and his or her back salary shall be paid. In cases of suspension by the school board or by the superintendent, the school board shall determine upon the evidence submitted whether the charges have been sustained and, if the charges are sustained, shall determine either to dismiss the employee or fix the terms under which he or she may be reinstated. If such charges are sustained by a majority vote of the full membership of the school board and such employee is discharged, his or her contract of employment shall be thereby canceled. Any such decision adverse to the employee may be appealed by him or her pursuant to s. 120.68, provided such appeal is filed within 30 days after the decision of the school board.

Section 59. Paragraph (a) of subsection (1) of section 231.546, Florida Statutes, 1998 Supplement, is amended to read:

231.546 Education Standards Commission; powers and duties.—

(1) The Education Standards Commission shall have the duty to:

(a) Recommend to the state board *high* ~~desirable~~ standards relating to programs and policies for the development, certification and certification extension, improvement, and maintenance of competencies of educational personnel, including teacher interns. *Such standards must be consistent with the state's duty to provide a high-quality system of public education to all students.*

Section 60. Subsections (1) and (3) and paragraph (b) of subsection (4) of section 231.600, Florida Statutes, 1998 Supplement, are amended, and subsections (8) and (9) are added to that section, to read:

231.600 School Community Professional Development Act.—

(1) The Department of Education, public community colleges and universities, public school districts, and public schools in this state shall collaborate to establish a coordinated system of professional development. The purpose of the professional development system is to enable the school community to *meet state and local student achievement standards and the state education goals and to* succeed in school improvement as described in s. 229.591.

(3) The activities designed to implement this section must:

(a) Increase the success of educators in guiding student learning and development so as to implement state and local educational *standards, goals, and* initiatives;

(b) Assist the school community in *providing stimulating educational activities that encourage and motivate students to achieve at the highest levels and to become* ~~developing in school children the dispositions that will motivate them to be~~ active learners; and

(c) Provide continuous support *as well as*~~, rather than~~ temporary intervention *for education professionals who need improvement in knowledge, skills, and performance*~~, for improving the performance of teachers and others who assist children in their learning~~.

(4) The Department of Education, school districts, schools, and public colleges and universities share the responsibilities described in this section. These responsibilities include the following:

(b) Each district school board shall consult with teachers and representatives of college and university faculty, community agencies, and other interested citizen groups to establish policy and procedures to guide the operation of the district professional development program. The professional development system must:

1. Require that *principals and* schools *use student achievement data, school discipline data, school environment surveys, assessments of parental satisfaction, and other performance indicators to* identify *school and* student needs that can be met by improved professional performance, and assist *principals and* schools in making these identifications;

2. Provide training activities coupled with followup support that is appropriate to accomplish district-level and school-level improvement goals and standards; ~~and~~

3. Provide for systematic consultation with regional and state personnel designated to provide technical assistance and evaluation of local professional development programs*;*~~.~~

4. Provide for delivery of professional development by distance learning and other technology-based delivery systems to reach more educators at lower costs; and

5. Continuously evaluate the quality and effectiveness of professional development programs in order to eliminate ineffective programs and strategies and to expand effective ones. Evaluations must consider the impact of such activities on the performance of participating educators and their students' achievement and behavior.

(8) This section does not limit or discourage a district school board from contracting with independent entities for professional development services and inservice education if the school board believes that, through such a contract, a better product can be acquired or its goals for education improvement can be better met.

(9) For teachers and administrators who have been evaluated as less than satisfactory, a school board may require participation in specific professional development programs as part of the improvement prescription.

Section 61. Subsection (2) of section 236.08106, Florida Statutes, 1998 Supplement, is amended, and subsections (3) and (4) are added to that section, to read:

236.08106 Excellent Teaching Program.—

(2) The Excellent Teaching Program is created to provide categorical funding for monetary incentives and bonuses for teaching excellence. The Department of Education shall ~~allocate and~~ distribute to each school district *or to the NBPTS* an amount as prescribed annually by the Legislature for the Excellent Teaching Program. Unless otherwise provided in the General Appropriations Act, each *distribution* ~~school district's annual allocation~~ shall be the sum of the amounts earned for the following incentives and bonuses:

(a) A fee subsidy to be paid by the *Department of Education* ~~school district~~ to the NBPTS on behalf of each individual who is an employee of *a* ~~the~~ district school board or a public school within *the* ~~that~~ school district, who is certified by the district to have demonstrated satisfactory teaching performance pursuant to s. 231.29 and who satisfies the prerequisites for participating in the NBPTS certification program, and who agrees, in writing, to pay 10 percent of the NBPTS participation fee and to participate in the NBPTS certification program during the school year for which the fee subsidy is provided. The fee subsidy for each eligible participant shall be an amount equal to 90 percent of the fee charged for participating in the NBPTS certification program, but not more than $1,800 per eligible participant. The fee subsidy is a one-time award and may not be duplicated for any individual.

(b) A portfolio-preparation incentive of $150 *paid by the Department of Education to* ~~for~~ each teacher employed by *a* ~~the~~ district school board or a public school within *a school* ~~the~~ district who is participating in the NBPTS certification program. The portfolio-preparation incentive is a one-time award paid during the school year for which the NBPTS fee subsidy is provided.

(c) An annual bonus equal to 10 percent of the prior fiscal year's statewide average salary for classroom teachers to be *distributed to the school district to be* paid to each individual who holds NBPTS certification and is employed by the district school board or by a public school within *the* ~~that~~ school district. The district school board shall distribute the annual bonus to each individual who meets the requirements of this paragraph and who is certified annually by the district to have demonstrated satisfactory teaching performance pursuant to s. 231.29. The annual bonus may be paid as a single payment or divided into not more than three payments.

(d) An annual bonus equal to 10 percent of the prior fiscal year's statewide average salary for classroom teachers to be *distributed to the school district to be* paid to each individual who meets the requirements of paragraph (c) and agrees, in writing, to provide the equivalent of 12 workdays of mentoring and related services to public school teachers within the district who do not hold NBPTS certification. The district school board shall distribute the annual bonus in a single payment following the completion of all required mentoring and related services for the year. It is not the intent of the Legislature to remove excellent teachers from their assigned classrooms; therefore, credit may not be granted by a school district or public school for mentoring or related services provided during the regular school day or during the 196 days of required service for the school year.

~~(e) The district shall receive an amount equal to 50 percent of the teacher bonuses provided under paragraphs (c) and (d), which shall be used by the district for professional development of teachers. The district must give priority to using all funds received pursuant to this paragraph for professional development of teachers employed at schools identified as performing at critically low levels.~~

A teacher for whom the state pays the certification fee and who does not complete the certification program or does not teach in a public school of this state for a least 1 year after completing the certification program must repay the amount of the certification fee to the state. However, a teacher who completes the certification program but fails to be awarded NBPTS certification is not required to repay the amount of the certification fee if the teacher meets the 1-year teaching requirement. Repayment is not required of a teacher who does not complete the certification program or fails to fulfill the teaching requirement because of the teacher's death or disability or because of other extenuating circumstances as determined by the State Board of Education.

(3)(a) In addition to any other remedy available under the law, any person who is a recipient of a certification fee subsidy paid to the NBPTS and who is an employee of the state or any of its political subdivisions is considered to have consented, as a condition of employment, to the voluntary or involuntary withholding of wages to repay to the state the amount of such a certification fee subsidy awarded under this section. Any such employee who defaults on the repayment of such a certification fee subsidy must, within 60 days after service of a notice of default by the Department of Education to the employee, establish a repayment schedule which must be agreed to by the department and the employee, for repaying the defaulted sum through payroll deductions. The department may not require the employee to pay more than 10 percent of the employee's pay per pay period under such a repayment schedule or plan. If the employee fails to establish a repayment schedule within the specified period of time or fails to meet the terms and conditions of the agreed upon or approved repayment schedule as authorized by this subsection, the employee has breached an essential condition of employment and is considered to have consented to the involuntary withholding of wages or salary for the repayment of the certification fee subsidy.

(b) A person who is employed by the state, or any of its political subdivisions, may not be dismissed for having defaulted on the repayment of the certification fee subsidy to the state.

(4) The State Board of Education may adopt rules as necessary to implement the provisions for payment of the fee subsidies, incentives, and bonuses and for the repayment of defaulted certification fee subsidies under this section.

Section 62. Subsection (1), paragraph (b) of subsection (3), and subsections (4) and (5) of section 240.529, Florida Statutes, are amended to read:

240.529 Public accountability and state approval for teacher preparation programs.—

(1) INTENT.—The Legislature recognizes that skilled teachers make *an* ~~the most~~ important contribution to a ~~quality educational~~ system *that allows students to obtain a high-quality education* ~~and that competent teachers are produced by effective and accountable teacher preparation programs~~. The intent of the Legislature is to establish a system for development and approval of teacher preparation programs that will free postsecondary teacher preparation institutions to employ varied and innovative teacher preparation techniques while being held accountable for producing *graduates* ~~teachers~~ with the competencies and skills *necessary to achieve* ~~for achieving~~ the state education goals*; help students meet high standards for academic achievement; maintain safe, secure classroom learning environments;* and *sustain* ~~sustaining~~ the state system of school improvement and education accountability established pursuant to ss. 229.591 *and*~~,~~ 229.592~~, and 229.593~~. *To further this intent, the Commissioner of Education shall appoint a Teacher Preparation Program Committee for the purpose of establishing core curricula in each state-approved teacher preparation program. The committee shall consist of representatives from presidents of public and private colleges and universities, deans of colleges of education, presidents of community colleges, district school superintendents, and high-performing teachers. The curricula shall be focused on the knowledge, skills, and abilities essential to instruction in the Sunshine State Standards, with a clear emphasis on the importance of reading at all grade levels. The committee shall report its recommendations to the State Board of Education by January 1, 2000, and at that time may be dissolved. The state board shall adopt rules that establish uniform core curricula for each state-approved teacher preparation program and shall use this report in the development of such rules.*

(3) INITIAL STATE PROGRAM APPROVAL.—

(b) Each teacher preparation program approved by the Department of Education, as provided for by this section, shall require *students to meet* ~~one of~~ the following as *prerequisites* ~~a prerequisite~~ for admission into the program:

~~1. That a student receive a passing score at the 40th percentile or above, as established by state board rule, on a nationally standardized college entrance examination;~~

1.~~2.~~ ~~That a student~~ Have a grade point average of at least 2.5 on a 4.0 scale for the general education component of undergraduate studies~~;~~ or

~~3. That a student~~ have completed the requirements for a baccalaureate degree *with a minimum grade point average of 2.5 on a 4.0 scale* from any college or university accredited by a regional accrediting association as defined by state board rule*; and*~~.~~

2. Beginning with the 2000-2001 academic year, demonstrate mastery of general knowledge, including the ability to read, write, and compute by passing the College Level Academic Skills Test, a corresponding component of the National Teachers Examination series, or a similar test pursuant to rules of the State Board of Education.

The State Board of Education *may* ~~shall~~ provide by rule for a waiver of these requirements. The rule shall require that 90 percent of those admitted to each teacher education program meet the requirements of this paragraph *and that the program implement strategies to ensure that students admitted under a waiver receive assistance to demonstrate competencies to successfully meet requirements for certification.*

(4) CONTINUED PROGRAM APPROVAL.—Notwithstanding subsection (3), failure by a public or nonpublic teacher preparation program to meet the criteria for continued program approval shall result in loss of program approval. The Department of Education, in collaboration with the departments and colleges of education, shall develop procedures for continued program approval which document the continuous improvement of program processes and graduates' performance.

(a) Continued approval of specific teacher preparation programs at each public and nonpublic institution of higher education within the state is contingent upon the passing of the written examination required by s. 231.17 by at least *90* ~~80~~ percent of the graduates of the program who take the examination. On request of an institution, the Department of Education shall provide an analysis of the performance of the graduates of such institution with respect to the competencies assessed by the examination required by s. 231.17.

(b) Additional criteria for continued program approval for public institutions may be developed by the Education Standards Commission and approved by the State Board of Education. Such criteria must emphasize outcome measures *of student performance in the areas of classroom management and improving the performance of students who have traditionally failed to meet student achievement goals and have been overrepresented in school suspensions and other disciplinary actions,* and *must* ~~may~~ include, but need not be limited to, program graduates' satisfaction with training and the unit's responsiveness to local school districts. Additional criteria for continued program approval for nonpublic institutions shall be developed in the same manner as for public institutions; however, such criteria must be based upon significant, objective, and quantifiable graduate performance measures. Responsibility for collecting data on outcome measures through survey instruments and other appropriate means shall be shared by the institutions of higher education, the Board of Regents, the State Board of Independent Colleges and Universities, and the Department of Education. By January 1 of each year, the Department of Education, in cooperation with the Board of Regents and the State Board of Independent Colleges and Universities, shall report this information for each postsecondary institution that has state-approved programs of teacher education to the Governor, the Commissioner of Education, the Chancellor of the State University System, the President of the Senate, the Speaker of the House of Representatives, all Florida postsecondary teacher preparation programs, and interested members of the public. This report must analyze the data and make recommendations for improving teacher preparation programs in the state.

(c) ~~Beginning July 1, 1997,~~ Continued approval for a teacher preparation program is contingent upon the results of annual reviews of the program conducted by the institution of higher education, using procedures and criteria outlined in an institutional program evaluation plan approved by the Department of Education. This plan must incorporate the criteria established in paragraphs (a) and (b) and include provisions for involving primary stakeholders, such as program graduates, district school personnel, classroom teachers, principals, community agencies, and business representatives in the evaluation process. Upon request by an institution, the department shall provide assistance in developing, enhancing, or reviewing the institutional program evaluation plan and training evaluation team members.

(d) ~~Beginning July 1, 1997,~~ Continued approval for a teacher preparation program is contingent upon standards being in place that are designed to adequately prepare elementary, middle, and high school teachers to instruct their students in higher-level mathematics concepts *and in the use of technology* at the appropriate grade level.

(e) Beginning July 1, 2000, continued approval of teacher preparation programs is contingent upon compliance with the student admission requirements of subsection (3) and upon the receipt of at least a satisfactory rating from public schools and nonpublic schools that employ graduates of the program. Employer satisfaction shall be determined by an annually administered survey instrument approved by the Department of Education.

(f) Beginning with the 2000-2001 academic year, each public and private institution that offers a teacher preparation program in this state must annually report information regarding these programs to the state and the general public. This information shall be reported in a uniform and comprehensible manner that conforms with definitions and methods proposed by the Education Standards Commission, that is consistent with definitions and methods approved by the Commissioner of the National Center for Educational Statistics, and that is approved by the State Board of Education. This information shall be reported through publications such as college and university catalogs and promotional materials sent to potential applicants, secondary school guidance counselors, and prospective employers of the institution's program graduates.

(5) PRESERVICE FIELD EXPERIENCE.—All postsecondary instructors, school district personnel and instructional personnel, and school sites preparing instructional personnel through preservice field experience courses and internships shall meet special requirements.

(a) All instructors in postsecondary teacher preparation programs who instruct or supervise preservice field experience courses or internships shall have at least one of the following: specialized training in clinical supervision; a valid professional teaching certificate pursuant to ss. 231.17 and 231.24; *or* at least 3 years of successful teaching experience in prekindergarten through grade 12~~; or a commitment to spend periods of time specified by State Board of Education rule teaching in the public schools~~.

(b) All school district personnel and instructional personnel who supervise or direct teacher preparation students during field experience courses or internships must have evidence of "clinical educator" training *and must successfully demonstrate effective classroom management strategies that consistently result in improved student performance.* The Education Standards Commission shall recommend, and the state board shall approve, the training requirements.

(c) Preservice field experience programs must provide specific guidance and demonstration of effective classroom management strategies, strategies for incorporating technology into classroom instruction, and ways to link instructional plans to the Sunshine State Standards, as appropriate. The length of structured field experiences may be extended to ensure that candidates achieve the competencies needed to meet certification requirements.

(d)~~(c)~~ Postsecondary teacher preparation programs in cooperation with district school boards and approved nonpublic school associations shall select the school sites for preservice field experience activities. These sites must represent the full spectrum of school communities, including, but not limited to, schools located in urban settings. In order to be selected, school sites must demonstrate commitment to the education of public school students and to the preparation of future teachers. A nonpublic school association, in order to be approved, must have a state-approved master inservice program plan in accordance with s. 236.0811.

Section 63. Section 231.6135, Florida Statutes, is created to read:

231.6135 Statewide system for inservice professional development.—The intent of this section is to establish a statewide system of professional development that provides a wide range of targeted inservice training to teachers and administrators designed to upgrade skills and knowledge needed to reach world class standards in education. The system shall consist of a network of professional development academies in each region of the state that are operated in partnership with area business partners to develop and deliver high-quality training programs purchased by school districts. The academies shall be established to meet the human resource development needs of professional educators, schools, and school districts. Funds appropriated for the initiation of professional development academies shall be allocated by the Commissioner of Education,

unless otherwise provided in an appropriations act. To be eligible for startup funds, the academy must:

(1) Be established by the collaborative efforts of one or more district school boards, members of the business community, and the postsecondary institutions which may award college credits for courses taught at the academy.

(2) Demonstrate the capacity to provide effective training to improve teaching skills in the areas of elementary reading and mathematics, the use of instructional technology, high school algebra, and classroom management, and to deliver such training using face-to-face, distance learning, and individualized computer-based delivery systems.

(3) Propose a plan for responding in an effective and timely manner to the professional development needs of teachers, administrators, schools, and school districts relating to improving student achievement and meeting state and local education goals.

(4) Demonstrate the ability to provide high-quality trainers and training, appropriate followup and coaching for all participants, and support school personnel in positively impacting student performance.

(5) Be operated under contract with its public partners and governed by an independent board of directors, which should include at least one superintendent and one school board chairman from the participating school districts, the president of the collective bargaining unit that represents the majority of the region's teachers, and at least three individuals who are not employees or elected or appointed officials of the participating school districts.

(6) Be financed during the first year of operation by an equal or greater match from private funding sources and demonstrate the ability to be self-supporting within 1 year after opening through fees for services, grants, or private contributions.

(7) Own or lease a facility that can be used to deliver training onsite and through distance learning and other technology-based delivery systems. The participating district school boards may lease a site or facility to the academy for a nominal fee and may pay all or part of the costs of renovating a facility to accommodate the academy. The academy is responsible for all operational, maintenance, and repair costs.

(8) Provide professional development services for the participating school districts as specified in the contract and may provide professional development services to other school districts, private schools, and individuals on a fee-for-services basis.

Section 64. *Section 231.601, Florida Statutes, is repealed.*

Section 65. Section 230.2316, Florida Statutes, 1998 Supplement, is amended to read:

230.2316 Dropout prevention.—

(1) SHORT TITLE.—This act may be cited as the "Dropout Prevention *and Academic Intervention* Act."

(2) INTENT.—The Legislature recognizes that a growing proportion of young people are not making successful transitions to productive adult lives. ~~The Legislature further recognizes that traditional education programs which do not meet certain students' educational needs and interests may cause these students to become unmotivated, fail, be truant, be disruptive, or drop out of school.~~ The Legislature finds that a child who does not complete his or her education is greatly limited in obtaining gainful employment, achieving his or her full potential, and becoming a productive member of society. Therefore, it is the intent of the Legislature to authorize and encourage district school boards throughout the state to *develop and establish dropout prevention and academic intervention activities designed to meet the needs of students who do not perform well in traditional educational programs.* ~~establish comprehensive dropout prevention programs. These programs shall be designed to meet the needs of students who are not effectively served by conventional education programs in the public school system.~~ It is further the intent of the Legislature that cooperative agreements be developed among school districts, other governmental and private agencies, and community resources in order to implement innovative exemplary programs aimed at reducing the number of students who do not complete their education and increasing the number of students who have a positive experience in school and obtain a high school diploma.

(3) STUDENT ELIGIBILITY AND PROGRAM CRITERIA.—

(a) Dropout prevention *and academic intervention* programs *may* ~~shall~~ differ from traditional education programs and schools in scheduling, administrative structure, philosophy, curriculum, or setting and shall employ alternative teaching methodologies, curricula, learning activities, *and* ~~or~~ diagnostic and assessment procedures in order to meet the needs, interests, abilities, and talents of eligible students. The educational program shall provide curricula, *character development and law education as provided in s. 233.0612,* and related services which support the program goals and lead to *improved performance in the areas of academic achievement, attendance, and discipline* ~~completion of a high school diploma~~. Student participation in such programs shall be voluntary. Districts may, however, assign students to a program for disruptive students. *Notwithstanding any other provision of law to the contrary, no student shall be identified as being eligible to receive services funded through the dropout prevention and academic intervention program based solely on the student being from a single-parent family.* ~~The minimum period of time during which the student participates in the program shall be equivalent to two instructional periods per day unless the program utilizes a student support and assistance component rather than regularly scheduled courses.~~

(b) Students in grades *1-12* ~~4-12~~ shall be eligible for dropout prevention *and academic intervention* programs. Eligible ~~dropout prevention~~ students shall be reported *in the appropriate basic cost factor* ~~for dropout prevention full-time equivalent student membership~~ in the Florida Education Finance Program ~~in standard dropout prevention classes or student support and assistance components which provide academic assistance and coordination of support services to students enrolled full-time in a regular classroom~~. *The strategies and supports provided to eligible students shall be funded through the General Appropriations Act and may include, but are not limited to those services identified on the student's academic intervention plan.* ~~The student support and assistance component shall include auxiliary services provided to students or teachers, or both. Students participating in this model shall generate funding only for the time that they receive extra services or auxiliary help.~~

(c) A student shall be identified as being *eligible to receive services funded through the dropout prevention and academic intervention program* ~~a potential dropout~~ based upon one of the following criteria:

1. The student is academically unsuccessful as evidenced by low test scores, retention, failing grades, low grade point average, falling behind in earning credits, or not meeting the state or district proficiency levels in reading, mathematics, or writing.

2. The student has a pattern of excessive absenteeism or has been identified as a habitual truant.

~~1. The student has shown a lack of motivation in school through grades which are not commensurate with documented ability levels or high absenteeism or habitual truancy as defined in s. 228.041(28).~~

~~2. The student has not been successful in school as determined by retentions, failing grades, or low achievement test scores and has needs and interests that cannot be met through traditional programs.~~

~~3. The student has been identified as a potential school dropout by student services personnel using district criteria. District criteria that are used as a basis for student referral to an educational alternatives program shall identify specific student performance indicators that the educational alternative program seeks to address.~~

~~4. The student has documented drug-related or alcohol-related problems, or has immediate family members with documented drug-related or alcohol-related problems that adversely affect the student's performance in school.~~

3. ~~5.~~ The student has a history of disruptive behavior in school or has committed an offense that warrants out-of-school suspension or expulsion from school according to the district code of student conduct. For the purposes of this program, "disruptive behavior" is behavior that:

a. Interferes with the student's own learning or the educational process of others and requires attention and assistance beyond that which the traditional program can provide or results in frequent conflicts of a

disruptive nature while the student is under the jurisdiction of the school either in or out of the classroom; or

b. Severely threatens the general welfare of students or others with whom the student comes into contact.

~~6. The student is assigned to a program provided pursuant to chapter 39, chapter 984, or chapter 985 which is sponsored by a state-based or community-based agency or is operated or contracted for by the Department of Children and Family Services or the Department of Juvenile Justice.~~

(d)1. "Second chance schools" means school district programs provided through cooperative agreements between the Department of Juvenile Justice, private providers, state or local law enforcement agencies, or other state agencies for students who have been disruptive or violent or who have committed serious offenses. As partnership programs, second chance schools are eligible for waivers by the Commissioner of Education from chapters 230-235 and 239 and State Board of Education rules that prevent the provision of appropriate educational services to violent, severely disruptive, or delinquent students in small nontraditional settings or in court-adjudicated settings.

2. School districts seeking to enter into a partnership with a private entity or public entity to operate a second chance school for disruptive students may apply to the Department of Education for startup grants from the Department of Education. These grants must be available for 1 year and must be used to offset the startup costs for implementing such programs off public school campuses. General operating funds must be generated through the appropriate programs of the Florida Education Finance Program. Grants approved under this program shall be for the full operation of the school by a private nonprofit or for-profit provider or the public entity. This program must operate under rules adopted by the Department of Education and must be implemented to the extent funded by the Legislature.

3. ~~2.~~ A student enrolled in a sixth, seventh, eighth, ninth, or tenth grade class may be assigned to a second chance school if the student meets the following criteria:

a. The student is a habitual truant as defined in s. 228.041(28).

b. The student's excessive absences have detrimentally affected the student's academic progress and the student may have unique needs that a traditional school setting may not meet.

c. The student's high incidences of truancy have been directly linked to a lack of motivation.

d. The student has been identified as at risk of dropping out of school.

4. ~~3.~~ A student who is habitually truant may be assigned to a second chance school only if the case staffing committee, established pursuant to s. 984.12, determines that such placement could be beneficial to the student and the criteria included in subparagraph 2. are met.

5. ~~4.~~ A student may be assigned to a second chance school if the school district in which the student resides has a second chance school and if the student meets one of the following criteria:

a. The student habitually exhibits disruptive behavior in violation of the code of student conduct adopted by the school board.

b. The student interferes with the student's own learning or the educational process of others and requires attention and assistance beyond that which the traditional program can provide, or, while the student is under the jurisdiction of the school either in or out of the classroom, frequent conflicts of a disruptive nature occur.

c. The student has committed a serious offense which warrants suspension or expulsion from school according to the district code of student conduct. For the purposes of this program, "serious offense" is behavior which:

(I) Threatens the general welfare of students or others with whom the student comes into contact;

(II) Includes violence;

(III) Includes possession of weapons or drugs; or

(IV) Is harassment or verbal abuse of school personnel or other students.

6. ~~5.~~ Prior to assignment of students to second chance schools, school boards are encouraged to use alternative programs, such as in-school suspension, which provide instruction and counseling leading to improved student behavior, a reduction in the incidence of truancy, and the development of more effective interpersonal skills.

7. ~~6.~~ Students assigned to second chance schools must be evaluated by the school's local child study team before placement in a second chance school. The study team shall ensure that students are not eligible for placement in a program for emotionally disturbed children.

8. ~~7.~~ Students who exhibit academic and social progress and who wish to return to a traditional school shall *complete a character development and law education program, as provided in s. 233.0612, and demonstrate preparedness to reenter the regular school setting* ~~be evaluated by school district personnel~~ prior to reentering a traditional school.

~~8. Second chance schools shall be funded at the dropout prevention program weight pursuant to s. 236.081 and may receive school safety funds or other funds as appropriate.~~

(4) PROGRAM IMPLEMENTATION.—

(a) Each district may establish ~~one or more alternative programs for~~ dropout prevention *and academic intervention programs* at the elementary, middle, junior high school, or high school level. Programs designed to eliminate *patterns of excessive absenteeism or* habitual truancy shall emphasize academic performance and may provide specific instruction in the areas of vocational education, preemployment training, and behavioral management. Such programs shall utilize instructional teaching methods appropriate to the specific needs of the student.

(b) Each school that establishes ~~or continues~~ a dropout prevention *and academic intervention* program at that school site shall reflect that program in the school improvement plan as required under s. 230.23(16).

~~(c) Districts may modify courses listed in the State Course Code Directory for the purpose of providing dropout prevention programs pursuant to the provisions of this section.~~

(5) EVALUATION.—Each school district receiving state funding for dropout prevention *and academic intervention* programs through the *General Appropriations Act* ~~Florida Education Finance Program~~ shall submit information through an annual report to the Department of Education's database documenting the extent to which each of the district's dropout prevention *and academic intervention* programs has been successful *in the areas of graduation rate, dropout rate, attendance rate, and retention/promotion rate.* The department shall compile this information into an annual report which shall be submitted to the presiding officers of the Legislature by February 15.

(6) STAFF DEVELOPMENT.—Each school district shall establish procedures for ensuring that teachers assigned to dropout prevention *and academic intervention* programs possess the affective, pedagogical, and content-related skills necessary to meet the needs of *these* ~~at-risk~~ students. ~~Each school board shall also ensure that adequate staff development activities are available for dropout prevention staff and that dropout prevention staff participate in these activities.~~

(7) RECORDS.—Each district providing a ~~program for~~ dropout prevention *and academic intervention program* pursuant to the provisions of this section shall maintain for each participating student ~~for whom funding is generated through the Florida Education Finance Program~~ records documenting the student's eligibility, the length of participation, the type of program to which the student was assigned *or the type of academic intervention services provided,* and an evaluation of the student's academic and behavioral performance while in the program. *The school principal or his or her designee shall, prior to placement in a dropout prevention and academic intervention program or the provision of an academic service, provide written notice of placement or services by certified mail, return receipt requested, to the student's parent, guardian, or legal custodian. The parent, guardian, or legal custodian of the student shall sign an acknowledgment of the notice of placement or service and return the signed acknowledgement to the principal within 3 days*

after receipt of the notice. The parents or guardians of a student assigned to such a dropout prevention *and academic intervention* program shall be notified in writing and entitled to an administrative review of any action by school personnel relating to such placement pursuant to the provisions of chapter 120.

(8) COORDINATION WITH OTHER AGENCIES.—School district dropout prevention *and academic intervention* programs shall be coordinated with social service, law enforcement, prosecutorial, and juvenile justice agencies and juvenile assessment centers in the school district. Notwithstanding the provisions of s. 228.093, these agencies are authorized to exchange information contained in student records and juvenile justice records. Such information is confidential and exempt from the provisions of s. 119.07(1). School districts and other agencies receiving such information shall use the information only for official purposes connected with the certification of students for admission to and for the administration of the dropout prevention *and academic intervention* program, and shall maintain the confidentiality of such information unless otherwise provided by law or rule.

(9) RULES.—The Department of Education shall have the authority *pursuant to ss. 120.536(1) and 120.54* to adopt any rules necessary to implement the provisions of this section; such rules shall require the minimum amount of *necessary* paperwork and reporting ~~necessary~~ to comply with this act.

Section 66. Section 231.085, Florida Statutes, is amended to read:

231.085 Duties of principals.—A district school board shall employ, through written contract, public school principals who shall supervise the operation and management of the schools and property as the board determines necessary. Each principal shall perform such duties as may be assigned by the superintendent pursuant to the rules of the school board. Such rules shall include, but not be limited to, rules relating to administrative responsibility, instructional leadership of the educational program of the school to which the principal is assigned, submission of personnel recommendations to the superintendent, administrative responsibility for records and reports, administration of corporal punishment, and student suspension. Each principal shall provide leadership in the development or revision and implementation of a school improvement plan pursuant to s. 230.23(16). *Each principal must make the necessary provisions to ensure that all school reports are accurate and timely, and must provide the necessary training opportunities for staff to accurately report attendance, FTE program participation, student performance, teacher appraisal, and school safety and discipline data. A principal who fails to comply with this section shall be ineligible for any portion of the performance pay policy incentive under s. 230.23(5)(c).*

Section 67. Section 232.001, Florida Statutes, is created to read:

232.001 Pilot project.—It is the purpose of this section to require the Manatee County District School Board to implement a pilot project that raises the compulsory age of attendance for children from the age of 16 years to the age of 18 years. The pilot project applies to each child who has not attained the age of 16 years by September 30 of the school year in which a school board policy is adopted.

(1) Beginning July 1, 1999, the Manatee County District School Board shall implement a pilot project consistent with policy adopted by the school board to raise the compulsory age of attendance for children from the age of 16 years to the age of 18 years.

(2) The district school board must, before the beginning of the school year, adopt a policy for raising the compulsory age of attendance for children from the age of 16 years to 18 years.

(a) Before the adoption of the policy, the district school board must provide a notice of intent to adopt a policy to raise the compulsory age of attendance for children from the age of 16 years to the age of 18 years. The notice must be provided to the parent or legal guardian of each child who is 15 years of age and who is enrolled in a school in the district.

(b) Within 2 weeks after adoption of the school board policy, the district school board must provide notice of the policy to the parent or legal guardian of each child who is 15 years of age and who is enrolled in a school in the district. The notice must also provide information related to the penalties for refusing or failing to comply with the compulsory attendance requirements and information on alternative education programs offered within the school district.

(3) All state laws and State Board of Education rules related to students subject to compulsory school attendance apply to the district school board. Notwithstanding the provisions of s. 232.01, the formal declaration of intent to terminate school enrollment does not apply to the district school board.

(4) The school board must evaluate the effect of its adopted policy raising the compulsory age of attendance on school attendance and on the school district's dropout rate, as well as on the costs associated with the pilot project. The school district shall report its findings to the President of the Senate, the Speaker of the House of Representatives, the minority leader of each house of the Legislature, the Governor, and the Commissioner of Education not later than August 1 following each year that the pilot project is in operation.

Section 68. Subsection (2) of section 232.09, Florida Statutes, is amended to read:

232.09 Parents and legal guardians responsible for attendance of children; attendance policy.—

(2) Each parent and legal guardian of a child within the compulsory attendance age is responsible for the child's school attendance as required by law. The absence of a child from school is prima facie evidence of a violation of this section; however, criminal prosecution *under this chapter* may not be brought against a parent, guardian, or other person having control of the child until the provisions of s. 232.17(2) have been complied with. A parent or guardian of a child is not responsible for the child's nonattendance at school under any of the following conditions:

(a) With permission.—The absence was with permission of the head of the school; or

(b) Without knowledge.—The absence was without the parent's knowledge, consent, or connivance, in which case the child shall be dealt with as a dependent child; or

(c) Financial inability.—The parent was unable financially to provide necessary clothes for the child, which inability was reported in writing to the superintendent prior to the opening of school or immediately after the beginning of such inability; provided, that the validity of any claim for exemption under this subsection shall be determined by the superintendent subject to appeal to the school board; or

(d) Sickness, injury, or other insurmountable condition.—Attendance was impracticable or inadvisable on account of sickness or injury, attested to by a written statement of a licensed practicing physician, or was impracticable because of some other stated insurmountable condition as defined by rules of the state board. If a student is continually sick and repeatedly absent from school, he or she must be under the supervision of a physician in order to receive an excuse from attendance. Such excuse provides that a student's condition justifies absence for more than the number of days permitted by the district school board.

Each district school board shall establish an attendance policy which includes, but is not limited to, the required number of days each school year that a student must be in attendance and the number of absences and tardinesses after which a statement explaining such absences and tardinesses must be on file at the school. Each school in the district must determine if an absence or tardiness is excused or unexcused according to criteria established by the district school board.

Section 69. Section 232.17, Florida Statutes, 1998 Supplement, is amended to read:

232.17 Enforcement of school attendance.—*The Legislature finds that poor academic performance is associated with nonattendance and that schools must take an active role in enforcing attendance as a means of improving the performance of many students. It is the policy of the state that the superintendent of each school district be responsible for enforcing school attendance of all children and youth subject to the compulsory school age in the school district. The responsibility includes recommending to the school board policies and procedures to ensure that schools respond in a timely manner to every unexcused absence, or absence for which the reason is unknown, of students enrolled in the schools. School board policies must require each parent or guardian of a student to justify each absence of the student, and that justification will be evaluated based on adopted school board policies that define excused and unexcused absences. The policies must provide that schools track excused and unexcused absences and contact the home in the case of an unexcused absence*

from school, or an absence from school for which the reason is unknown, to prevent the development of patterns of nonattendance. The Legislature finds that early intervention in school attendance matters is the most effective way of producing good attendance habits that will lead to improved student learning and achievement. Each public school shall implement the following steps to enforce regular school attendance:

(1) CONTACT, REFER, AND ENFORCE.—

(a) Upon each unexcused absence, or absence for which the reason is unknown, the school principal or his or her designee shall contact the student's parent or guardian to determine the reason for the absence. If the absence is an excused absence, as defined by school board policy, the school shall provide opportunities for the student to make up assigned work and not receive an academic penalty unless the work is not made up within a reasonable time.

(b) If a student has had at least five unexcused absences, or absences for which the reasons are unknown, within a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within a 90-calendar-day period, the student's primary teacher shall report to the school principal or his or her designee that the student may be exhibiting a pattern of nonattendance. The principal shall, unless there is clear evidence that the absences are not a pattern of nonattendance, refer the case to the school's child study team to determine if early patterns of truancy are developing. If the child study team finds that a pattern of nonattendance is developing, whether the absences are excused or not, a meeting with the parent must be scheduled to identify potential remedies.

(c) If an initial meeting does not resolve the problem, the child study team shall implement interventions that best address the problem. The interventions may include, but need not be limited to:

1. Frequent communication between the teacher and the family;

2. Changes in the learning environment;

3. Mentoring;

4. Student counseling;

5. Tutoring, including peer tutoring;

6. Placement into different classes;

7. Evaluation for alternative education programs;

8. Attendance contracts;

9. Referral to other agencies for family services; or

10. Other interventions.

(d) The child study team shall be diligent in facilitating intervention services and shall report the case to the superintendent only when all reasonable efforts to resolve the nonattendance behavior are exhausted.

(e) If the parent, guardian, or other person in charge of the child refuses to participate in the remedial strategies because he or she believes that those strategies are unnecessary or inappropriate, the parent, guardian, or other person in charge of the child may appeal to the school board. The school board may provide a hearing officer and the hearing officer shall make a recommendation for final action to the board. If the board's final determination is that the strategies of the child study team are appropriate, and the parent, guardian, or other person in charge of the child still refuses to participate or cooperate, the superintendent may seek criminal prosecution for noncompliance with compulsory school attendance.

(f) If a child subject to compulsory school attendance will not comply with attempts to enforce school attendance, the parent, the guardian, or the superintendent or his or her designee shall refer the case to the case staffing committee pursuant to s. 984.12, and the superintendent or his or her designee may file a truancy petition pursuant to the procedures in s. 984.151. ~~Pursuant to procedures established by the district school board, a designated school representative must complete activities designed to determine the cause and attempt the remediation of truant behavior, as provided in this section.~~

~~(1) INVESTIGATE NONENROLLMENT AND UNEXCUSED ABSENCES.—A designated school representative shall investigate cases of nonenrollment and unexcused absences from school of all children subject to compulsory school attendance.~~

(2) GIVE WRITTEN NOTICE.—

(a) Under the direction of the superintendent, a designated school representative shall give written notice, in person or by return-receipt mail, to the parent, guardian, or other person having control when no valid reason is found for a child's nonenrollment in school *which requires* ~~or when the child has a minimum of 3 but fewer than 6 unexcused absences within 90 calendar days, requiring~~ enrollment or attendance within 3 days after the date of notice. If the notice and requirement are ignored, the designated school representative shall report the case to the superintendent, and may refer the case to the case staffing committee, established pursuant to s. 984.12~~, if the conditions of s. 232.19(3) have been met~~. The superintendent *shall* ~~may~~ take such steps as are necessary to bring criminal prosecution against the parent, guardian, or other person having control.

(b) Subsequent to the activities required under subsection (1), the superintendent or his or her designee shall give written notice in person or by return-receipt mail to the parent, guardian, or other person in charge of the child that criminal prosecution is being sought for nonattendance. The superintendent may file a truancy petition, as defined in s. 984.03, following the procedures outlined in s. 984.151.

(3) RETURN CHILD TO PARENT.—A designated school representative shall visit the home or place of residence of a child and any other place in which he or she is likely to find any child who is required to attend school when such child is not enrolled or is absent from school during school hours without an excuse, and, when the child is found, shall return the child to his or her parent or to the principal or teacher in charge of the school, or to the private tutor from whom absent, *or to the juvenile assessment center or other location established by the school board to receive students who are absent from school. Upon receipt of the student, the parent shall be immediately notified.*

(4) REPORT TO THE DIVISION OF JOBS AND BENEFITS.—A designated school representative shall report to the Division of Jobs and Benefits of the Department of Labor and Employment Security or to any person acting in similar capacity who may be designated by law to receive such notices, all violations of the Child Labor Law that may come to his or her knowledge.

(5) RIGHT TO INSPECT.—A designated school representative shall have the same right of access to, and inspection of, establishments where minors may be employed or detained as is given by law to the Division of Jobs and Benefits only for the purpose of ascertaining whether children of compulsory school age are actually employed there and are actually working there regularly. The designated school representative shall, if he or she finds unsatisfactory working conditions or violations of the Child Labor Law, report his or her findings to the Division of Jobs and Benefits or its agents.

~~(6) RESUMING SERIES.—If a child repeats a pattern of nonattendance within one school year, the designated school representative shall resume the series of escalating activities at the point at which he or she had previously left off.~~

Section 70. Subsection (3) of section 232.19, Florida Statutes, 1998 Supplement, is amended to read:

232.19 Court procedure and penalties.—The court procedure and penalties for the enforcement of the provisions of this chapter, relating to compulsory school attendance, shall be as follows:

(3) HABITUAL TRUANCY CASES.—*The superintendent is authorized to file a truancy petition, as defined in s. 984.03, following the procedures outlined in s. 984.151. If the superintendent chooses not to file a truancy petition, procedures for filing a child-in-need-of-services petition shall be commenced pursuant to this subsection and chapter 984.* In accordance with procedures established by the district school board, the designated school representative shall refer a student who is habitually truant and the student's family to the children-in-need-of-services and families-in-need-of-services provider or the case staffing committee, established pursuant to s. 984.12, as determined by the cooperative agreement required in this section. The case staffing committee may request

the Department of Juvenile Justice or its designee to file a child-in-need-of-services petition based upon the report and efforts of the school district or other community agency or may seek to resolve the truant behavior through the school or community-based organizations or agencies. Prior to and subsequent to the filing of a child-in-need-of-services petition due to habitual truancy, the appropriate governmental agencies must allow a reasonable time to complete actions required by this *section and s. 232.17* ~~subsection~~ to remedy the conditions leading to the truant behavior. ~~The following criteria must be met and documented in writing~~ Prior to the filing of a petition, *the school district must have complied with the requirements of s. 232.17, and those efforts must have been unsuccessful.*~~:~~

~~(a) The child must have 15 unexcused absences within 90 calendar days with or without the knowledge or consent of the child's parent or legal guardian, must be subject to compulsory school attendance, and must not be exempt under s. 232.06, s. 232.09, or any other exemption specified by law or the rules of the State Board of Education.~~

~~(b) In addition to the actions described in s. 232.17, the school administration must have completed the following activities to determine the cause, and to attempt the remediation, of the child's truant behavior:~~

~~1. After a minimum of 3 and prior to 6 unexcused absences within 90 calendar days, one or more meetings must have been held, either in person or by phone, between a designated school representative, the child's parent or guardian, and the child, if necessary, to report and to attempt to solve the truancy problem. However, if the designated school representative has documented the refusal of the parent or guardian to participate in the meetings, this requirement has been met.~~

~~2. Educational counseling must have been provided to determine whether curriculum changes would help solve the truancy problem, and, if any changes were indicated, such changes must have been instituted but proved unsuccessful in remedying the truant behavior. Such curriculum changes may include enrollment of the child in a dropout prevention program that meets the specific educational and behavioral needs of the child, including a second chance school, as provided for in s. 230.2316, designed to resolve truant behavior.~~

~~3. Educational evaluation, which may include psychological evaluation, must have been provided to assist in determining the specific condition, if any, that is contributing to the child's nonattendance. The evaluation must have been supplemented by specific efforts by the school to remedy any diagnosed condition.~~

~~If a child who is subject to compulsory school attendance is responsive to the interventions described in this paragraph and has completed the necessary requirements to pass the current grade as indicated in the district pupil progression plan, the child shall be passed.~~

Section 71. Subsection (3) of section 232.271, Florida Statutes, is amended to read:

232.271 Removal by teacher.—

(3) If a teacher removes a student from class under subsection (2), the principal may place the student in another appropriate classroom, in in-school suspension, or in a dropout prevention *and academic intervention* program as provided by s. 230.2316; or the principal may recommend the student for out-of-school suspension or expulsion, as appropriate. The student may be prohibited from attending or participating in school-sponsored or school-related activities. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under s. 232.272 determines that such placement is the best or only available alternative. The teacher and the placement review committee must render decisions within 5 days of the removal of the student from the classroom.

Section 72. Effective July 1, 1999, paragraph (a) of subsection (1) of section 236.081, Florida Statutes, 1998 Supplement, is amended to read:

236.081 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(a) Determination of full-time equivalent membership.—During each of several school weeks, including scheduled intersessions of a year-round school program during the fiscal year, a program membership survey of each school shall be made by each district by aggregating the full-time equivalent student membership of each program by school and by district. The department shall establish the number and interval of membership calculations, except that for basic and special programs such calculations shall not exceed nine for any fiscal year. The district's full-time equivalent membership shall be computed and currently maintained in accordance with regulations of the commissioner. *Beginning with the 1999-2000 school year, each school district shall also document the daily attendance of each student in membership by school and by district. An average daily attendance factor shall be computed by dividing the total daily attendance of all students by the total number of students in membership and then by the number of days in the regular school year. Beginning with the 2001-2002 school year, the district's full-time equivalent membership shall be adjusted by multiplying by the average daily attendance factor.*

Section 73. Paragraph (a) of subsection (4) of section 239.505, Florida Statutes, is amended to read:

239.505 Florida Constructive Youth Programs.—

(4) FUNDING.—Each district school board or community college board of trustees wishing to implement a constructive youth program must submit a comprehensive plan to the Department of Education no later than October 1 of the preceding school year, which plan must include a list of all funding sources, including, but not limited to:

(a) Funds available for programs authorized under the Dropout Prevention *and Academic Intervention* Act, as provided in s. 230.2316~~, and Dropout prevention programs funded pursuant to the provisions of s. 236.081(1)(c)~~.

Section 74. Subsection (29) of section 984.03, Florida Statutes, 1998 Supplement, is amended, present subsection (57) of that section is redesignated as subsection (58), and a new subsection (57) is added to that section, to read:

984.03 Definitions.—When used in this chapter, the term:

(29) "Habitually truant" means that:

(a) The child has 15 unexcused absences within 90 calendar days with or without the knowledge or justifiable consent of the child's parent or legal guardian, is subject to compulsory school attendance under s. 232.01, and is not exempt under s. 232.06, s. 232.09, or any other exemptions specified by law or the rules of the State Board of Education.

(b) ~~Escalating~~ Activities to determine the cause, and to attempt the remediation, of the child's truant behavior under ss. 232.17 and 232.19 have been completed.

If a child who is subject to compulsory school attendance is responsive to the interventions described in ss. 232.17 and 232.19 and has completed the necessary requirements to pass the current grade as indicated in the district pupil progression plan, the child shall not be determined to be habitually truant and shall be passed. If a child within the compulsory school attendance age has 15 unexcused absences within 90 calendar days or fails to enroll in school, the State Attorney may, *or the appropriate jurisdictional agency shall,* file a child-in-need-of-services petition *if recommended by the case staffing committee, unless it is determined that another alternative action is preferable.* ~~Prior to filing a petition, the child must be referred to the appropriate agency for evaluation. After consulting with the evaluating agency, the State Attorney may elect to file a child-in-need-of-services petition.~~

(c) A school representative, designated according to school board policy, and a juvenile probation officer of the Department of Juvenile Justice have jointly investigated the truancy problem or, if that was not feasible, have performed separate investigations to identify conditions that may be contributing to the truant behavior; and if, after a joint staffing of the case to determine the necessity for services, such services were determined to be needed, the persons who performed the investigations met jointly with the family and child to discuss any referral to appropriate community agencies for economic services, family or individual counseling, or other services required to remedy the conditions that are contributing to the truant behavior.

(d) The failure or refusal of the parent or legal guardian or the child to participate, or make a good faith effort to participate, in the activities prescribed to remedy the truant behavior, or the failure or refusal of the child to return to school after participation in activities required by this subsection, or the failure of the child to stop the truant behavior after the school administration and the Department of Juvenile Justice have worked with the child as described in s. 232.19(3) *and (4)* shall be handled as prescribed in s. 232.19.

(57) "Truancy petition" means a petition filed by the school superintendent alleging that a student subject to compulsory school attendance has had more than 15 unexcused absences in a 90-calendar-day period. A truancy petition is filed and processed under s. 984.151.

Section 75. Section 984.151, Florida Statutes, is created to read:

984.151 Truancy petition; prosecution; disposition.—

(1) If the school determines that a student subject to compulsory school attendance has had more than 15 unexcused absences in a 90-calendar-day period, the superintendent may file a truancy petition.

(2) The petition shall be filed in the circuit in which the student is enrolled in school.

(3) Original jurisdiction to hear a truancy petition shall be in the circuit court; however, the circuit court may use a general or special master pursuant to Supreme Court rules.

(4) The petition must contain the following: the name, age, and address of the student; the name and address of the student's parent or guardian; the school where the student is enrolled; the efforts the school has made to get the student to attend school; the number of out-of-school contacts between the school system and student's parent or guardian; and the number of days and dates of days the student has missed school. The petition shall be sworn to by the superintendent or his or her designee.

(5) Once the petition is filed, the court shall hear the petition within 30 days.

(6) The student and the student's parent or guardian shall attend the hearing.

(7) If the court determines that the student did miss any of the alleged days, the court shall order the student to attend school and the parent to ensure that the student attends school, and may order any of the following: the student to participate in alternative sanctions to include mandatory attendance at alternative classes to be followed by mandatory community services hours for a period up to 6 months; the student and the student's parent or guardian to participate in homemaker or parent aide services; the student or the student's parent or guardian to participate in intensive crisis counseling; the student or the student's parent or guardian to participate in community mental health services if available and applicable; the student and the student's parent or guardian to participate in service provided by voluntary or community agencies as available; and the student or the student's parent or guardian to participate in vocational, job training, or employment services.

(8) If the student does not successfully complete the sanctions ordered in subsection (7), the case shall be referred to the case staffing committee under s. 984.12 with a recommendation to file a child-in-need-of-services petition under s. 984.15.

Section 76. *The State Board of Education shall adopt such rules as necessary to ensure that not-for-profit, professional teacher associations which offer membership to all teachers, noninstructional personnel, and administrators, and which offer teacher training and staff development at no fee to the district shall be given equal access to voluntary teacher meetings, be provided access to teacher mailboxes for distribution of professional literature, and be authorized to collect voluntary membership fees through payroll deduction.*

Section 77. *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 78. 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: everything before the enacting clause and insert in lieu thereof: A bill to be entitled An act relating to education; amending s. 229.0535, F.S.; revising provisions relating to the authority of the State Board of Education to enforce school improvement; creating s. 229.0537, F.S.; providing findings and intent; requiring private school opportunity scholarships to be provided to certain public school students; providing student eligibility requirements; providing school district requirements; providing an alternative to accepting a state opportunity scholarship; providing private school eligibility criteria; providing student attendance requirements; providing parental involvement requirements; providing a district reporting requirement; providing for calculation of the amount and distribution of state opportunity scholarship funds; providing an exemption from liability; authorizing the adoption of rules; establishing a pilot scholarship program for students with disabilities; amending s. 229.512, F.S.; revising provisions relating to the authority of the Commissioner of Education regarding the implementation of the program of school improvement and education accountability; amending s. 229.555, F.S., relating to educational planning and information systems; revising to conform; providing requirements regarding electronic transfer of data; amending s. 229.565, F.S.; eliminating the requirement that the Commissioner of Education designate program categories and grade levels for which performance standards are to be approved; amending s. 229.57, F.S.; revising the purpose of the student assessment program; requiring the Department of Education to develop a system to measure annual pupil progress; requiring the statewide assessment program to include science; revising provisions relating to the administration of the National Assessment of Educational Progress; revising the statewide assessment program; revising requirements relating to the annual report of the results of the statewide assessment program; providing for the identification of schools by performance grade category according to student and school performance data; providing for the identification of school improvement ratings; amending s. 229.58, F.S.; removing a reference to the Florida Commission on Education Reform and Accountability; amending s. 229.591, F.S.; revising provisions relating to the system of school improvement and education accountability to reflect that students are not required to attend schools designated in a certain performance grade category; revising the state education goals; amending s. 229.592, F.S., relating to the implementation of the state system of school improvement and education accountability; deleting references to the Florida Commission on Education Reform and Accountability; removing obsolete provisions; deleting the requirement that the Commissioner of Education appear before the Legislature; revising duties of the Department of Education; providing for a community assessment team; revising duties of the State Board of Education; revising provisions relating to waivers from statutes; conforming cross references; repealing ss. 229.593 and 229.594, F.S., relating to the Florida Commission on Education Reform and Accountability; amending s. 229.595, F.S., relating to the implementation of the state system of educational accountability for school-to-work transition; revising provisions relating to the assessment of readiness to enter the workforce; removing a reference to the Florida Commission on Education Reform and Accountability; amending s. 230.23, F.S., relating to powers and duties of school boards; revising provisions relating to the compensation and salary schedules of school employees; requiring certain performance-based pay for specified school personnel; revising provisions relating to courses of study and other instructional aids to include the term "instructional materials"; specifying content of school improvement plans; revising school board duties regarding the implementation and enforcement of school improvement and accountability; revising policies regarding public disclosure; requiring school board adoption of certain policies; authorizing school boards to declare an emergency under certain circumstances; amending s. 231.2905, F.S.; revising provisions of the Florida School Recognition Program relating to financial awards based on employee performance; revising initial criteria for identification of schools; amending s. 232.245, F.S.; relating to pupil progression; revising requirements relating to the provision of remedial instruction; prohibiting social promotion; providing requirements for the use of resources for remedial instruction; requiring the adoption of rules regarding pupil progression; eliminating requirements relating to student academic improvement plans; deleting duplicative requirements relating to mandatory remedial reading instruction; amending s. 228.053, F.S.; relating to developmental research schools; eliminating references to Blueprint 2000; conforming cross references; amending s. 228.054, F.S., relating to the Joint Developmental Research School Planning, Articulation, and Evaluation Committee; conforming a cross reference; amending s. 233.17, F.S., relating to the term of adoption of instructional

materials; conforming cross references; amending s. 236.685, F.S., relating to educational funding accountability; conforming a cross reference; amending s. 20.15, F.S.; deleting reference to the Florida Education Reform and Accountability Commission; creating s. 236.08104, F.S.; establishing a supplemental academic instruction categorical fund; providing findings and intent; providing requirements for the use of funds; authorizing the Florida State University School to expend certain funds for student remediation; amending s. 236.013, F.S.; eliminating certain provisions relating to calculations of the equivalent of a full-time student; revising provisions relating to membership in programs scheduled for more than 180 days; amending s. 239.101, F.S., relating to career education; conforming cross references; amending s. 239.229, F.S., relating to vocational standards; conforming cross references; amending s. 24.121, F.S.; specifying conditions for withholding allocations from the Educational Enhancement Trust Fund; amending s. 228.0565, F.S., relating to deregulated public schools; revising elements of an annual report; reenacting s. 120.81(1)(b), F.S., relating to tests, test scoring criteria, or testing procedures, s. 228.301(1), F.S., relating to test security, s. 229.551(1)(c) and (3), F.S., relating to educational management, s. 230.03(4), F.S., relating to school district management, control, operation, administration, and supervision, s. 231.24(3)(a), F.S., relating to the process for renewal of professional certificates, s. 231.36(3)(e) and (f), F.S., relating to contracts with instructional staff, supervisors, and principals, s. 232.2454(1), F.S., relating to district student performance standards, instruments, and assessment procedures; reenacting and amending s. 232.246, F.S.; revising general requirements for high school graduation; reenacting s. 232.248, F.S., relating to confidentiality of assessment instruments, s. 232.2481(1), F.S., relating to graduation and promotion requirements for publicly operated schools, s. 233.09(4), F.S., relating to duties of instructional materials committees, s. 233.165(1)(b), F.S., relating to the selection of instructional materials, s. 233.25(3)(b), F.S., relating to publishers and manufacturers of instructional materials, s. 239.229(3), F.S., relating to vocational standards, s. 240.118(4), F.S., relating to postsecondary feedback of information to high schools, to incorporate references; amending s. 228.041, F.S.; redefining the terms "dropout," "graduation rate," and "dropout rate"; amending s. 228.056, F.S., relating to charter schools; conforming provisions relating to assessment; creating s. 231.002, F.S.; stating an intent to increase standards for the preparation, certification, and professional development of educators; directing the Department of Education to review statutes and rules governing certification to increase efficiency, rigor, and alternatives in the certification process; requiring a report; amending s. 231.02, F.S.; correcting a reference; amending s. 231.0861, F.S.; requiring the State Board of Education to approve criteria for selection of certain administrative personnel; authorizing school districts to contract with private entities for evaluation and training of such personnel; amending s. 231.085, F.S.; specifying principals' responsibilities for assessing performance of school personnel and implementing the Sunshine State Standards; amending s. 231.087, F.S.; requiring the State Board of Education to adopt rules governing the training of school district management personnel; providing for review and repeal of the Management Training Act; requiring recommendations; amending s. 231.09, F.S.; prescribing duties of instructional personnel; amending s. 231.096, F.S.; requiring a school board plan to ensure the competency of teachers with out-of-field teaching assignments; amending s. 231.145, F.S.; revising purpose to reflect increased requirements for certification; amending s. 231.15, F.S.; authorizing certification based on demonstrated competencies; requiring rules of the State Board of Education to specify certain competencies; requiring consultation with postsecondary education boards; amending s. 231.17, F.S.; revising prerequisites for certification; requiring demonstration of general knowledge before temporary certification; increasing the requirement that teachers know and use mathematics, technology, and intervention strategies with students; deleting alternative ways to demonstrate general knowledge competency; amending s. 231.1725, F.S.; providing legal protections for clinical field experience students; amending s. 231.174, F.S., relating to district programs for adding certification coverages; removing limitation to specific certification areas; amending s. 231.29, F.S.; requiring certain personnel-performance assessments to be primarily based on student performance; revising the assessment procedure for certain school district personnel; requiring certain review and testing of employees of schools in performance grade categories "D" and "F"; amending s. 231.36, F.S.; authorizing the State Board of Education to define certain terms by rule; amending s. 231.546, F.S.; specifying duties of the Education Standards Commission; amending s. 231.600, F.S.; prescribing the responsibilities of school district professional development programs; amending s. 236.08106, F.S.; providing for the distribution of Excellent Teaching Program funds; deleting certain district incentives; authorizing the withholding of wages as repayment; amending s. 240.529, F.S.; requiring the commissioner to appoint a Teacher Preparation Program Committee to recommend core curricula for state-approved teacher preparation programs; requiring a report; requiring the State Board of Education to adopt rules establishing uniform core curricula; revising criteria for initial and continuing approval of teacher preparation programs; increasing the requirements for a student to enroll in and graduate from a teacher education program; requiring annual reports of program performance; providing additional legislative intent related to teacher preparation programs; providing the criteria for continued program approval; providing for the requirements for instructors in postsecondary teacher preparation programs who instruct or supervise preservice field experience courses or internships; eliminating the requirement related to a commitment to teaching in the public schools for a period of time; providing additional requirements for school district and instructional personnel who supervise or direct certain teacher preparation students; creating s. 231.6135, F.S.; establishing a statewide system for inservice professional development; authorizing professional development academies to meet human resource development and education instruction training needs of educators, school, and school districts; providing for organization and operation by public and private partners; providing for funding; specifying duties of the Commissioner of Education; repealing s. 231.601, F.S., relating to purpose of inservice training for instructional personnel; amending s. 230.2316, F.S.; providing for a dropout prevention and academic intervention program; revising intent of program; revising eligibility criteria; expanding eligible students to grades 1-12; revising reporting requirements for district evaluation; providing procedures for notice to and response from a parent, guardian, or legal custodian prior to placement in a program or the provision of services to the student; amending s. 231.085, F.S.; requiring principals to ensure the accuracy and timeliness of school reports; requiring principals to provide staff training opportunities; providing sanctions for noncompliance; creating s. 232.001, F.S.; requiring the Manatee County District School Board to establish a pilot project to raise the compulsory age of attendance for children; providing requirements for the school board; providing for the applicability of state law and State Board of Education rule; providing an exception from the provisions relating to a declaration of intent to terminate school enrollment; requiring a study; amending s. 232.09, F.S.; limiting application to certain criminal proceedings; amending s. 232.17, F.S.; providing legislative findings; placing responsibility on school district superintendents for enforcing attendance; establishing requirements for school board policies; revising the current steps for enforcing regular school attendance; requiring public schools to follow the steps; establishing the requirements for school principals, primary teachers, child study teams, and parents; providing for parents to appeal; allowing the superintendent to seek criminal prosecution for parental noncompliance; requiring the superintendent, parent, or guardian to file certain petitions involving ungovernable children in certain circumstances; requiring the superintendent to provide the court with certain evidence; allowing for court enforcement for children who refuse to comply; revising the notice requirements to parents, guardians, or others; eliminating a current condition for notice; eliminating the option for referral to case staffing committees; requiring the superintendent to take steps to bring about criminal prosecution and requiring related notice; authorizing the superintendent to file truancy petitions; allowing for the return of absent children to additional locations; requiring parental notification; amending s. 232.19, F.S., relating to habitual truancy; authorizing superintendents to file truancy petitions; requiring that a court order for school attendance be obtained as a part of services; revising the requirements that must be met prior to filing a petition; amending s. 232.271, F.S.; revising references; amending s. 236.081, F.S.; amending procedures that must be followed in determining the annual allocation to each school district for operation; requiring the average daily attendance of the student membership to be calculated by school and by district; amending s. 239.505, F.S.; revising provisions relating to funding of constructive youth programs; amending s. 984.03, F.S.; redefining the term "habitual truant"; requiring the state attorney to file a child-in-need-of-services petition in certain circumstances; eliminating the requirement for referral for evaluation; defining the term "truancy petition"; creating s. 984.151, F.S.; providing procedures for truancy petitions; providing for truancy hearings and penalties; requiring the State Board of Education to adopt rules regarding not-for-profit, professional teacher associations; providing for severability; providing effective dates.

WHEREAS, providing a system of high-quality public education for children is an important goal of this state, and

WHEREAS, Floridians reemphasized their aspiration to provide for a system of high-quality public education for children in this state by amending Section 1 of Article IX of the State Constitution in the November 1998 general election, and

WHEREAS, the Legislature recognizes that it has an important but not exclusive role in providing children with the opportunity to obtain a high-quality education in this state, and

WHEREAS, success in obtaining a high-quality education depends upon many influences, and

WHEREAS, among the most prominent influences on the educational success of children are the positive influences of parents on their children's lives and on their children's desire to learn and the active involvement of parents in the education of their children, and

WHEREAS, the presence of those influences is indispensable to successfully providing a system that allows students to obtain a high-quality education, and

WHEREAS, children will have the best opportunity to obtain a high-quality education in the public education system of this state and that system can best be enhanced when positive parental influences are present, when we allocate resources efficiently and concentrate resources to enhance a safe, secure, and disciplined classroom learning environment, when we support teachers, when we reinforce shared high academic expectations, and when we promptly reward success and promptly identify failure, as well as promptly appraise the public of both successes and failures, and

WHEREAS, the voters of the State of Florida, in the 1998 General Election, amended Article IX, section 1, of the Florida Constitution to state that, "Adequate provision shall be made by law for a ... safe, secure, and high quality system of free public schools ...," and

WHEREAS, House Bill 1309, a comprehensive school safety and discipline package, was enacted by the Legislature in the 1997 Session, addressing dropouts, habitual truancy, zero tolerance for crime, drugs, alcohol, and weapons, alternative placement of disruptive students, and cooperative agreements with local law enforcement for crime reporting, and

WHEREAS, the Legislature annually provides for safe-schools appropriations to be used for after school programs for middle school students, alternative programs for adjudicated youth, school resource officers, and conflict resolution strategies, and

WHEREAS, the enhancement of school safety should be measured as an element of school performance and accountability and improved crime and incident reporting, as well as a heightened emphasis on character education in the curriculum of the early grades, NOW, THEREFORE,

The Conference Committee Report was read and on motion by Senator Cowin was adopted. **CS for HB's 751, 753 and 755** passed as recommended and the action of the Senate was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—25

Madam President	Cowin	Latvala	Sebesta
Bronson	Diaz-Balart	Laurent	Sullivan
Brown-Waite	Grant	Lee	Thomas
Burt	Gutman	McKay	Webster
Carlton	Horne	Myers	
Childers	King	Saunders	
Clary	Kirkpatrick	Scott	

Nays—15

Campbell	Forman	Jones	Mitchell
Casas	Geller	Klein	Rossin
Dawson-White	Hargrett	Kurth	Silver
Dyer	Holzendorf	Meek	

BILLS ON THIRD READING, continued

On motion by Senator Clary, by two-thirds vote **HB 1723** was withdrawn from the Committees on Comprehensive Planning, Local and Military Affairs; Regulated Industries; and Fiscal Policy.

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

HB 1723—A bill to be entitled An act relating to the Florida Building Code; amending s. 161.56, F.S.; making a technical correction; amending s. 468.607, F.S.; providing for continuing validation of certifications of certain building inspectors and plans examiners for a certain period of time; amending s. 468.609, F.S.; clarifying the qualifications of persons eligible to take the certain certification examinations; providing nothing prohibits school boards, community colleges, or universities from entering into contracts; amending ss. 489.115, 497.255, 553.06, 553.73, 553.74, 553.141, 553.503, 553.506, and 553.512; changing references from the Board of Building Codes and Standards to the Florida Building Commission; amending s. 62 of ch. 98-287, Laws of Florida; recognizing that the rule adopting the Florida Building Code may not become final by the 2000 Legislative Session if challenged pursuant to s. 120.56(2); specifying effectiveness; amending s. 553.19, F.S.; correcting an obsolete agency reference for certain purposes; amending s. 553.73, F.S.; clarifying the effect on local governments of adopting and updating the Florida Building Code; specifying that amendments to certain standards or criteria are effective statewide only upon adoption by the commission; providing for immediate effect of certain amendments to the Florida Building Code under certain circumstances; revising criteria for commission approval of technical amendments to the Florida Building Code; prohibiting persons who participate in the passage of a local amendment from sitting on a countywide compliance review board; providing for application of a certain edition of the Florida Building Code under certain circumstances; amending s. 553.77, F.S.; revising the powers of the commission; correcting a cross-reference; amending s. 553.781, F.S.; clarifying that the Department of Business and Professional Regulation conduct disciplinary investigations and take disciplinary actions; amending s. 553.80, F.S.; deleting a cross-reference; amending s. 553.842, F.S.; clarifying certain provisions relating to product evaluation and approval; amending ss. 633.01, 633.0215, and 633.025; replacing Department of Insurance language with State Fire Marshal; amending s. 633.025, F.S.; clarifying certain provisions relating to smoke detector requirements in residential buildings; amending s. 68 of ch. 98-287, Laws of Florida, to revise a future repeal of certain sections of the Florida Statutes; amending 553.841; providing the State Fire Marshal is consulted on building code training program; authorizing a certain select committee to continue its investigations; continuing committee appointment authority; allocating certain moneys from the Insurance Commissioner's Regulatory Trust Fund to the State Fire Marshal for certain pursposes; requiring the State Fire Marshal's Office to cause the review of a certain code for educational facilities for certain purposes; repealing s. 471.017(3) and 489.513(7); providing effective dates.

—a companion measure, was substituted for **CS for SB 1148** as amended and read the second time by title.

Senator Clary moved the following amendment which was adopted:

Amendment 1 (871516)(with title amendment)—On page 28, line 15, after the period (.) insert: *Window protection products reported to comply with the requirements of the Standard Building Code (1997 Edition) or the South Florida Building Code (Broward and Dade Edition) or otherwise certified or approved for statewide or local use by an approved product evaluation entity must be included on all new schools. Although all new schools are not required to be designed as enhanced hurricane protection areas, all new schools must include window protection to further ensure their survivability.*

And the title is amended as follows:

On page 2, line 17, delete "clarifying" and insert: amending

On motion by Senator Clary, by two-thirds vote **HB 1723** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Childers	Geller	King
Bronson	Clary	Grant	Klein
Brown-Waite	Cowin	Gutman	Kurth
Burt	Dawson-White	Hargrett	Latvala
Campbell	Diaz-Balart	Holzendorf	Laurent
Carlton	Dyer	Horne	Lee
Casas	Forman	Jones	McKay

Meek	Rossin	Sebesta	Sullivan
Mitchell	Saunders	Silver	Thomas
Myers	Scott		

Nays—1

Webster

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB 1566, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 1566—A bill to be entitled An act relating to economic development; amending s. 14.2015, F.S.; revising provisions relating to the powers and duties of the Office of Tourism, Trade, and Economic Development; providing for the office to facilitate the involvement of the Governor and Lieutenant Governor in job–creating efforts; revising program cross–references; deleting provisions relating to the expenditure of funds for general economic development grants; authorizing the expenditure of certain interest earnings in order to contract for the administration of programs; reducing the number of meetings of leaders in business, government, and economic development which the office must convene annually; eliminating a required report on the status of certain contracts; creating the Office of Urban Opportunity within the Office of Tourism, Trade, and Economic Development; providing for the appointment of a director of the Office of Urban Opportunity; prescribing the purpose of the office; amending s. 288.0251, F.S.; changing authority to contract for Florida's international volunteer corps to the Department of State from the Office of Tourism, Trade, and Economic Development; amending s. 288.095, F.S.; revising criteria for approval of applications for tax refunds for economic development purposes by the Office of Tourism, Trade, and Economic Development; limiting the amount of refunds that may be made in a fiscal year; amending s. 288.106, F.S.; revising criteria for approval of tax refunds under the tax-refund program for qualified target industry businesses; redefining the terms "expansion of an existing business," "local financial support exemption option," and "rural county"; defining the term "authorized local economic development agency" and "rural community"; extending the refund program to additional counties; revising the amount of refunds; providing requirements for waiver of minimum standards; prescribing duties of the office director; amending s. 288.816, F.S.; creating a sister city grant program under the Department of State; prescribing application procedures and criteria; directing the department to adopt rules; amending s. 288.901, F.S.; expanding an employee lease program under Enterprise Florida, Inc.; revising the membership and appointment process for the board of directors of Enterprise Florida, Inc.; amending s. 288.9015, F.S.; specifying responsibilities for Enterprise Florida, Inc., relating to rural communities and distressed urban communities, evaluation of the state's competitiveness, and the needs of small and minority businesses; amending s. 288.90151, F.S.; expressing legislative intent on the return–on–investment of public funds in Enterprise Florida, Inc.; specifying private–sector support for Enterprise Florida, Inc.; prescribing the state's operating investment in Enterprise Florida, Inc.; requiring compliance with performance measures; requiring a report on the results of customer satisfaction survey; amending s. 288.903, F.S.; revising the required membership of the executive committee of Enterprise Florida, Inc.; deleting certain prescribed powers and duties of the president; requiring a performance–based contract in order to exceed certain employee compensation levels; amending s. 288.904, F.S.; prescribing terms of certain contracts executed by Enterprise Florida, Inc.; authorizing Enterprise Florida, Inc., to create and dissolve advisory committees and similar organizations; requiring the creation of advisory committees on international business and small business; prescribing the purpose and procedures of such committees; providing for reimbursement of expenses; amending s. 288.905, F.S.; revising the duties of the board of directors of Enterprise Florida, Inc.; revising the required content of the board's strategic plan; requiring the involvement of certain local and regional economic development organizations and rural and urban organizations in the policies of Enterprise Florida, Inc.; revising the date for a review of Enterprise Florida, Inc., by the Office of Program Policy Analysis and Government Accountability; amending s. 288.906, F.S.; revising requirements for the annual report of Enterprise Florida, Inc.; expanding the audit authority of the Auditor General to include advisory committees or similar groups created by Enterprise Florida, Inc.; amending ss. 288.9415, 288.9511, 288.9515, 288.95155, 288.9519, 288.9520, 288.9603, 288.9604, 288.9614, 288.9618, F.S.; conforming to the dissolution of certain boards; repealing s. 288.902, F.S., which relates to the Enterprise Florida Nominating Council; repealing s. 288.9412, F.S., which relates to the International Trade and Economic Development Board; repealing s. 288.9413, F.S., which relates to the organization of the International Trade and Economic Development Board; repealing s. 288.9414, F.S., which relates to the powers and authority of the International Trade and Economic Development Board; repealing s. 288.942, F.S., which relates to the grant review panel; repealing s. 288.9510, F.S., which relates to legislative intent on the Enterprise Florida Innovation Partnership; repealing s. 288.9512, F.S., which relates to the technology development board; repealing s. 288.9513, F.S., which relates to the organization of the technology development board; repealing s. 288.9514, F.S., which relates to powers and authority of the technology development board; repealing s. 288.9516, F.S., which relates to the annual report of the technology development board; repealing s. 288.9611, F.S., which relates to the capital development board; repealing s. 288.9612, F.S., which relates to the organization of the capital development board; repealing s. 288.9613, F.S., which relates to the powers and authority of the capital development board; repealing s. 288.9615, F.S., which relates to the annual report of the capital development board; providing for the continuation of certain contracts; providing for the transfer of certain property; authorizing Enterprise Florida, Inc., to assume responsibilities of certain repealed boards; directing the Division of Statutory Revision to redesignate certain parts in the Florida Statutes; amending s. 288.707, F.S.; directing the Florida Black Business Investment Board to increase access to capital for black businesses; amending s. 288.709, F.S.; revising the powers of the Black Business Investment Board; amending s. 288.99, F.S.; revising definitions related to the Certified Capital Company Act; specifying that tax credits vested under the Certified Capital Company Act are not to be considered in ratemaking proceedings involving a certified investor; redefining the term "transferee" for purposes of allocating unused premium tax credits; directing the Division of Statutory Revision to designate certain sections of the Florida Statutes as part XI, relating to Workforce Development; transferring, renumbering, and amending s. 446.601, F.S.; conforming cross-references; deleting provisions governing services of One–Stop Career Centers; revising components of the state's workforce development strategy; transferring, renumbering, and amending s. 446.604, F.S.; providing for the state's One-Stop Career Center customer service delivery strategy; specifying partners; providing for oversight and operation of centers by regional workforce development boards and center operators; providing for transfer of responsibilities; providing for assigning and leasing of employees; directing funds for direct customer service costs; providing for employment preference; providing for memorandums of understanding and sanctions; providing for electronic service delivery; authorizing Intensive Service Accounts and Individual Training Accounts and providing specifications; transferring, renumbering, and amending s. 288.9620, F.S.; providing for membership of the Florida Workforce Development Board pursuant to federal law; providing for committees; requiring financial disclosure; authorizing the board as the Workforce Investment Board; specifying functions, duties, and responsibilities; providing for sanctions; providing for carryover of funds; requiring a performance measurement system and reporting of such; transferring, renumbering, and amending s. 446.602, F.S.; providing for membership of regional workforce development boards pursuant to federal law; prohibiting certain activities that create a conflict of interest; providing for transition; providing for performance and compliance review; correcting organizational name references; requiring a local plan; providing for oversight of One-Stop Career Centers; authorizing local committees; establishing high skills/high wages committees; transferring, renumbering, and amending s. 446.607, F.S.; conforming cross-references; providing for consolidated board membership requirements; transferring, renumbering, and amending s. 446.603, F.S.; conforming cross-references; expanding the scope of the Untried Worker Placement and Employment Incentive Act; abrogating scheduled repeal of program; creating s. 288.9956, F.S.; providing principles for implementing the federal Workforce Investment Act of 1998; providing for a 5-year plan; specifying funding distribution; creating the Incumbent Worker Training Program; providing program requirements; requiring a report; au-

thorizing the Workforce Development Board to contract for administrative services related to federal funding; specifying contractual agreements; providing for indemnification; providing for settlement authority; providing for compliance with federal law; providing for workforce development review; providing for termination of state set-aside; creating s. 288.9957, F.S.; requiring designation of the Florida Youth Workforce Council; providing for membership and duties; providing for allocation of funds; creating s. 288.9958, F.S.; requiring appointment of the Employment, Occupation, and Performance Information Coordinating Committee; providing for membership and duties; providing for services and staff; creating s. 288.9959, F.S.; requiring appointment of the Operational Design and Technology Procurement Committee; providing for membership and duties; providing for services and staff; amending s. 414.026, F.S.; conforming a cross-reference; repealing s. 446.20, F.S., which provides for administration of responsibilities under the federal Job Training Partnership Act; repealing s. 446.205, F.S., which provides for a Job Training Partnership Act family drop–out prevention program; repealing s. 446.605, F.S., which provides for applicability of the Workforce Florida Act of 1996; repealing s. 446.606, F.S., which provides for designation of primary service providers; providing for severability; amending s. 220.191, F.S.; providing that credits may be granted against premium tax liability under the capital investment tax credit program; specifying that an insurance company claiming premium tax credits under such program is not required to pay additional retaliatory tax under s. 624.5091, F.S.; amending s. 163.3178, F.S.; requiring certain ports to identify certain spoil disposal sites; requiring such ports to prepare comprehensive master plans; amending s. 163.3187, F.S.; exempting comprehensive plan amendments for port transportation facilities and projects from a time limitation; amending s. 253.77, F.S.; exempting certain ports from paying fees for activities involving the use of sovereign lands; amending s. 288.8155, F.S.; providing that the International Trade Data Resource and Research Center be incorporated as a private nonprofit corporation, and not be a unit or entity of state government; providing for the creation and constitution of a board of directors of the center; authorizing the center to acquire patents, copyrights, and trademarks on its property and publications; amending s. 311.07, F.S.; providing that projects eligible for funding under the Florida Seaport Transportation and Economic Development Program must be consistent with port master plans; providing that projects eligible for funding include projects that accommodate freight movement and storage capacity or cruise capacity with exceptions; exempting certain port transportation facilities and projects from review as developments of regional impact; amending s. 311.09, F.S.; declaring that projects eligible for funding under the Florida Seaport Transportation and Economic Development Program are presumed to be in the public interest; creating s. 311.101, F.S.; creating the Office of Seaport and Freight Mobility Development within the Office of the State Public Transportation Administrator; providing duties and responsibilities; creating s. 311.102, F.S.; creating the Office of Seaport and Freight Mobility Planning within the Office of the Secretary of the Department of Community Affairs; providing duties and responsibilities; creating s. 311.20, F.S.; creating the Northwest Florida Seaport Transportation and Economic Development Council; providing for membership of the council; requiring the council to develop a strategic regional development plan; prescribing powers of the council; providing for staffing of the council; amending s. 311.11, F.S.; providing that the Florida Seaport Transportation and Economic Development Council shall develop a Seaport Training and Employment Program; providing legislative purposes and requirements for the program; creating s. 311.14, F.S.; directing the Florida Seaport Transportation and Economic Development Council to develop freight-mobility and trade-corridor plans; amending s. 315.02, F.S.; redefining the term "port facilities" to include certain storage facilities used for warehousing, storage, and distribution of cargo; amending s. 380.06, F.S.; exempting certain port projects from review as developments of regional impact; creating the Americas Campaign; providing legislative findings related to international trade; prescribing the elements of the Americas Campaign; designating a Campaign Council; providing for funding of the Americas Campaign; amending s. 117.01, F.S.; providing the proceeds of the application and commission fees paid by notaries public to be deposited into the Grants and Donations Trust Fund of the Department of State; amending s. 15.16, F.S.; authorizing the Secretary of State to issue apostilles; authorizing a fee; amending s. 117.103, F.S.; providing procedures and effect relating to issuance of certified copies of certificates of notary public commission; amending s. 118.10, F.S.; revising the definition and purposes of "authentic act" governing civil–law notaries; providing for a presumption of correctness of matters incorporated into authentic acts; authorizing civil-law notaries to authenticate documents, transactions, events, conditions, or occurrences; expanding the rulemaking authority of the Secretary of State governing civil-law notaries; authorizing the Secretary of State to test the legal knowledge of a civil-law notary applicant under certain circumstances; creating s. 118.12, F.S.; authorizing the issuance of certificates of notarial authority and apostilles to civil-law notaries; amending s. 15.18, F.S.; providing for coordination of international activities of the Department of State; requiring the Secretary of State to maintain lists relating to foreign money judgments; amending s. 55.604, F.S.; requiring that foreign judgments be filed with the Secretary of State; amending s. 55.605, F.S.; requiring the Secretary of State to create and maintain a specified list relative to foreign money judgments; creating s. 257.34, F.S.; creating the Florida International Archive and Repository; providing requirements for the archive; providing for access to the archive; reviving, reenacting, and amending s. 288.012, F.S., relating to establishment and operation of foreign offices by the Office of Tourism, Trade, and Economic Development; abrogating the repeal of the section; requiring offices to report annually on activities and accomplishments; prescribing the content of the reports; providing for future review of foreign offices; requiring Enterprise Florida, Inc., to develop a master plan for integrating international trade and reverse investment resources; prescribing procedures, content, and a submission deadline related to the plan; requiring Enterprise Florida, Inc., in conjunction with the Office of Tourism, Trade, and Economic Development, to prepare a plan to promote foreign direct investment in Florida; prescribing procedures, content, and a submission deadline related to the plan; requiring Enterprise Florida, Inc., to develop a strategic plan that will allow Florida to capitalize on the economic opportunities associated with a free Cuba; amending s. 288.1045, F.S.; conforming the limitation on the amount of tax refunds approved for payment under the qualified defense contractor tax refund program to the amount appropriated by the Legislature for such refunds; correcting references relating to program administration; amending ss. 212.097, 212.098, F.S.; clarifying the definition of an "eligible business" under the Urban High-Crime Area Job Tax Credit Program and the Rural Job Tax Credit Program; providing that certain call centers or similar customer service operations are eligible businesses under these programs; authorizing the recommendation of additions to or deletions from the list of eligible businesses; providing that certain retail businesses are eligible businesses under the Urban High-Crime Area Job Tax Credit Program; creating the Institute on Urban Policy and Commerce at Florida Agricultural and Mechanical University; providing its purposes and duties; providing for the establishment of regional urban centers; requiring annual reports by the institute and the Governor; creating s. 339.081, F.S.; creating a Workforce and Economic Development Transportation Program within the Department of Transportation; providing for program funding; providing for project selection; providing an appropriation; providing a short title; providing intent; amending s. 163.3177, F.S.; providing requirements for the future land use element of a local government comprehensive plan with respect to rural areas; amending s. 186.502, F.S.; providing that a regional planning council shall have a duty to assist local governments with economic development; amending s. 186.504, F.S.; providing that the ex officio, nonvoting membership of each regional planning council shall include a representative nominated by Enterprise Florida, Inc., and the Office of Tourism, Trade, and Economic Development; amending s. 186.505, F.S.; authorizing the use of regional planning council personnel, consultants, or technical or professional assistants to help local governments with economic development activities; amending s. 288.018, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to approve regional rural development grants on an annual basis; increasing the maximum amount of each grant award; increasing the total amount that may be expended annually for such grants; amending s. 288.065, F.S.; revising the population criteria for local government participation in the Rural Community Development Revolving Loan Fund; prescribing conditions under which repayments of principal and interest under the Rural Community Development Revolving Loan Fund may be retained by a unit of local government; creating s. 288.0655, F.S.; creating the Rural Infrastructure Fund for infrastructure projects in rural communities; providing for an annual deposit in the Economic Development Trust Fund in support of such infrastructure fund; authorizing grants for infrastructure projects and related studies; requiring the development of guidelines; providing that funds appropriated for such infrastructure fund shall not be subject to reversion; amending s. 320.20, F.S.; requiring the deposit of a certain amount of motor vehicle registration funds in the Economic Development Trust Fund in support of the Rural Infrastructure Fund; prescribing the manner in which such funds may be used; prohibiting diversion of such funds; creating the Rural Economic Development Initiative within the office and providing its

duties and responsibilities; directing specified agencies to select a representative to work with the initiative; providing for the recommendation and designation of rural areas of critical economic concern; providing for the waiver of certain criteria and rules with respect to such areas; providing for the commitment of certain services, resources, benefits, and staffing with respect to such areas; requiring execution of a memorandum of agreement as a condition to designation as a rural area of critical economic concern; providing for an annual report; authorizing the Office of Tourism, Trade, and Economic Development to accept and administer moneys appropriated for grants to assist rural communities to develop and implement strategic economic development plans; providing for review of grant applications; authorizing the Department of Community Affairs to establish a grant program to assist rural counties in financing studies regarding the establishment of municipal service taxing or benefit units; providing for rules; providing an appropriation; amending s. 236.081, F.S.; providing an exclusion under the computation of school district required local effort for certain nonpayment of property taxes in a rural area of critical economic concern; amending s. 378.601, F.S.; exempting specified heavy mining operations from requirements for development–of–regional–impact review under certain circumstances; directing the Florida Fish and Wildlife Conservation Commission to provide assistance related to promotion and development of nature–based recreation; specifying a minimum percentage of funds to be allocated to economic development under the Florida Small Cities Community Development Block Grant Program; creating s. 230.23027, F.S.; establishing the Small School District Stabilization Program; providing for a best financial management practices review of certain small districts; 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; making the implementation of a specified provision contingent upon specific appropriations; amending s. 288.980, F.S.; providing legislative intent; providing for the role of the Florida Defense Alliance; providing funding; removing a limitation on the amount of a grant under the Florida Military Installation Reuse Planning and Marketing Grant Program; increasing a grant limitation with respect to the Florida Defense Planning Grant Program; reducing the amount of matching funds required under certain grant programs; creating the Retention of Military Installations Program; providing eligibility criteria; providing a cap on the payment of administrative expenses from certain grants; providing an appropriation; providing an effective date.

House Amendment 1 (553475)(with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Section 14.2015, Florida Statutes, 1998 Supplement, is amended to read:

14.2015 Office of Tourism, Trade, and Economic Development; creation; powers and duties.—

(1) The Office of Tourism, Trade, and Economic Development is created within the Executive Office of the Governor. The director of the Office of Tourism, Trade, and Economic Development shall be appointed by and serve at the pleasure of the Governor.

(2) The purpose of the Office of Tourism, Trade, and Economic Development is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to provide economic opportunities for all Floridians. To accomplish such purposes, the Office of Tourism, Trade, and Economic Development shall:

(a) Contract, notwithstanding the provisions of part I of chapter 287, with the direct-support organization created under s. 288.1228, or a designated Florida not-for-profit corporation whose board members have had prior experience in promoting, throughout the state, the economic development of the Florida motion picture, television, radio, video, recording, and entertainment industries, to guide, stimulate, and promote the entertainment industry in the state.

(b) Contract, notwithstanding the provisions of part I of chapter 287, with the direct-support organization created under s. 288.1229 to guide, stimulate, and promote the sports industry in the state.

(c) Monitor the activities of public-private partnerships and state agencies in order to avoid duplication and promote coordinated and consistent implementation of programs in areas including, but not limited to, tourism; international trade and investment; business recruitment, creation, retention, and expansion; minority and small business development; and rural community development.

(d) Facilitate the direct involvement of the Governor and the Lieutenant Governor in economic development projects designed to create, expand, and retain Florida businesses and to recruit worldwide business, *as well as in other job-creating efforts.*

(e) Assist the Governor, in cooperation with Enterprise Florida, Inc., and the Florida Commission on Tourism, in preparing an annual report to the Legislature on the state of the business climate in Florida and on the state of economic development in Florida which will include the identification of problems and the recommendation of solutions. This report shall be submitted to the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader by January 1 of each year, and it shall be in addition to the Governor's message to the Legislature under the State Constitution and any other economic reports required by law.

(f) Plan and conduct at least *one meeting* ~~three meetings~~ per calendar year of leaders in business, government, and economic development called by the Governor to address the business climate in the state, develop a common vision for the economic future of the state, and identify economic development efforts to fulfill that vision.

(g)1. Administer the Florida Enterprise Zone Act under ss. 290.001-290.016, the community contribution tax credit program under ss. 220.183 and 624.5105, the tax refund program for qualified target industry businesses under s. 288.106, *the tax-refund program for qualified defense contractors under s. 288.1045,* contracts for transportation projects under s. 288.063, the sports franchise facility program under s. 288.1162, the professional golf hall of fame facility program under s. 288.1168, the *expedited permitting process under s. 403.973* ~~Florida Jobs Siting Act under ss. 403.950-403.972~~, the Rural Community Development Revolving Loan Fund under s. 288.065, the Regional Rural Development Grants Program under s. 288.018, the Certified Capital Company Act under s. 288.99, the Florida State Rural Development Council, ~~and~~ the Rural Economic Development Initiative, *and other programs that are specifically assigned to the office by law, by the appropriations process, or by the Governor. Notwithstanding any other provisions of law, the office may expend interest earned from the investment of program funds deposited in the Economic Development Trust Fund, the Grants and Donations Trust Fund, the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund, and the Economic Development Transportation Trust Fund to contract for the administration of the programs, or portions of the programs, enumerated in this paragraph or assigned to the office by law, by the appropriations process, or by the Governor. Such expenditures shall be subject to review under chapter 216.*

2. The office may enter into contracts in connection with the fulfillment of its duties concerning the Florida First Business Bond Pool under chapter 159, tax incentives under chapters 212 and 220, tax incentives under the Certified Capital Company Act in chapter 288, foreign offices under chapter 288, the Enterprise Zone program under chapter 290, the Seaport Employment Training program under chapter 311, the Florida Professional Sports Team License Plates under chapter 320, Spaceport Florida under chapter 331, ~~Job Siting and~~ Expedited Permitting under chapter 403, and in carrying out other functions that are specifically assigned to the office by law, *by the appropriations process, or by the Governor.*

(h) Serve as contract administrator for the state with respect to contracts with Enterprise Florida, Inc., the Florida Commission on Tourism, and all direct-support organizations under this act, excluding those relating to tourism. To accomplish the provisions of this act and applicable provisions of chapter 288, and notwithstanding the provisions of part I of chapter 287, the office shall enter into specific contracts with Enterprise Florida, Inc., the Florida Commission on Tourism, and other appropriate direct-support organizations. Such contracts may be multiyear

and shall include specific performance measures for each year. ~~The office shall provide the President of the Senate and the Speaker of the House of Representatives with a report by February 1 of each year on the status of these contracts, including the extent to which specific contract performance measures have been met by these contractors.~~

(i) Prepare and submit as a separate budget entity a unified budget request for tourism, trade, and economic development in accordance with chapter 216 for, and in conjunction with, Enterprise Florida, Inc., and its boards, the Florida Commission on Tourism and its direct-support organization, the Florida Black Business Investment Board, and the direct-support organizations created to promote the entertainment and sports industries.

(j) *Adopt* ~~Promulgate~~ rules, *as necessary*, to carry out its functions in connection with the administration of the Qualified Target Industry program, the Qualified Defense Contractor program, the Certified Capital Company Act, the Enterprise Zone program, and the Florida First Business Bond pool.

(3) The Chief Inspector General, as defined in s. 14.32:

(a) Shall advise public-private partnerships in their development, utilization, and improvement of internal control measures necessary to ensure fiscal accountability.

(b) May conduct, direct, and supervise audits relating to the programs and operations of public-private partnerships.

(c) Shall receive and investigate complaints of fraud, abuses, and deficiencies relating to programs and operations of public-private partnerships.

(d) May request and have access to any records, data, and other information of public-private partnerships that the Chief Inspector General deems necessary to carry out his or her responsibilities with respect to accountability.

(e) Shall monitor public-private partnerships for compliance with the terms and conditions of contracts with the Office of Tourism, Trade, and Economic Development and report noncompliance to the Governor.

(f) Shall advise public-private partnerships in the development, utilization, and improvement of performance measures for the evaluation of their operations.

(g) Shall review and make recommendations for improvements in the actions taken by public-private partnerships to meet performance standards.

(4) The director of the Office of Tourism, Trade, and Economic Development shall designate a position within the office to advocate and coordinate the interests of minority businesses. The person in this position shall report to the director and shall be the primary point of contact for the office on issues and projects important to the recruitment, creation, preservation, and growth of minority businesses.

(5) The director of the Office of Tourism, Trade, and Economic Development shall designate a position within the office to advocate and coordinate the interests of rural communities in the state. The person in this position shall report to the director and shall be the primary point of contact for the office on issues and projects important to the economic capacity of Florida's rural communities.

(6)(a) In order to improve the state's regulatory environment, the Office of Tourism, Trade, and Economic Development shall consider the impact of agency rules on businesses, provide one-stop permit information and assistance, and serve as an advocate for businesses, particularly small businesses, in their dealings with state agencies.

(b) As used in this subsection, the term "permit" means any approval of an agency required as a condition of operating a business in this state, including, but not limited to, licenses and registrations.

(c) The office shall have powers and duties to:

1. Review proposed agency actions for impacts on small businesses and offer alternatives to mitigate such impacts, as provided in s. 120.54.

2. In consultation with the Governor's rules ombudsman, make recommendations to agencies on any existing and proposed rules for alleviating unnecessary or disproportionate adverse effects to businesses.

3. Make recommendations to the Legislature and to agencies for improving permitting procedures affecting business activities in the state. By October 1, 1997, and annually thereafter, the Office of Tourism, Trade, and Economic Development shall submit a report to the Legislature containing the following:

a. An identification and description of methods to eliminate, consolidate, simplify, or expedite permits.

b. An identification and description of those agency rules repealed or modified during each calendar year to improve the regulatory climate for businesses operating in the state.

c. A recommendation for an operating plan and funding level for establishing an automated one-stop permit registry to provide the following services:

(I) Access by computer network to all permit applications and approval requirements of each state agency.

(II) Assistance in the completion of such applications.

(III) Centralized collection of any permit fees and distribution of such fees to agencies.

(IV) Submission of application data and circulation of such data among state agencies by computer network.

If the Legislature establishes such a registry, subsequent annual reports must cover the status and performance of this registry.

4. Serve as a clearinghouse for information on which permits are required for a particular business and on the respective application process, including criteria applied in making a determination on a permit application. Each state agency that requires a permit, license, or registration for a business shall submit to the Office of Tourism, Trade, and Economic Development by August 1 of each year a list of the types of businesses and professions that it regulates and of each permit, license, or registration that it requires for a type of business or profession.

5. Obtain information and permit applications from agencies and provide such information and permit applications to the public.

6. Arrange, upon request, informal conferences between a business and an agency to clarify regulatory requirements or standards or to identify and address problems in the permit review process.

7. Determine, upon request, the status of a particular permit application.

8. Receive complaints and suggestions concerning permitting policies and activities of governmental agencies which affect businesses.

(d) Use of the services authorized in this subsection does not preclude a person or business from dealing directly with an agency.

(e) In carrying out its duties under this subsection, the Office of Tourism, Trade, and Economic Development may consult with state agency personnel appointed to serve as economic development liaisons under s. 288.021.

(f) The office shall clearly represent that its services are advisory, informational, and facilitative only. Advice, information, and assistance rendered by the office does not relieve any person or business from the obligation to secure a required permit. The office is not liable for any consequences resulting from the failure to issue or to secure a required permit. However, an applicant who uses the services of the office and who receives a written statement identifying required state permits relating to a business activity may not be assessed a penalty for failure to obtain a state permit that was not identified, if the applicant submits an application for each such permit within 60 days after written notification from the agency responsible for issuing the permit.

(7) The Office of Tourism, Trade, and Economic Development shall develop performance measures, standards, and sanctions for each program it administers under this act and, in conjunction with the applicable entity, for each program for which it contracts with another entity

under this act. The performance measures, standards, and sanctions shall be developed in consultation with the legislative appropriations committees and the appropriate substantive committees, and are subject to the review and approval process provided in s. 216.177. The approved performance measures, standards, and sanctions shall be included and made a part of each contract entered into for delivery of programs authorized by this act.

(8) The Office of Tourism, Trade, and Economic Development shall ensure that the contract between the Florida Commission on Tourism and the commission's direct-support organization contains a provision to provide the data on the visitor counts and visitor profiles used in revenue estimating, employing the same methodology used in fiscal year 1995-1996 by the Department of Commerce. The Office of Tourism, Trade, and Economic Development and the Florida Commission on Tourism must reach agreement with the Consensus Estimating Conference principals before making any changes in methodology used or information gathered.

(9)(a) The Office of Urban Opportunity is created within the Office of Tourism, Trade, and Economic Development. The director of the Office of Urban Opportunity shall be appointed by and serve at the pleasure of the Governor.

(b) The purpose of the Office of Urban Opportunity shall be to administer the Front Porch Florida initiative, a comprehensive, community-based urban core redevelopment program that will empower urban core residents to craft solutions to the unique challenges of each designated community.

~~(9)(a) Subject to the cooperative recommendations of Enterprise Florida, Inc., and the Florida Commission on Tourism and also to the approval of the Governor, the Office of Tourism, Trade, and Economic Development is authorized to expend appropriated state and federal funds for general economic development grants. The office shall establish criteria for the award of grants, including criteria relating to highest economic return for the state as a whole, or a particular region, county, city, or community, ability to properly administer grant funds, and such other matters deemed necessary and appropriate to further the purposes of this subsection. The office shall expend all funds in accordance with state law and shall use such appropriations to supplement the financial support of:~~

~~1. Programs that have a substantial economic significance, giving emphasis to programs that benefit the state as a whole.~~

~~2. Programs with a high potential for match funding from nonstate sources.~~

~~3. Economic development programs for which no other state grants are available.~~

~~4. Rural areas and distressed urban areas.~~

~~(b) Grants shall be made by contract with any nonprofit corporation or local or state governmental entity. Of the total amount of funds available from all sources for grants, 70 percent of such funds shall be awarded on a 50-percent matching basis. Up to 30 percent of such funds available may be awarded on a nonmatching basis.~~

~~(c) In administering grants, contracts, and funds appropriated for economic development programs, the office may release moneys in advance on a quarterly basis. By the end of the contract period, the grantee or contractee shall furnish to the office a complete and accurate accounting of how all grant funds were expended. Postaudits to be conducted by an independent certified public accountant may be required in accordance with criteria adopted by the office.~~

~~(d) The office shall not award any new grant which will, in whole or in part, inure to the personal benefit of any board member of Enterprise Florida, Inc., or the Florida Commission on Tourism during that member's term of office, if the board member participated in the vote of the board or panel thereof recommending the award. However, this subsection does not prohibit the office from awarding a grant to an entity with which a board member is associated.~~

~~(e) This subsection is repealed on July 1, 1999.~~

Section 2. Section 288.0251, Florida Statutes, is amended to read:

288.0251 International development outreach activities in Latin America and Caribbean Basin.—The *Department of State* ~~Office of Tourism, Trade, and Economic Development~~ may contract for the implementation of Florida's international volunteer corps to provide short-term training and technical assistance activities in Latin America and the Caribbean Basin. The entity contracted under this section must require that such activities be conducted by qualified volunteers who are citizens of the state. The contracting agency must have a statewide focus and experience in coordinating international volunteer programs.

Section 3. Paragraphs (a) and (b) of subsection (3) of section 288.095, Florida Statutes, are amended to read:

288.095 Economic Development Trust Fund.—

(3)(a) ~~Contingent upon an annual appropriation by the Legislature,~~ The Office of Tourism, Trade, and Economic Development may approve *applications for certification* ~~tax refunds~~ pursuant to *ss. 288.1045(3) and* ~~ss. 288.1045,~~ 288.106*, and 288.107. However, the total state share of tax refund payments scheduled in all active certifications for fiscal year 2000-2001 shall not exceed $24 million. The state share of tax refund payments scheduled in all active certifications for fiscal year 2001-2002 and each subsequent year shall not exceed $30 million.* ~~The office may not approve tax refunds in excess of the amount appropriated to the Economic Development Incentives Account for such tax refunds, for a fiscal year pursuant to paragraph (b).~~

(b) The total amount of tax *refund claims* ~~refunds~~ approved *for payment* by the Office of Tourism, Trade, and Economic Development *based on actual project performance may* ~~pursuant to ss. 288.1045, 288.106, and 288.107 shall~~ not exceed the amount appropriated to the Economic Development Incentives Account for such purposes for the fiscal year. In the event the Legislature does not appropriate an amount sufficient to satisfy projections by the office for tax refunds under ss. 288.1045 *and,* 288.106~~, and 288.107~~ in a fiscal year, the Office of Tourism, Trade, and Economic Development shall, not later than July 15 of such year, determine the proportion of each refund claim which shall be paid by dividing the amount appropriated for tax refunds for the fiscal year by the projected total of refund claims for the fiscal year. The amount of each claim for a tax refund shall be multiplied by the resulting quotient. If, after the payment of all such refund claims, funds remain in the Economic Development Incentives Account for tax refunds, the office shall recalculate the proportion for each refund claim and adjust the amount of each claim accordingly.

Section 4. Section 288.106, Florida Statutes, 1998 Supplement, is amended to read:

288.106 Tax refund program for qualified target industry businesses.—

(1) LEGISLATIVE FINDINGS AND DECLARATIONS.—The Legislature finds that attracting, retaining, and providing favorable conditions for the growth of target industries provides high-quality employment opportunities for citizens of this state and enhances the economic foundations of this state. It is the policy of this state to encourage the growth of a high-value-added employment and economic base by providing tax refunds to qualified target industry businesses that create new high-wage employment opportunities in this state by expanding existing businesses within this state or by bringing new businesses to this state.

(2) DEFINITIONS.—As used in this section:

(a) "Account" means the Economic Development Incentives Account within the Economic Development Trust Fund established under s. 288.095.

(b) "Average private sector wage in the area" means the statewide private sector average wage or the average of all private sector wages and salaries in the county or in the standard metropolitan area in which the business is located.

(c) "Business" means an employing unit, as defined in s. 443.036, which is registered with the Department of Labor and Employment Security for unemployment compensation purposes or a subcategory or division of an employing unit which is accepted by the Department of Labor and Employment Security as a reporting unit.

(d) "Corporate headquarters business" means an international, national, or regional headquarters office of a multinational or multistate

business enterprise or national trade association, whether separate from or connected with other facilities used by such business.

(e) "Office" means the Office of Tourism, Trade, and Economic Development.

(f) "Enterprise zone" means an area designated as an enterprise zone pursuant to s. 290.0065.

(g) "Expansion of an existing business" means the expansion of *an existing Florida* ~~a~~ business by or through additions to real and personal property ~~on a site colocated with a commercial or industrial operation owned by the same business~~, resulting in a net increase in employment of not less than 10 percent at such business.

(h) "Fiscal year" means the fiscal year of the state.

(i) "Jobs" means full-time equivalent positions, as such terms are consistent with terms used by the Department of Labor and Employment Security and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation, resulting directly from a project in this state. This number shall not include temporary construction jobs involved with the construction of facilities for the project or any jobs which have previously been included in any application for tax refunds under s. 288.104 or this section.

(j) "Local financial support" means funding from local sources, public or private, which is paid to the Economic Development Trust Fund and which is equal to 20 percent of the annual tax refund for a qualified target industry business. A qualified target industry business may not provide, directly or indirectly, more than 5 percent of such funding in any fiscal year. The sources of such funding may not include, directly or indirectly, state funds appropriated from the General Revenue Fund or any state trust fund, excluding tax revenues shared with local governments pursuant to law.

(k) "Local financial support exemption option" means the option to exercise an exemption from the local financial support requirement available to any applicant whose project is located in a county *with a population of 75,000 or fewer or a county with a population of 100,000 or fewer which is contiguous to a county with a population of 75,000 or fewer* ~~designated by the Rural Economic Development Initiative~~. Any applicant that exercises this option shall not be eligible for more than 80 percent of the total tax refunds allowed such applicant under this section.

(l) "New business" means a business which heretofore did not exist in this state, first beginning operations on a site located in this state and clearly separate from any other commercial or industrial operations owned by the same business.

(m) "Project" means the creation of a new business or expansion of an existing business.

(n) "Director" means the Director of the Office of Tourism, Trade, and Economic Development.

(o) "Target industry business" means a corporate headquarters business or any business that is engaged in one of the target industries identified pursuant to the following criteria developed by the office in consultation with Enterprise Florida, Inc.:

1. Future growth.—Industry forecasts should indicate strong expectation for future growth in both employment and output, according to the most recent available data. Special consideration should be given to Florida's growing access to international markets or to replacing imports.

2. Stability.—The industry should not be subject to periodic layoffs, whether due to seasonality or sensitivity to volatile economic variables such as weather. The industry should also be relatively resistant to recession, so that the demand for products of this industry is not necessarily subject to decline during an economic downturn.

3. High wage.—The industry should pay relatively high wages compared to statewide or area averages.

4. Market and resource independent.—The location of industry businesses should not be dependent on Florida markets or resources as indicated by industry analysis.

5. Industrial base diversification and strengthening.—The industry should contribute toward expanding or diversifying the state's or area's economic base, as indicated by analysis of employment and output shares compared to national and regional trends. Special consideration should be given to industries that strengthen regional economies by adding value to basic products or building regional industrial clusters as indicated by industry analysis.

6. Economic benefits.—The industry should have strong positive impacts on or benefits to the state and regional economies.

The office, in consultation with Enterprise Florida, Inc., shall develop a list of such target industries annually and submit such list as part of the final agency legislative budget request submitted pursuant to s. 216.023(1). A target industry business may not include any industry engaged in retail activities; any electrical utility company; any phosphate or other solid minerals severance, mining, or processing operation; any oil or gas exploration or production operation; or any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

(p) "Taxable year" means taxable year as defined in s. 220.03(1)(z).

(q) "Qualified target industry business" means a target industry business that has been approved by the director to be eligible for tax refunds pursuant to this section.

(r) "Rural county" means a county with a population of 75,000 or *fewer or a county with a population of 100,000 or fewer which is contiguous to a county with a population of 75,000 or fewer* ~~less~~.

(s) "Rural city" means a city with a population of 10,000 or less, or a city with a population of greater than 10,000 but less than 20,000 which has been determined by the Office of Tourism, Trade, and Economic Development to have economic characteristics such as, but not limited to, a significant percentage of residents on public assistance, a significant percentage of residents with income below the poverty level, or a significant percentage of the city's employment base in agriculture-related industries.

(t) "Rural community" means:

1. A county with a population of 75,000 or less.

2. A county with a population of 100,000 or less that is contiguous to a county with a population of 75,000 or less.

3. A municipality within a county described in subparagraph 1. or subparagraph 2.

For purposes of this paragraph, population shall be determined in accordance with the most recent official estimate pursuant to s. 186.901.

(u) "Authorized local economic development agency" means any public or private entity, including those defined in s. 288.075, authorized by a county or municipality to promote the general business or industrial interests of that county or municipality.

(3) TAX REFUND; ELIGIBLE AMOUNTS.—

(a) There shall be allowed, from the account, a refund to a qualified target industry business for the amount of eligible taxes certified by the director which were paid by such business. The total amount of refunds for all fiscal years for each qualified target industry business must be determined pursuant to subsection (4). The annual amount of a refund to a qualified target industry business must be determined pursuant to subsection (6).

(b) *Upon approval by the director, a qualified target industry business shall be allowed tax refund payments equal to $3,000 times the number of jobs specified in the tax refund agreement under subparagraph (5)(a)1., or equal to $6,000 times the number of jobs if the project is located in a rural county or an enterprise zone. Further, a qualified target industry business shall be allowed additional tax refund payments equal to $1,000 times the number of jobs specified in the tax refund agreement under subparagraph (5)(a)1., if such jobs pay an annual average wage of at least 150 percent of the average private-sector wage in the area, or equal to $2,000 times the number of jobs if such jobs pay an annual average wage of at least 200 percent of the average private-sector wage in the area.* ~~The director may approve a qualified target industry~~

~~business to receive tax refund payments of up to $5,000 times the number of jobs specified in the tax refund agreement under subparagraph (5)(a)1., or up to $7,500 times the number of jobs if the project is located in an enterprise zone.~~ A qualified target industry business may not receive refund payments of more than 25 percent of the total tax refunds specified in the tax refund agreement under subparagraph (5)(a)1. in any fiscal year. Further, a qualified target industry business may not receive more than $1.5 million in refunds under this section in any single fiscal year, or more than $2.5 million in any single fiscal year if the project is located in an enterprise zone. A qualified target industry may not receive more than $5 million in refund payments under this section in all fiscal years, or more than $7.5 million if the project is located in an enterprise zone. Funds made available pursuant to this section may not be expended in connection with the relocation of a business from one community to another community in this state unless the Office of Tourism, Trade, and Economic Development determines that without such relocation the business will move outside this state or determines that the business has a compelling economic rationale for the relocation and that the relocation will create additional jobs.

(c) After entering into a tax refund agreement under subsection (5), a qualified target industry business may*:*

1. Receive refunds from the account for the following taxes due and paid by that business beginning with the first taxable year of the business which begins after entering into the agreement:

~~1. Taxes on sales, use, and other transactions under chapter 212.~~

a.~~2.~~ Corporate income taxes under chapter 220.

~~3. Intangible personal property taxes under chapter 199.~~

~~4. Emergency excise taxes under chapter 221.~~

~~5. Excise taxes on documents under chapter 201.~~

~~6. Ad valorem taxes paid, as defined in s. 220.03(1).~~

b.~~7.~~ Insurance premium tax under s. 624.509.

2. Receive refunds from the account for the following taxes due and paid by that business after entering into the agreement:

a. Taxes on sales, use, and other transactions under chapter 212.

b. Intangible personal property taxes under chapter 199.

c. Emergency excise taxes under chapter 221.

d. Excise taxes on documents under chapter 201.

e. Ad valorem taxes paid, as defined in s. 220.03(1).

(d) However, a qualified target industry business may not receive a refund under this section for any amount of credit, refund, or exemption granted to that business for any of such taxes. If a refund for such taxes is provided by the office, which taxes are subsequently adjusted by the application of any credit, refund, or exemption granted to the qualified target industry business other than as provided in this section, the business shall reimburse the account for the amount of that credit, refund, or exemption. A qualified target industry business shall notify and tender payment to the office within 20 days after receiving any credit, refund, or exemption other than one provided in this section.

(e)~~(d)~~ A qualified target industry business that fraudulently claims a refund under this section:

1. Is liable for repayment of the amount of the refund to the account, plus a mandatory penalty in the amount of 200 percent of the tax refund which shall be deposited into the General Revenue Fund.

2. Is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) APPLICATION AND APPROVAL PROCESS.—

(a) To apply for certification as a qualified target industry business under this section, the business must file an application with the office before the business has made the decision to locate a new business in this state or before the business had made the decision to expand an existing business in this state. The application shall include, but is not limited to, the following information:

1. The applicant's federal employer identification number and the applicant's state sales tax registration number.

2. The permanent location of the applicant's facility in this state at which the project is or is to be located.

3. A description of the type of business activity or product covered by the project, including four-digit SIC codes for all activities included in the project.

4. The number of full-time equivalent jobs in this state that are or will be dedicated to the project and the average wage of those jobs. If more than one type of business activity or product is included in the project, the number of jobs and average wage for those jobs must be separately stated for each type of business activity or product.

5. The total number of full-time equivalent employees employed by the applicant in this state.

6. The anticipated commencement date of the project.

~~7. The amount of:~~

~~a. Taxes on sales, use, and other transactions paid under chapter 212;~~

~~b. Corporate income taxes paid under chapter 220;~~

~~c. Intangible personal property taxes paid under chapter 199;~~

~~d. Emergency excise taxes paid under chapter 221; and~~

~~e. Excise taxes on documents paid under chapter 201.~~

~~8. The estimated amount of tax refunds to be claimed in each fiscal year.~~

7.~~9.~~ A brief statement concerning the role that the tax refunds requested will play in the decision of the applicant to locate or expand in this state.

8.~~10.~~ An estimate of the proportion of the sales resulting from the project that will be made outside this state.

9.~~11.~~ A resolution adopted by the governing board of the county or municipality in which the project will be located, which resolution recommends that certain types of businesses be approved as a qualified target industry business and states that the commitments of local financial support necessary for the target industry business exist. *In advance of the passage of such resolution, the office may also accept an official letter from an authorized local economic development agency that endorses the proposed target industry project and pledges that sources of local financial support for such project exist. For the purposes of making pledges of local financial support under this subsection, the authorized local economic development agency shall be officially designated by the passage of a one-time resolution by the local governing authority.* ~~Before adoption of the resolution, the governing board may review the proposed public or private sources of such support and determine whether the proposed sources of local financial support can be provided.~~

10.~~12.~~ Any additional information requested by the office.

(b) To qualify for review by the office, the application of a target industry business must, at a minimum, establish the following to the satisfaction of the office:

1. The jobs proposed to be provided under the application, pursuant to subparagraph (a)4., must pay an estimated annual average wage equaling at least 115 percent of the average private sector wage in the area where the business is to be located or the statewide private sector average wage. The office may waive this average wage requirement at the request of the local governing body recommending the project and Enterprise Florida, Inc. The wage requirement may only be waived for a project located in a brownfield area designated under s. 376.80 or in a rural city or county or in an enterprise zone and only when the merits of the individual project or the specific circumstances in the community

in relationship to the project warrant such action. If the local governing body and Enterprise Florida, Inc., make such a recommendation, it must be transmitted in writing and the specific justification for the waiver recommendation must be explained. If the director elects to waive the wage requirement, the waiver must be stated in writing and the reasons for granting the waiver must be explained.

2. The target industry business's project must result in the creation of at least 10 jobs at such project *and, if an expansion of an existing business, must result in a net increase in employment of not less than 10 percent at such business. Notwithstanding the definition of the term "expansion of an existing business" in paragraph (2)(g), at the request of the local governing body recommending the project and Enterprise Florida, Inc., the office may define an "expansion of an existing business" in a rural community or an enterprise zone as the expansion of a business resulting in a net increase in employment of less than 10 percent at such business if the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action. If the local governing body and Enterprise Florida, Inc., make such a request, it must be transmitted in writing and the specific justification for the request must be explained. If the director elects to grant such request, such election must be stated in writing and the reason for granting the request must be explained.*

3. The business activity or product for the applicant's project is within an industry or industries that have been identified by the office to be high-value-added industries that contribute to the area and to the economic growth of the state and that produce a higher standard of living for citizens of this state in the new global economy or that can be shown to make an equivalent contribution to the area and state's economic progress. The director must approve requests to waive the wage requirement for brownfield areas designated under s. 376.80 unless it is demonstrated that such action is not in the public interest.

(c) Each application meeting the requirements of paragraph (b) must be submitted to the office for determination of eligibility. The office shall review and evaluate each application based on, but not limited to, the following criteria:

1. Expected contributions to the state strategic economic development plan adopted by Enterprise Florida, Inc., taking into account the long-term effects of the project and of the applicant on the state economy.

2. The economic benefit of the jobs created by the project in this state, taking into account the cost and average wage of each job created.

3. The amount of capital investment to be made by the applicant in this state.

4. The local commitment and support for the project.

5. The effect of the project on the local community, taking into account the unemployment rate for the county where the project will be located.

6. The effect of any tax refunds granted pursuant to this section on the viability of the project and the probability that the project will be undertaken in this state if such tax refunds are granted to the applicant, taking into account the expected long-term commitment of the applicant to economic growth and employment in this state.

7. The expected long-term commitment to this state resulting from the project.

8. A review of the business's past activities in this state or other states, including whether such business has been subjected to criminal or civil fines and penalties. Nothing in this subparagraph shall require the disclosure of confidential information.

(d) The office shall forward its written findings and evaluation concerning each application meeting the requirements of paragraph (b) to the director within 45 calendar days after receipt of a complete application. The office shall notify each target industry business when its application is complete, and of the time when the 45-day period begins. In its written report to the director, the office shall specifically address each of the factors specified in paragraph (c) and shall make a specific assessment with respect to the minimum requirements established in paragraph (b). The office shall include in its report projections of the tax refund claim that will be sought by the target industry business in each fiscal year based on the information submitted in the application.

(e)1. Within 30 days after receipt of the office's findings and evaluation, the director shall *issue a letter of certification* ~~enter a final order~~ that either approves or disapproves the application of the target industry business. The decision must be in writing and must provide the justifications for approval or disapproval.

2. If appropriate, the director shall enter into a written agreement with the qualified target industry business pursuant to subsection (5).

(f) The director may not *certify* ~~enter a final order that certifies~~ any target industry business as a qualified target industry business if the value of tax refunds to be included in that *letter of certification* ~~final order~~ exceeds the available amount of authority to *certify new businesses* ~~enter final orders~~ as determined in s. 288.095(3). *However, if the commitments of local financial support represent less than 20 percent of the eligible tax refund payments, or to otherwise preserve the viability and fiscal integrity of the program, the director may certify a qualified target industry business to receive tax refund payments of less than the allowable amounts specified in paragraph (3)(b).* A *letter of certification* ~~final order~~ that approves an application must specify the maximum amount of tax refund that will be available to the qualified industry business in each fiscal year and the total amount of tax refunds that will be available to the business for all fiscal years.

(g) Nothing in this section shall create a presumption that an applicant will receive any tax refunds under this section. However, the office may issue nonbinding opinion letters, upon the request of prospective applicants, as to the applicants' eligibility and the potential amount of refunds.

(5) TAX REFUND AGREEMENT.—

(a) Each qualified target industry business must enter into a written agreement with the office which specifies, at a minimum:

1. The total number of full-time equivalent jobs in this state that will be dedicated to the project, the average wage of those jobs, the definitions that will apply for measuring the achievement of these terms during the pendency of the agreement, and a time schedule or plan for when such jobs will be in place and active in this state. This information must be the same as the information contained in the application submitted by the business under subsection (4).

2. The maximum amount of tax refunds which the qualified target industry business is eligible to receive on the project and the maximum amount of a tax refund that the qualified target industry business is eligible to receive in each fiscal year.

3. That the office may review and verify the financial and personnel records of the qualified target industry business to ascertain whether that business is in compliance with this section.

4. The date after which, in each fiscal year, the qualified target industry business may file an annual claim under subsection (6).

5. That local financial support will be annually available and will be paid to the account. *The director may not enter into a written agreement with a qualified target industry business if the local financial support resolution is not passed by the local governing authority within 90 days after he or she has issued the letter of certification under subsection (4).*

(b) Compliance with the terms and conditions of the agreement is a condition precedent for the receipt of a tax refund each year. The failure to comply with the terms and conditions of the tax refund agreement results in the loss of eligibility for receipt of all tax refunds previously authorized under this section and the revocation by the director of the certification of the business entity as a qualified target industry business.

(c) The agreement must be signed by the director and by an authorized officer of the qualified target industry business within *120* ~~30~~ days after *the issuance of the letter of certification* ~~entry of a final order certifying the business entity as a qualified target industry business~~ under subsection (4), *but not before passage and receipt of the resolution of local financial support.*

(d) The agreement must contain the following legend, clearly printed on its face in bold type of not less than 10 points in size: "This agreement is neither a general obligation of the State of Florida, nor is it backed by

the full faith and credit of the State of Florida. Payment of tax refunds are conditioned on and subject to specific annual appropriations by the Florida Legislature of moneys sufficient to pay amounts authorized in section 288.106, Florida Statutes."

(6) ANNUAL CLAIM FOR REFUND.—

(a) A qualified target industry business that has entered into a tax refund agreement with the office under subsection (5) may apply once each fiscal year to the office for a tax refund. The application must be made on or after the date specified in that agreement.

(b) The claim for refund by the qualified target industry business must include a copy of all receipts pertaining to the payment of taxes for which the refund is sought and data related to achievement of each performance item specified in the tax refund agreement. The amount requested as a tax refund may not exceed the amount specified for that fiscal year in that agreement.

(c) A tax refund may not be approved for a qualified target industry business unless the required local financial support has been paid into the account in that fiscal year. If the local financial support provided is less than 20 percent of the approved tax refund, the tax refund must be reduced. In no event may the tax refund exceed an amount that is equal to 5 times the amount of the local financial support received. Further, funding from local sources includes any tax abatement granted to that business under s. 196.1995 *or the appraised market value of municipal or county land conveyed or provided at a discount to that business.* ~~; and~~ The amount of any tax refund for such business approved under this section must be reduced by the amount of any such tax abatement granted *or the value of the land granted*; and the limitations in subsection (3) and paragraph (4)(f) must be reduced by the amount of any such tax abatement *or the value of the land granted*. A report listing all sources of the local financial support shall be provided to the office when such support is paid to the account.

(d) A prorated tax refund, less a 5-percent penalty, shall be approved for a qualified target industry business provided all other applicable requirements have been satisfied and the business proves to the satisfaction of the director that it has achieved at least 80 percent of its projected employment.

(e) The director, with such assistance as may be required from the office, the Department of Revenue, or the Department of Labor and Employment Security, shall specify by written final order the amount of the tax refund that is authorized for the qualified target industry business for the fiscal year within 30 days after the date that the claim for the annual tax refund is received by the office.

(f) The total amount of tax *refund claims* ~~refunds~~ approved by the director under this section in any fiscal year must not exceed the amount authorized under s. 288.095(3).

(g) Upon approval of the tax refund under paragraphs (c), (d), and (e), the Comptroller shall issue a warrant for the amount specified in the final order. If the final order is appealed, the Comptroller may not issue a warrant for a refund to the qualified target industry business until the conclusion of all appeals of that order.

(7) ADMINISTRATION.—

(a) The office is authorized to verify information provided in any claim submitted for tax credits under this section with regard to employment and wage levels or the payment of the taxes to the appropriate agency or authority, including the Department of Revenue, the Department of Labor and Employment Security, or any local government or authority.

(b) To facilitate the process of monitoring and auditing applications made under this program, the office may provide a list of qualified target industry businesses to the Department of Revenue, to the Department of Labor and Employment Security, or to any local government or authority. The office may request the assistance of those entities with respect to monitoring the payment of the taxes listed in subsection (3).

(8) EXPIRATION.—This section expires June 30, 2004.

Section 5. Section 288.901, Florida Statutes, is amended to read:

288.901 Enterprise Florida, Inc.; creation; membership; organization; meetings; disclosure.—

(1) There is created a *not-for-profit* ~~nonprofit~~ corporation, to be known as "Enterprise Florida, Inc.," which shall be registered, incorporated, organized, and operated in compliance with chapter 617, and which shall not be a unit or entity of state government. The Legislature determines, however, that public policy dictates that Enterprise Florida, Inc., operate in the most open and accessible manner consistent with its public purpose. To this end, the Legislature specifically declares that Enterprise Florida, Inc., and its boards *and advisory committees or similar groups created by Enterprise Florida, Inc.,* are subject to the provisions of chapter 119, relating to public records and those provisions of chapter 286 relating to public meetings and records.

(2) Enterprise Florida, Inc., shall establish one or more corporate offices, at least one of which shall be located in Leon County. ~~Persons employed by the Department of Commerce on the day prior to July 1, 1996, whose jobs are privatized, shall be given preference, if qualified, for similar jobs at Enterprise Florida, Inc. When practical, those jobs shall be located in Leon County. All available resources, including telecommuting, must be employed to minimize the negative impact on the Leon County economy caused by job losses associated with the privatization of the Department of Commerce.~~ The Department of Management Services may establish a lease agreement program under which Enterprise Florida, Inc., may hire any individual who, as of June 30, 1996, is employed by the Department of Commerce or who, as of January 1, 1997, is employed by the Executive Office of the Governor and has responsibilities specifically in support of the Workforce Development Board established under s. 288.9620. Under such agreement, the employee shall retain his or her status as a state employee but shall work under the direct supervision of Enterprise Florida, Inc. Retention of state employee status shall include the right to participate in the Florida Retirement System. The Department of Management Services shall establish the terms and conditions of such lease agreements.

(3) Enterprise Florida, Inc., shall be governed by a board of directors. The board of directors shall consist of the following members:

(a) The Governor or the Governor's designee.

(b) The Commissioner of Education or the commissioner's designee.

(c) The Secretary of Labor and Employment Security or the secretary's designee.

(d) A member of the Senate, who shall be appointed by the President of the Senate as an ex officio member of the board and serve at the pleasure of the President.

(e) A member of the House of Representatives, who shall be appointed by the Speaker of the House of Representatives as an ex officio member of the board and serve at the pleasure of the Speaker.

~~(f) The chairperson of the board for international trade and economic development~~.

~~(g) The chairperson of the board for capital development.~~

~~(h) The chairperson of the board for technology development.~~

(f)~~(i)~~ The chairperson of the board *of directors of the Workforce Development Board* ~~for workforce development~~.

(g)~~(j)~~ Twelve members from the private sector, six of whom shall be appointed by the Governor, three of whom shall be appointed by the President of the Senate, and three of whom shall be appointed by the Speaker of the House of Representatives. All appointees are subject to Senate confirmation. In making such appointments, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall ensure that the composition of the board is reflective of the diversity of Florida's business community, and to the greatest degree possible shall include, but not be limited to, individuals representing large companies, small companies, minority companies, and individuals representing municipal, county, or regional economic development organizations. Of the 12 members from the private sector, 7 must have significant experience in international business, with expertise in the areas of transportation, finance, law, and manufacturing. The Governor, the President of the Senate, and the Speaker of the House of Representatives shall also consider whether the current board members, together

with potential appointees, reflect the racial, ethnic, and gender diversity, as well as the geographic distribution, of the population of the state.

(h)~~(k)~~ The Secretary of State or the secretary's designee.

(4)(a) *Vacancies on the board shall be filled by appointment by the Governor, the President of the Senate, or the Speaker of the House of Representatives, respectively, depending on who appointed the member whose vacancy is to be filled or whose term has expired.* ~~Members appointed to the board before July 1, 1996, shall serve the remainder of their unexpired terms. Vacancies occurring after July 1, 1996, as a result of the annual expiration of terms, shall be filled in the following manner and sequence.~~

~~1. Of the first three vacancies, the Governor shall appoint one member, the President of the Senate shall appoint one member, and the Speaker of the House of Representatives shall appoint one member.~~

~~2. Of the second three vacancies, the Governor shall appoint one member, the President of the Senate shall appoint one member, and the Speaker of the House of Representatives shall appoint one member.~~

~~3. Of the third three vacancies, the President of the Senate shall appoint one member and the Governor shall appoint two members.~~

~~4. Of the fourth three vacancies, the Speaker of the House of Representatives shall appoint one member and the Governor shall appoint two members.~~

~~Thereafter, any vacancies which occur will be filled by the Governor, the President of the Senate, or the Speaker of the House of Representatives, respectively, depending on who appointed the member whose vacancy is to be filled or whose term has expired.~~

(b) Members appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives shall be appointed for terms of 4 years. Any member is eligible for reappointment.

~~(c) Of the six members appointed by the Governor, one shall be, at the time of appointment, a board member of a community development corporation meeting the requirements of s. 290.035, and one shall be representative of the international business community. Of the three members appointed by the President of the Senate and Speaker of the House of Representatives, respectively, one each shall be representative of the international business community, and one each shall be an executive director of a local economic development council.~~

(5) A vacancy on the board of directors shall be filled for the remainder of the unexpired term.

~~(6) The initial appointments to the board of directors shall be made by the Governor from a list of nominees submitted by the Enterprise Florida Nominating Council. Thereafter, appointments shall be made by the Governor, the President of the Senate, and the Speaker of the House of Representatives from a list of nominees submitted by the remaining appointive members of the board of directors. The board of directors shall take into consideration the current membership of the board and shall select nominees who are reflective of the diverse nature of Florida's business community, including, but not limited to, individuals representing large companies, small companies, minority companies, companies engaged in international business efforts, companies engaged in domestic business efforts, and individuals representing municipal, county, or regional economic development organizations. The board shall also consider whether the current board members, together with potential appointees, reflect the racial, ethnic, and gender diversity, as well as the geographic distribution, of the population of the state.~~

(6)~~(7)~~ Appointive members may be removed by the Governor, the President of the Senate, or the Speaker of the House of Representatives, respectively, for cause. Absence from three consecutive meetings results in automatic removal.

(7)~~(8)~~ The Governor shall serve as chairperson of the board of directors. The board of directors shall biennially elect one of its appointive members as vice chairperson. The president shall keep a record of the proceedings of the board of directors and is the custodian of all books, documents, and papers filed with the board of directors, the minutes of the board of directors, and the official seal of Enterprise Florida, Inc.

(8)~~(9)~~ The board of directors shall meet at least four times each year, upon the call of the chairperson, at the request of the vice chairperson, or at the request of a majority of the membership. A majority of the total number of all directors fixed by subsection (3) shall constitute a quorum. The board of directors may take official action by a majority vote of the members present at any meeting at which a quorum is present.

(9)~~(10)~~ Members of the board of directors shall serve without compensation, but members, the president, and staff may be reimbursed for all reasonable, necessary, and actual expenses, as determined by the board of directors of Enterprise Florida, Inc.

(10)~~(11)~~ Each member of the board of directors of Enterprise Florida, Inc., ~~who was appointed after June 30, 1992, and~~ who is not otherwise required to file financial disclosure pursuant to s. 8, Art. II of the State Constitution or s. 112.3144, shall file disclosure of financial interests pursuant to s. 112.3145.

(11)~~(12)~~ Notwithstanding the provisions of subsection (3), the board of directors may by resolution appoint at-large members to the board from the private sector, each of whom may serve a 1-year term. At-large members shall have the powers and duties of other members of the board, except that they may not serve on an executive committee. An at-large member is eligible for reappointment but may not vote on his or her own reappointment. An at-large member shall be eligible to fill vacancies occurring among *private-sector* ~~private sector~~ appointees under subsection (3).

Section 6. Section 288.9015, Florida Statutes, is amended to read:

288.9015 Enterprise Florida, Inc.; purpose; duties.—

(1) Enterprise Florida, Inc., is the principal economic development organization for the state. It shall be the responsibility of Enterprise Florida, Inc., to provide leadership for business development in Florida by aggressively establishing a unified approach to Florida's efforts of international trade and reverse investment; by aggressively marketing the state as a probusiness location for potential new investment; and by aggressively assisting in the ~~creation,~~ retention~~,~~ and expansion of existing businesses *and the creation of new businesses*. In support of this effort, Enterprise Florida, Inc., may develop and implement specific programs or strategies that address the creation, expansion, and retention of Florida business; the development of import and export trade; and the recruitment of worldwide business.

(2) It shall be the responsibility of Enterprise Florida, Inc., to *aggressively market Florida's rural communities and distressed urban communities as locations for potential new investment, to aggressively assist in the retention and expansion of existing businesses in these communities, and to aggressively assist these communities in the identification and development of new economic development opportunities for job creation* ~~promote and strengthen the creation and growth of small and minority businesses and to increase the opportunities for short-term and long-term rural economic development~~.

(3) It shall be the responsibility of Enterprise Florida, Inc., *through the Workforce Development Board,* to develop a comprehensive approach to workforce development that will result in better employment opportunities for the residents of this state. Such comprehensive approach must include:

(a) Creating and maintaining a highly skilled workforce that is capable of responding to rapidly changing technology and diversified market opportunities.

(b) Training, educating, and assisting target populations, such as those who are economically disadvantaged or who participate in the WAGES Program or otherwise receive public assistance to become independent, self-reliant, and self-sufficient. This approach must ensure the effective use of federal, state, local, and private resources in reducing the need for public assistance.

(4) It shall be the responsibility of Enterprise Florida, Inc., to assess, on an ongoing basis, Florida's economic development competitiveness as measured against other business locations, to identify and regularly re-evaluate Florida's economic development strengths and weaknesses, and to incorporate such information into the strategic planning process under s. 288.904.

(5) Enterprise Florida, Inc., shall incorporate the needs of small and minority businesses into the economic-development, international-trade and reverse-investment, and workforce-development responsibilities assigned to the organization by this section.

(6)~~(4)~~ Enterprise Florida, Inc., shall not endorse any candidate for any elected public office, nor shall it contribute moneys to the campaign of any such candidate.

(7)~~(5)~~ As part of its business development and marketing responsibilities, Enterprise Florida, Inc., shall prepare a business guide and checklist that contains basic information on the federal, state, and local requirements for starting and operating a business in this state. The guide and checklist must describe how additional information can be obtained on any such requirements and shall include, to the extent feasible, the names, addresses, and telephone numbers of appropriate government agency representatives. The guide and checklist must also contain information useful to persons who may be starting a business for the first time, including, but not limited to, information on business structure, financing, and planning.

Section 7. Section 288.903, Florida Statutes, is amended to read:

288.903 Board of directors of Enterprise Florida, Inc.; president; employees.—

(1) The president of Enterprise Florida, Inc., shall be appointed by the board of directors *and shall serve at the pleasure of the Governor. The board of directors shall establish and adjust the compensation of the president*. The president is the chief administrative and operational officer of the board of directors and of Enterprise Florida, Inc., and shall direct and supervise the administrative affairs of the board of directors and any other boards of Enterprise Florida, Inc. The board of directors may delegate to its president those powers and responsibilities it deems appropriate, except for the appointment of a president.

(2) The board of directors may establish an executive committee consisting of *the chairperson or a designee,* the vice *chairperson,* ~~chair~~ and as many additional members of the board of directors as the board deems appropriate, except that such committee must have a minimum of five members. ~~One member of the executive committee shall be selected by each of the following: the Governor, the President of the Senate, and the Speaker of the House of Representatives. Remaining members of the executive committee shall be selected by the board of directors.~~ The executive committee shall have such authority as the board of directors delegates to it, except that the board may not delegate the authority to hire or fire the president *or the authority to establish or adjust the compensation paid to the president*.

~~(3) The president:~~

~~(a) May contract with or employ legal and technical experts and such other employees, both permanent and temporary, as authorized by the board of directors.~~

~~(b) Shall employ and supervise the president of any board established within the Enterprise Florida, Inc., corporate structure and shall coordinate the activities of any such boards.~~

~~(c) Shall attend all meetings of the board of directors.~~

~~(d) Shall cause copies to be made of all minutes and other records and documents of the board of directors and shall certify that such copies are true copies. All persons dealing with the board of directors may rely upon such certifications.~~

~~(e) Shall be responsible for coordinating and advocating the interests of rural, minority, and small businesses within Enterprise Florida, Inc., its boards, and in all its economic development efforts.~~

~~(f) Shall administer the finances of Enterprise Florida, Inc., and its boards to ensure appropriate accountability and the prudent use of public and private funds.~~

~~(g) Shall be the chief spokesperson for Enterprise Florida, Inc., regarding economic development efforts in the state.~~

~~(h) Shall coordinate all activities and responsibilities of Enterprise Florida, Inc., with respect to participants in the WAGES Program.~~

~~(i) Shall supervise and coordinate the collection, research, and analysis of information for Enterprise Florida, Inc., and its boards.~~

(3)~~(4)~~ The board of directors of Enterprise Florida, Inc., and its officers shall be responsible for the prudent use of all public and private funds and shall ensure that the use of such funds is in accordance with all applicable laws, bylaws, or contractual requirements. *No employee of Enterprise Florida, Inc., may receive compensation for employment which exceeds the salary paid to the Governor, unless the board of directors and the employee have executed a contract that prescribes specific, measurable performance outcomes for the employee, the satisfaction of which provides the basis for the award of incentive payments that increase the employee's total compensation to a level above the salary paid to the Governor.*

Section 8. Subsection (1) of section 288.904, Florida Statutes, is amended to read:

288.904 Powers of the board of directors of Enterprise Florida, Inc.—

(1) The board of directors of Enterprise Florida, Inc., shall have the power to:

(a) Secure funding for programs and activities of Enterprise Florida, Inc., and its boards from federal, state, local, and private sources and from fees charged for services and published materials and solicit, receive, hold, invest, and administer any grant, payment, or gift of funds or property and make expenditures consistent with the powers granted to it.

(b)*1.* Make and enter into contracts and other instruments necessary or convenient for the exercise of its powers and functions, except that any contract made with an organization represented ~~on the nominating council or~~ on the board of directors must be approved by a two-thirds vote of the entire board of directors, and the board member representing such organization shall abstain from voting. No more than 65 percent of the dollar value of all contracts or other agreements entered into in any fiscal year, exclusive of grant programs, shall be made with an organization represented on the ~~nominating council or the~~ board of directors. An organization represented on the board ~~or on the nominating council~~ may not enter into a contract to receive a state-funded economic development incentive or similar grant, unless such incentive award is specifically endorsed by a two-thirds vote of the entire board. The board member representing such organization, if applicable, shall abstain from voting and refrain from discussing the issue with other members of the board. No more than 50 percent of the dollar value of grants issued by the board in any fiscal year may go to businesses associated with board members.

2. A contract that Enterprise Florida, Inc., executes with a person or organization under which such person or organization agrees to perform economic-development services or similar business-assistance services on behalf of Enterprise Florida, Inc., or on behalf of the state must include provisions requiring that such person or organization report on performance, account for proper use of funds provided under the contract, coordinate with other components of state and local economic development systems, and avoid duplication of existing state and local services and activities.

(c) Sue and be sued, and appear and defend in all actions and proceedings, in its corporate name to the same extent as a natural person.

(d) Adopt, use, and alter a common corporate seal for Enterprise Florida, Inc., and its boards. Notwithstanding any provisions of chapter 617 to the contrary, this seal is not required to contain the words “corporation not for profit.”

(e) Elect or appoint such officers and agents as its affairs require and allow them reasonable compensation.

(f) Adopt, amend, and repeal bylaws, not inconsistent with the powers granted to it or the articles of incorporation, for the administration of the affairs of Enterprise Florida, Inc., and the exercise of its corporate powers.

(g) Acquire, enjoy, use, and dispose of patents, copyrights, and trademarks and any licenses, royalties, and other rights or interests thereunder or therein.

(h) Do all acts and things necessary or convenient to carry out the powers granted to it.

(i) Use the state seal, notwithstanding the provisions of s. 15.03, when appropriate, to establish that Enterprise Florida, Inc., is the principal economic, *workforce,* and trade development organization for the state, and for other standard corporate identity applications. Use of the state seal is not to replace use of a corporate seal as provided in this section.

(j) Carry forward any unexpended state appropriations into succeeding fiscal years.

(k) Procure insurance or require bond against any loss in connection with the property of Enterprise Florida, Inc., and its boards, in such amounts and from such insurers as is necessary or desirable.

(l) Create and dissolve advisory committees, working groups, task forces, or similar organizations, as necessary to carry out the mission of Enterprise Florida, Inc. By August 1, 1999, Enterprise Florida, Inc., shall establish an advisory committee on international business issues, and an advisory committee on small business issues. These committees shall be comprised of individuals representing the private sector and the public sector with expertise in the respective subject areas. The purpose of the committees shall be to guide and advise Enterprise Florida, Inc., on the development and implementation of policies, strategies, programs, and activities affecting international business and small business. The advisory committee on international business and the advisory committee on small business shall meet at the call of the chair or vice chair of the board of directors of Enterprise Florida, Inc., but shall meet at least quarterly. Meetings of the advisory committee on international business and the advisory committee on small business may be held telephonically; however, meetings of the committees that are held in person shall be rotated at different locations around the state to ensure participation of local and regional economic development practitioners and other members of the public. Members of advisory committees, working groups, task forces, or similar organizations created by Enterprise Florida, Inc., shall serve without compensation, but may be reimbursed for reasonable, necessary, and actual expenses, as determined by the board of directors of Enterprise Florida, Inc.

Section 9. Section 288.905, Florida Statutes, is amended to read:

288.905 Duties of the board of directors of Enterprise Florida, Inc.—

(1) In the performance of its functions and duties, the board of directors may establish, ~~and~~ implement, *and manage* policies, strategies, and programs for Enterprise Florida, Inc., and its boards. *These policies, strategies, and programs shall promote business formation, expansion, recruitment, and retention through aggressive marketing; international development and export assistance; and workforce development, which together lead to more and better jobs with higher wages for all geographic regions and communities of the state, including rural areas and urban core areas, and for all residents, including minorities.* In developing such policies, strategies, and programs, the board of directors shall solicit advice from and consider the recommendations of its boards, *any advisory committees or similar groups created by Enterprise Florida, Inc., and local and regional partners.*

(2) The board of directors shall, in conjunction with the Office of Tourism, Trade, and Economic Development, *the Office of Urban Opportunities, and local and regional economic development partners,* develop a strategic plan for economic development for the State of Florida. Such plan shall be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader ~~by January 1, 1997,~~ and shall be updated or modified before January 1 *of each year*~~, 1998, and annually thereafter~~. The plan must be approved by the board of directors prior to submission to the Governor and Legislature. ~~The plan shall include, but is not limited to:~~

(3)(a) The strategic plan required under this section shall include, but is not limited to, strategies for the promotion of business formation, expansion, recruitment, and retention through aggressive marketing, international development and export assistance, and workforce development programs which lead to more and better jobs and higher wages for all geographic regions and disadvantaged communities and populations of the state, including rural areas, minority businesses, and urban core areas. Further, the strategic plan shall give consideration to the economic diversity of the state and its regions and their associated industrial clusters and develop realistic policies and programs to further their development.

~~(a) Allocation of public and private resources to specific activities that will return the greatest benefit to the economy of this state. Including delineation on the amount of funds that should be expended on each component of the plan.~~

~~(b) Identification of programs that will enhance the capabilities of small and minority businesses. The plan should include ways to improve and increase the access to information, services, and assistance for small and minority businesses.~~

(b)~~(c)~~1. *The strategic plan required under this section shall include specific* ~~Specific~~ provisions for the stimulation of economic development and job creation in rural areas and midsize cities and counties of the state. ~~These provisions shall include, but are not limited to, the identification of all rural counties in the state and rural cities located in nonrural counties; the identification of all midsize cities and counties in the state; the identification of the economic development and job creation goals of the rural cities and counties and midsize cities; the identification of rural areas of critical concern; the identification of specific local, state, and federal financial and technical assistance resources available to rural cities and counties and midsize cities and counties for economic and community development; the identification of private sector resources available to rural cities and counties and midsize cities and counties for economic and community development; and specific methods for the use of the resources identified in the plan to meet the goals identified in the plan.~~

2. Enterprise Florida, Inc., shall involve ~~the~~ local governments, *local and regional economic development organizations, and* ~~of the cities and counties identified pursuant to subparagraph 1., as well as any~~ other local, state, and federal *economic, international, and workforce* ~~rural~~ development entities, both public and private, in developing and carrying out *policies, strategies, and programs, seeking to partner and collaborate to produce enhanced public benefit at a lesser cost* ~~any provisions~~.

~~(d)1. Specific provisions for the stimulation of economic development and job creation in small businesses and minority businesses. These provisions shall include, but are not limited to, the identification of federal, state, and local financial and technical resources available for small businesses and minority businesses; and specific methods for the use of the resources identified in the plan to meet the goal of job creation in small businesses and minority businesses in the state.~~

3.~~2.~~ Enterprise Florida, Inc., shall involve *rural, urban, small-business, and minority-business* ~~local, state, and federal small business and minority business~~ development agencies and organizations, both public and private, in developing and carrying out *policies, strategies, and programs* ~~any provisions~~.

(c)~~(e)~~ *The strategic plan required under this section shall include the creation* ~~Creation~~ of workforce training programs that lead to better employment opportunities and higher wages.

~~(f) Promotion of business formation, expansion, recruitment, and retention, including programs that enhance access to appropriate forms of financing for businesses in this state.~~

(d)~~(g)~~ *The strategic plan required under this section shall include the promotion* ~~Promotion~~ of the successful long-term *economic development of the state with increased emphasis in market research and information to local economic development entities and generation of foreign investment in the state that creates jobs with above–average wages,* internationalization of this state, *with strong emphasis in reverse investment that creates high wage jobs for the state and its many regions,* including programs that establish viable overseas markets, generate foreign investment, assist in meeting the financing requirements of export-ready firms, broaden opportunities for international joint venture relationships, use the resources of academic and other institutions, coordinate trade assistance and facilitation services, and facilitate availability of and access to education and training programs which will assure requisite skills and competencies necessary to compete successfully in the global marketplace.

~~(h) Promotion of the growth of high technology and other value-added industries and jobs.~~

~~(i) Addressing the needs of blighted inner-city communities that have unacceptable levels of unemployment and economic disinvestment,~~

~~with the ultimate goal of creating jobs for the residents of such communities.~~

(e)~~(j)~~ *The strategic plan required under this section shall include the identification of* ~~Identifying~~ business sectors that are of current or future importance to the state's economy and to the state's worldwide business image, and *development of* ~~developing~~ specific strategies to promote the development of such sectors.

(4)(a)~~(3)(a)~~ The strategic plan shall also include recommendations regarding specific performance standards and measurable outcomes. ~~By July 1, 1997,~~ Enterprise Florida, Inc., in consultation with *the Office of Tourism, Trade, and Economic Development and* the Office of Program Policy Analysis and Government Accountability, shall establish performance-measure outcomes for Enterprise Florida, Inc., and its boards *and advisory committees*. Enterprise Florida, Inc., in consultation with *the Office of Tourism, Trade, and Economic Development and* the Office of Program Policy Analysis and Government Accountability, shall develop a plan for monitoring its operations to ensure that performance data are maintained and supported by records of the organization. *On a biennial basis,* ~~By July 1, 1998, and biennially thereafter,~~ Enterprise Florida, Inc., in consultation with *the Office of Tourism, Trade, and Economic Development and* the Office of Program Policy Analysis and Government Accountability, shall review the performance-measure outcomes for Enterprise Florida, Inc., and its boards, and make any appropriate modifications to them. In developing measurable objectives and performance outcomes, Enterprise Florida, Inc., shall consider the effect of its programs, activities, and services on its client population. Enterprise Florida, Inc., shall establish standards such as job growth among client firms, growth in the number and strength of businesses within targeted sectors, client satisfaction, *including the satisfaction of its local and regional economic development partners,* ~~venture capital dollars invested in small and minority businesses,~~ businesses retained and recruited *statewide and within rural and urban core communities*, employer wage growth, ~~minority business participation in technology assistance and development programs,~~ and increased export sales among client companies to use in evaluating performance toward accomplishing the mission of Enterprise Florida, Inc.

(b) The performance standards and measurable outcomes established and regularly reviewed by Enterprise Florida, Inc., under this subsection must also include benchmarks and goals to measure the impact of state economic development policies and programs. Such benchmarks and goals may include, but are not limited to:

1. Net annual job growth rate in this state compared to neighboring southern states and the United States as a whole.

2. Unemployment rate in this state compared to neighboring southern states and the United States as a whole.

3. Wage distribution based on the percentage of people working in this state who earned 15 percent below the state average, within 15 percent of the state average, and 15 percent or more above the state average.

4. Annual percentage of growth in the production of goods and services within Florida compared to neighboring southern states and the United States as a whole.

5. Changes in jobs in this state by major industry based on the percentage of growth or decline in the number of full-time or part-time jobs in this state.

6. Number of new business startups in this state.

7. Goods produced in this state that are exported to other countries.

8. Capital investment for commercial and industrial purposes, agricultural production and processing, and international trade.

(c) Prior to the *2002* ~~1999~~ Regular Session of the Legislature, the Office of Program Policy Analysis and Government Accountability shall conduct a review of Enterprise Florida, Inc., and its boards *and shall submit a report by January 1, 2002, to the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader*. The review shall be comprehensive in its scope, but, at a minimum, must be conducted in such a manner as to specifically determine:

1. The progress towards achieving the established outcomes.

2. The circumstances contributing to the organization's ability to achieve, not achieve, or exceed its established outcomes.

~~3. The progress towards achieving the established goals of the Cypress Equity Fund and whether the strategy underlying the fund is appropriate.~~

3.~~4.~~ Whether it would be sound public policy to continue or discontinue funding the organization, and the consequences of discontinuing the organization. ~~The report shall be submitted by January 1, 1999, to the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader.~~

~~(d) Prior to the 2003 Regular Session of the Legislature, the Office of Program Policy Analysis and Government Accountability, shall conduct another review of Enterprise Florida, Inc., and its boards using the criteria in paragraph (c). The report shall be submitted by January 1, 2003, to the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader.~~

(5)~~(4)~~ The board of directors shall coordinate *and collaborate* ~~the economic development activities and policies of Enterprise Florida, Inc.,~~ with *local* ~~municipal, county,~~ and regional economic development organizations, *which shall be* ~~to establish and further develop the role of local economic development organizations as~~ the *state's* primary ~~service-delivery~~ agents for *the direct delivery of* economic development *and international development* services. ~~Where feasible, the board shall work with regional economic development organizations in the delivery of services of Enterprise Florida, Inc., and its boards.~~

~~(5) Enterprise Florida, Inc., shall deposit into African-American-qualified public depositories and Hispanic-American-qualified public depositories a portion of any moneys received by Enterprise Florida, Inc., and its boards from the state.~~

(6) Any employee leased by Enterprise Florida, Inc., from the state, or any employee who derives his or her salary from funds appropriated by the Legislature, may not receive a pay raise or bonus in excess of a pay raise or bonus that is received by similarly situated state employees. However, this subsection does not prohibit the payment of a pay raise or bonus from funds received from sources other than the Florida Legislature.

Section 10. Section 288.906, Florida Statutes, is amended to read:

288.906 Annual report of Enterprise Florida, Inc.; audits; confidentiality.—

(1) Prior to December 1 of each year, Enterprise Florida, Inc., shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader a complete and detailed report including, but not limited to:

(a) A description of the operations and accomplishments of Enterprise Florida, Inc., and its boards *and advisory committees or similar groups created by Enterprise Florida, Inc.,* and an identification of any major trends, initiatives, or developments affecting the performance of any program or activity.

(b) An evaluation of progress towards achieving organizational goals and specific performance outcomes, both short-term and long-term, established pursuant to s. 288.905.

(c) Methods for implementing and funding the operations of Enterprise Florida, Inc., and its boards.

~~(d) A description of the operations and accomplishments of Enterprise Florida, Inc., and its boards, with respect to furthering the development and viability of small and minority businesses, including any accomplishments relating to capital access and technology and business development programs.~~

(d)~~(e)~~ A description of the operations and accomplishments of Enterprise Florida, Inc., and its boards with respect to *aggressively marketing Florida's rural communities and distressed urban communities as locations for potential new investment and job creation, aggressively assisting in the creation, retention, and expansion of existing businesses and*

job growth in these communities, and aggressively assisting these communities in the identification and development of new economic–development opportunities ~~furthering the development and viability of rural cities and counties, and midsize cities and counties in this state~~.

(e)~~(f)~~ A description and evaluation of the operations and accomplishments of Enterprise Florida, Inc., and its boards with respect to interaction with local and private economic development organizations, including an identification of any specific programs or activities which promoted the activities of such organizations and an identification of any specific programs or activities which promoted a comprehensive and coordinated approach to economic development in this state.

(f)~~(g)~~ An assessment of employee training and job creation that directly benefits participants in the WAGES Program.

(g)~~(h)~~ An annual compliance and financial audit of accounts and records by an independent certified public accountant at the end of its most recent fiscal year performed in accordance with rules adopted by the Auditor General.

The detailed report required by this subsection shall also include the information identified in paragraphs *(a)-(g)* ~~(a)-(h)~~, if applicable, for any board established within the corporate structure of Enterprise Florida, Inc.

(2)(a) The Auditor General may, pursuant to his or her own authority or at the direction of the Joint Legislative Auditing Committee, conduct an audit of Enterprise Florida, Inc., including any of its boards, *advisory committees or similar groups created by Enterprise Florida, Inc., and programs*. The audit or report may not reveal the identity of any person who has anonymously made a donation to Enterprise Florida, Inc., pursuant to paragraph (b).

(b) The identity of a donor or prospective donor to Enterprise Florida, Inc., who desires to remain anonymous and all information identifying such donor or prospective donor are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such anonymity shall be maintained in the auditor's report.

Section 11. Subsection (3) of section 288.9415, Florida Statutes, is amended to read:

288.9415 International Trade Grants.—

(3) ~~The International Trade and Economic Development Board of~~ Enterprise Florida, Inc., shall review each application for a grant to promote international trade and shall submit annually to the Office of Tourism, Trade, and Economic Development for approval lists of all *recommended* applications ~~that are recommended by the International Trade and Economic Development Board~~ for the award of grants, arranged in order of priority. The Office of Tourism, Trade, and Economic Development may allocate grants only for projects that are approved or for which funds are appropriated by the Legislature. Projects approved and recommended by *Enterprise Florida, Inc.,* ~~the International Trade and Economic Development Board~~ which are not funded by the Legislature shall be retained on the project list for the following grant cycle only. All projects that are retained shall be required to submit such information as may be required by the Office of Tourism, Trade, and Economic Development as of the established deadline date of the latest grant cycle in order to adequately reflect the most current status of the project.

Section 12. Section 288.9511, Florida Statutes, is amended to read:

288.9511 Definitions.—As used in ss. 288.9511-288.9517, the term:

(1) "Educational institutions" means Florida technical institutes and vocational schools, and public and private community colleges, colleges, and universities in the state.

(2) "Enterprise" means a firm with its principal place of business in this state which is engaged, or proposes to be engaged, in this state in agricultural industries, natural-resource-based or other manufacturing, research and development, or the provision of knowledge-based services.

~~(3) "Board" means the technology development board.~~

(3)~~(4)~~ "Person" means any individual, partnership, corporation, or joint venture that carries on business, or proposes to carry on business, within the state.

(4)~~(5)~~ "Product" means any product, device, technique, or process that is, or may be, developed or marketed commercially; the term does not refer, however, to basic research, but rather to products, devices, techniques, or processes that have advanced beyond the theoretical stage and are in a prototype or industry practice stage.

(5)~~(6)~~ "Qualified security" means a public or private financial arrangement that involves any note, security, debenture, evidence of indebtedness, certificate of interest of participation in any profit-sharing agreement, preorganization certificate or subscription, transferable security, investment contract, certificate of deposit for a security, certificate of interest or participation in a patent or application thereof, or in royalty or other payments under such a patent or application, or, in general, any interest or instrument commonly known as a security or any certificate for, receipt for, guarantee of, or option warrant or right to subscribe to or purchase any of the foregoing to the extent allowed by law.

(6)~~(7)~~ "Technology application" means the introduction and adaptation of off-the-shelf technologies and state-of-the-art management practices to the specific circumstances of an individual firm.

(7)~~(8)~~ "Technology commercialization" means the process of bringing an investment-grade technology out of an enterprise, university, or federal laboratory for first-run application in the marketplace.

(8)~~(9)~~ "Technology development" means strategically focused research aimed at developing investment-grade technologies essential to market competitiveness.

Section 13. Section 288.9515, Florida Statutes, is amended to read:

288.9515 Authorized ~~programs of~~ technology development *programs* ~~board~~.—

(1) *Enterprise Florida, Inc.,* ~~The board~~ may create ~~a~~ technology applications *services* ~~service~~, *and may* ~~to be called the Florida Innovation Alliance. The Florida Innovation Alliance shall~~ serve as an umbrella organization for technology applications service providers throughout the state which provide critical, managerial, technological, scientific, and related financial and business expertise essential for international and domestic competitiveness to small-sized and medium-sized manufacturing and knowledge-based service firms. *Enterprise Florida, Inc.,* ~~The board~~ is authorized the following powers in order to carry out *these* ~~the~~ functions ~~of the Florida Innovation Alliance~~:

(a) Providing communication and coordination services among technology applications service providers throughout the state.

(b) Providing coordinated marketing services to small-sized and medium-sized manufacturers in the state on behalf of, and in partnership with, technology applications service providers.

(c) Securing additional sources of funds on behalf of, and in partnership with, technology applications service providers.

(d) Developing plans and policies to assist small-sized and medium-sized manufacturing companies or other knowledge-based firms in Florida.

(e) Entering into contracts with technology applications service providers for expanded availability of high-quality assistance to small-sized and medium-sized manufacturing companies or knowledge-based service firms, including, but not limited to, technological, human resources development, market planning, finance, and interfirm collaboration. *Enterprise Florida, Inc.,* ~~The board~~ shall ensure that all contracts in excess of $20,000 for the delivery of such assistance to Florida firms shall be based on competitive requests for proposals *and*~~. The board~~ shall establish clear standards for the delivery of services under such contracts. Such standards include, but are not limited to:

1. The ability and capacity to deliver services in sufficient quality and quantity.

2. The ability and capacity to deliver services in a timely manner.

3. The ability and capacity to meet the needs of firms in the proposed market area.

(f) Assisting other educational institutions, enterprises, or the entities providing business assistance to small-sized and medium-sized manufacturing enterprises.

(g) Establishing a system to evaluate the effectiveness and efficiency of *technology applications* ~~Florida Innovation Alliance~~ services provided to small-sized and medium-sized enterprises.

(h) Establishing special education and informational programs for Florida enterprises and for educational institutions and enterprises providing business assistance to Florida enterprises.

(i) Evaluating and documenting the needs of firms in this state for technology application services, and developing means to ensure that these needs are met, consistent with the powers provided for in this subsection.

(j) Maintaining an office in such place or places as ~~the board recommends and~~ the board of directors of Enterprise Florida, Inc., approves.

(k) Making and executing contracts with any person, enterprise, educational institution, association, or any other entity necessary or convenient for the performance of its duties and the exercise of the ~~board's~~ powers and functions *of Enterprise Florida, Inc.,* under this subsection.

(l) Receiving funds from any source to carry out the purposes of *providing technology applications services* ~~the Florida Innovation Alliance~~, including, but not limited to, gifts or grants from any department, agency, or instrumentality of the United States or of the state, or any enterprise or person, for any purpose consistent with the provisions of *this subsection* ~~the Florida Innovation Alliance~~.

~~(m) Acquiring or selling, conveying, leasing, exchanging, transferring, or otherwise disposing of the alliance's property or interest therein.~~

(2) When choosing contractors *under this section,* preference shall be given to existing institutions, organizations, and enterprises so long as these existing institutions, organizations, and enterprises demonstrate the ability to perform at standards established by *Enterprise Florida, Inc.*, ~~the board~~ under paragraph (1)(e). Neither the provisions of ss. 288.9511-288.9517 nor the actions *taken by Enterprise Florida, Inc., under this section* ~~of the alliance~~ shall impair or hinder the operations, performance, or resources of any existing institution, organization, or enterprise.

(3) *Enterprise Florida, Inc.,* ~~The board~~ may create a technology development financing fund, to be called the Florida Technology Research Investment Fund. The fund shall increase technology development in this state by investing in technology development projects that have the potential to generate investment-grade technologies of importance to the state's economy as evidenced by the willingness of private businesses to coinvest in such projects. *Enterprise Florida, Inc.,* ~~The board~~ may also demonstrate and develop effective approaches to, and benefits of, commercially oriented research collaborations between businesses, universities, and state and federal agencies and organizations. *Enterprise Florida, Inc.,* ~~The board~~ shall endeavor to maintain the fund as a self-supporting fund once the fund is sufficiently capitalized as reflected in the minimum funding report required in s. 288.9516. The technology research investment projects may include, but are not limited to:

(a) Technology development projects expected to lead to a specific investment-grade technology that is of importance to industry in this state.

(b) Technology development centers and facilities expected to generate a stream of products and processes with commercial application of importance to industry in this state.

(c) Technology development projects that have, or are currently using, other federal or state funds such as federal Small Business Innovation Research awards.

(4) *Enterprise Florida, Inc.,* ~~The board~~ shall invest moneys contained in the Florida Technology Research Investment Fund in technology application research or for technology development projects that have the potential for commercial market application. The partnership shall coordinate any investment in any space-related technology projects with the Spaceport Florida Authority and the Technological Research and Development Authority.

(a) The investment of moneys contained in the Florida Technology Research Investment Fund is limited to investments in qualified securities in which a private enterprise in this state coinvests at least 40 percent of the total project costs, in conjunction with other cash or noncash investments from state educational institutions, state and federal agencies, or other institutions.

(b) For the purposes of this fund, qualified securities include loans, loans convertible to equity, equity, loans with warrants attached that are beneficially owned by the board, royalty agreements, or any other contractual arrangement in which the board is providing scientific and technological services to any federal, state, county, or municipal agency, or to any individual, corporation, enterprise, association, or any other entity involving technology development.

(c) Not more than $175,000 or 5 percent of the revenues generated by investment of moneys contained in the Florida Technology Research Investment Fund, whichever is greater, may be used to pay ~~the partnership's~~ operating expenses associated with operation of the Florida Technology Research Investment Fund.

(d) In the event of liquidation or dissolution of Enterprise Florida, Inc., or the Florida Technology Research Investment Fund, any rights or interests in a qualified security or portion of a qualified security purchased with moneys invested by the State of Florida shall vest in the state, under the control of the State Board of Administration. The state is entitled to, in proportion to the amount of investment in the fund by the state, any balance of funds remaining in the Florida Technology Research Investment Fund after payment of all debts and obligations upon liquidation or dissolution of Enterprise Florida, Inc., or the fund.

(e) The investment of funds contained in the Florida Technology Research Investment Fund does not constitute a debt, liability, or obligation of the State of Florida or of any political subdivision thereof, or a pledge of the faith and credit of the state or of any such political subdivision.

(5) *Enterprise Florida, Inc.,* ~~The board~~ may create technology commercialization programs in partnership with private enterprises, educational institutions, and other institutions to increase the rate at which technologies with potential commercial application are moved from university, public, and industry laboratories into the marketplace. Such programs shall be created based upon research to be conducted by *Enterprise Florida, Inc* ~~the board~~.

Section 14. Section 288.95155, Florida Statutes, 1998 Supplement, is amended to read:

288.95155 Florida Small Business Technology Growth Program.—

(1) The Florida Small Business Technology Growth Program is hereby established to provide financial assistance to businesses in this state having high job growth and emerging technology potential and fewer than 100 employees. The program shall be administered and managed by ~~the technology development board of~~ Enterprise Florida, Inc.

(2) *Enterprise Florida, Inc.,* ~~The board~~ shall establish a separate small business technology growth account in the Florida Technology Research Investment Fund for purposes of this section. Moneys in the account shall consist of appropriations by the Legislature, proceeds of any collateral used to secure such assistance, transfers, fees assessed for providing or processing such financial assistance, grants, interest earnings, earnings on financial assistance, and any moneys transferred to the account by the Department of Community Affairs from the Economic Opportunity Trust Fund for use in qualifying energy projects.

(3) Pursuant to s. 216.351, the amount of any moneys appropriated to the account which are unused at the end of the fiscal year shall not be subject to reversion under s. 216.301. All moneys in the account are continuously appropriated to the account and may be used for loan guarantees, letter of credit guarantees, cash reserves for loan and letter of credit guarantees, payments of claims pursuant to contracts for guarantees, subordinated loans, loans with warrants, royalty investments, equity investments, and operations of the program. Any claim against the program shall be paid solely from the account. Neither the credit nor the taxing power of the state shall be pledged to secure the account or moneys in the account, other than from moneys appropriated or assigned to the account, and the state shall not be liable or obligated in any

way for any claims against the account *or*~~,~~ against ~~the technology development board, or against~~ Enterprise Florida, Inc.

(4) Awards of assistance from the program shall be finalized ~~at meetings of the technology development board and shall be~~ subject to the policies and procedures of Enterprise Florida, Inc. *Enterprise Florida, Inc.,* ~~The board~~ shall leverage at least one dollar of matching investment for each dollar awarded from the program. *Enterprise Florida, Inc.,* ~~The board~~ shall give the highest priority to moderate-risk and high-risk ventures that offer the greatest opportunity for compelling economic development impact. *Enterprise Florida, Inc.,* ~~The board~~ shall establish for each award a risk-reward timetable that profiles the risks of the assistance, estimates the potential economic development impact, and establishes a timetable for reviewing the success or failure of the assistance. By December 31 of each year, *Enterprise Florida, Inc.,* ~~the board~~ shall evaluate, on a portfolio basis, the results of all awards of assistance made from the program during the year.

(5) By January 1 of each year, *Enterprise Florida, Inc.,* ~~the board~~ shall prepare a report on the financial status of the program and the account and shall submit a copy of the report to the board of directors of Enterprise Florida, Inc., the appropriate legislative committees responsible for economic development oversight, and the appropriate legislative appropriations subcommittees. The report shall specify the assets and liabilities of the account within the current fiscal year and shall include a portfolio update that lists all of the businesses assisted, the private dollars leveraged by each business assisted, and the growth in sales and in employment of each business assisted.

Section 15. Section 288.9519, Florida Statutes, is amended to read:

288.9519 Not-for-profit corporation.—

(1) It is the intent of the Legislature to promote the development of the state economy and to authorize the establishment of a not-for-profit organization that shall promote the competitiveness and profitability of high-technology business and industry through technology development projects of importance to specific manufacturing sectors in this state. This not-for-profit corporation shall work cooperatively with *Enterprise Florida, Inc.,* ~~the technology development board~~ and shall avoid duplicating the activities, programs, and functions of *Enterprise Florida, Inc.* ~~the board.~~

(2) In addition to all other powers and authority, not explicitly prohibited by statutes, this not-for-profit organization has the following powers and duties:

(a) To receive funds appropriated to the organization by the Legislature. Such funds may not duplicate funds appropriated to *Enterprise Florida, Inc.* ~~the technology development board~~ but shall serve to further the advancement of the state economy, jointly and collaboratively with *Enterprise Florida, Inc.* ~~the board.~~

(b) To submit a legislative budget request through a state agency.

(c) To accept gifts, grants, donations, expenses, in-kind services, or other goods or services for carrying out its purposes, and to expend such funds or assets in any legal manner according to the terms and conditions of acceptance and without interference, control, or restraint by the state.

(d) To carry forward any unexpended state appropriations into succeeding fiscal years.

Section 16. Section 288.9520, Florida Statutes, is amended to read:

288.9520 Public records exemption.—Materials that relate to methods of manufacture or production, potential trade secrets, potentially patentable material, actual trade secrets, business transactions, financial and proprietary information, and agreements or proposals to receive funding that are received, generated, ascertained, or discovered by *Enterprise Florida, Inc.,* ~~the technology development board~~, including its affiliates or subsidiaries and partnership participants, such as private enterprises, educational institutions, and other organizations, are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that a recipient of *Enterprise Florida, Inc.,* ~~board~~ research funds shall make available, upon request, the title and description of the research project, the name of the researcher, and the amount and source of funding provided for the project.

Section 17. Subsection (10) of section 288.9603, Florida Statutes, is amended to read:

288.9603 Definitions.—

(10) "Partnership" means ~~the~~ Enterprise Florida, *Inc* ~~capital development board created under s. 288.9611~~.

Section 18. Subsections (2) and (3) of section 288.9604, Florida Statutes, are amended to read:

288.9604 Creation of the authority.—

(2) A city or county of Florida shall be selected by a search committee of *Enterprise Florida, Inc* ~~the capital development board~~. This city or county shall be authorized to activate the corporation. The search committee shall be composed of two commercial banking representatives, the Senate member of the partnership, the House of Representatives member of the partnership, and a member who is an industry or economic development professional.

(3) Upon activation of the corporation, the Governor, subject to confirmation by the Senate, shall appoint the board of directors of the corporation, who shall be five in number. The terms of office for the directors shall be for 4 years, except that three of the initial directors shall be designated to serve terms of 1, 2, and 3 years, respectively, from the date of their appointment, and all other directors shall be designated to serve terms of 4 years from the date of their appointment. A vacancy occurring during a term shall be filled for the unexpired term. A director shall be eligible for reappointment. At least three of the directors of the corporation shall be bankers who have been selected by the Governor from a list of bankers who were nominated by ~~the~~ Enterprise Florida, *Inc.* ~~capital development board~~, and one of the directors shall be an economic development specialist. The chairperson of the Florida Black Business Investment Board shall be an ex officio member of the board of the corporation.

Section 19. Section 288.9614, Florida Statutes, is amended to read:

288.9614 Authorized programs.—*Enterprise Florida, Inc.,* ~~The capital development board~~ may take any action that it deems necessary to achieve the purposes of this act in partnership with private enterprises, public agencies, and other organizations, including, but not limited to, efforts to address the long-term debt needs of small-sized and medium-sized firms, to address the needs of microenterprises, to expand availability of venture capital, and to increase international trade and export finance opportunities for firms critical to achieving the purposes of this act.

Section 20. Subsection (1) of section 288.9618, Florida Statutes, is amended to read:

288.9618 Microenterprises.—

(1) Subject to specific appropriations in the General Appropriations Act, the Office of Tourism, Trade, and Economic Development may contract with ~~the Enterprise Florida Capital Development Board or~~ some ~~other~~ appropriate not-for-profit or governmental organization for any action that the office deems necessary to foster the development of microenterprises in the state. As used within this section, microenterprises are extremely small business enterprises which enable low and moderate income individuals to achieve self-sufficiency through self-employment. Microenterprise programs are those which provide at least one of the following: small amounts of capital, business training, and technical assistance. Where feasible, the office or organizations under contract with the office shall work in cooperation with other organizations active in the study and support of microenterprises. Such actions may include, but are not limited to:

(a) Maintaining a network of communication and coordination among existing microenterprise lending and assistance programs throughout the state.

(b) Providing information and technical help to community-based or regional organizations attempting to establish new microenterprise programs.

(c) Encouraging private sector investment in microenterprises and microenterprise lending programs.

(d) Fostering mentoring and networking relationships among microenterprises and other businesses and public bodies in order to give microenterprises access to management advice and business leads.

(e) Incorporating microenterprise components into the capital development programs and other business development programs operated by Enterprise Florida, Inc., and its affiliates.

(f) Providing organizational, financial, and marketing support for conferences, workshops, or similar events that focus on microenterprise development.

(g) Establishing a program and guidelines for the award of matching grants on a competitive basis to support the operational expenses of not-for-profit organizations and government agencies that are engaged in microenterprise lending and other microenterprise assistance activities.

(h) Coordinating with other organizations to ensure that participants in the WAGES Program are given opportunities to create microenterprises.

Section 21. *Sections 288.902, 288.9412, 288.9413, 288.9414, 288.942, 288.9510, 288.9512, 288.9513, 288.9514, 288.9516, 288.9611, 288.9612, 288.9613, and 288.9615, Florida Statutes, are repealed.*

Section 22. *(1) Notwithstanding any other provision of law, any contract or interagency agreement existing on or before the effective date of this section between the International Trade and Economic Development Board, the Technology Development Board, or the Capital Development Board of Enterprise Florida, Inc., or entities or agents of those boards, and other agencies, entities, or persons shall continue as binding contracts or agreements with Enterprise Florida, Inc., which is the successor entity responsible for the program, activity, or functions relative to the contract or agreement.*

(2) Any tangible personal property of the International Trade and Economic Development Board, the Technology Development Board, or the Capital Development Board of Enterprise Florida, Inc., is transferred to Enterprise Florida, Inc.

(3) Enterprise Florida, Inc., may assume responsibility for any programs or activities of the International Trade and Economic Development Board, the Technology Development Board, or the Capital Development Board in existence as of the effective date of this section and may determine the appropriate placement of such programs or activities within the organization.

Section 23. *The Division of Statutory Revision is directed to redesignate part VIII of chapter 288, Florida Statutes, as "Technology Development" and to redesignate part IX of that chapter as "Capital Development."*

Section 24. Subsection (1) of section 288.707, Florida Statutes, is amended to read:

288.707 Florida Black Business Investment Board.—

(1) The Legislature finds that the public interest of Florida will be served by the creation and growth of black business enterprises by:

(a) Increasing opportunities for employment of blacks, as well as the population in general;

(b) Providing role models and establishing business networks for the benefit of future generations of aspiring black entrepreneurs; ~~and~~

(c) Strengthening the economy of the state by increasing the number of qualified black business enterprises, which in turn will increase competition in the marketplace and improve the welfare of economically depressed neighborhoods*; and*~~.~~

(d) Taking measures to increase access of black businesses to both debt and equity capital.

Section 25. Present subsection (17) of section 288.709, Florida Statutes, 1998 Supplement, is redesignated as subsection (18), and a new subsection (17) is added to that section to read:

288.709 Powers of the Florida Black Business Investment Board.—The board shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of ss. 9-21, chapter 85-104, Laws of Florida, including, but not limited to, the power to:

(17) Promote black ownership of financial institutions in Florida.

Section 26. Subsections (2), (3), (6), and (11) of section 288.99, Florida Statutes, 1998 Supplement, are amended to read:

288.99 Certified Capital Company Act.—

(2) PURPOSE.—The primary purpose of this act is to stimulate a substantial increase in venture capital investments in this state by providing an incentive for insurance companies to invest in certified capital companies in this state which, in turn, will make investments in new businesses or in expanding businesses, *including minority-owned or minority-operated businesses and businesses located in a designated Front Porch community, enterprise zone, urban high-crime area, rural job tax credit county, or nationally recognized historic district*. The increase in investment capital flowing into new or expanding businesses is intended to contribute to employment growth, create jobs which exceed the average wage for the county in which the jobs are created, and expand or diversify the economic base of this state.

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

(a) "Affiliate of an insurance company" means:

1. Any person directly or indirectly beneficially owning, whether through rights, options, convertible interests, or otherwise, controlling, or holding power to vote 10 percent or more of the outstanding voting securities or other ownership interests of the insurance company;

2. Any person 10 percent or more of whose outstanding voting securities or other ownership interest is directly or indirectly beneficially owned, whether through rights, options, convertible interests, or otherwise, controlled, or held with power to vote by the insurance company;

3. Any person directly or indirectly controlling, controlled by, or under common control with the insurance company;

4. A partnership in which the insurance company is a general partner; or

5. Any person who is a principal, director, employee, or agent of the insurance company or an immediate family member of the principal, director, employee, or agent.

(b) "Certified capital" means an investment of cash by a certified investor in a certified capital company which fully funds the purchase price of either or both its equity interest in the certified capital company or a qualified debt instrument issued by the certified capital company.

(c) "Certified capital company" means a corporation, partnership, or limited liability company which:

1. Is certified by the department in accordance with this act.

2. Receives investments of certified capital.

3. Makes qualified investments as its primary activity.

(d) "Certified investor" means any insurance company subject to premium tax liability pursuant to s. 624.509 that contributes certified capital.

(e) "Department" means the Department of Banking and Finance.

(f) "Director" means the director of the Office of Tourism, Trade, and Economic Development.

(g) "Early stage technology business" means a qualified business that is involved, at the time of the certified capital company's initial investment in such business, in activities related to developing initial product or service offerings, such as prototype development or the establishment of initial production or service processes. The term includes a qualified business that is less than 2 years old and has, together with its affiliates, less than $3 million in annual revenues for the fiscal year immediately preceding the initial investment by the certified capital company on a consolidated basis, as determined in accordance with generally accepted accounting principles.

(h) "Office" means the Office of Tourism, Trade, and Economic Development.

(i) "Premium tax liability" means any liability incurred by an insurance company under the provisions of s. 624.509.

(j) "Principal" means an executive officer of a corporation, partner of a partnership, manager of a limited liability company, or any other person with equivalent executive functions.

(k) "Qualified business" means a business that meets the following conditions:

1. The business is headquartered in this state and its principal business operations are located in this state.

2. At the time a certified capital company makes an initial investment in a business, the business is a small business concern as defined in 13 C.F.R. s. 121.201, "Size Standards Used to Define Small Business Concerns" of the United States Small Business Administration which is involved in manufacturing, processing or assembling products, conducting research and development, or providing services.

3. At the time a certified capital company makes an initial investment in a business, the business certifies in an affidavit that:

a. The business is unable to obtain conventional financing, which means that the business has failed in an attempt to obtain funding for a loan from a bank or other commercial lender or that the business cannot reasonably be expected to qualify for such financing under the standards of commercial lending;

b. The business plan for the business projects that the business is reasonably expected to achieve in excess of $25 million in sales revenue within 5 years after the initial investment, *or the business is located in a designated Front Porch community, enterprise zone, urban high crime area, rural job tax credit county, or nationally recognized historic district*;

c. The business will maintain its headquarters in this state for the next 10 years and any new manufacturing facility financed by a qualified investment will remain in this state for the next 10 years, *or the business is located in a designated Front Porch community, enterprise zone, urban high crime area, rural job tax credit county, or nationally recognized historic district*; and

d. The business has fewer than 200 employees and at least 75 percent of the employees are employed in this state.

A business predominantly engaged in retail sales, real estate development, insurance, banking, lending, oil and gas exploration, or engaged in professional services provided by accountants, lawyers, or physicians does not constitute a qualified business.

(l) "Qualified debt instrument" means a debt instrument, or a hybrid of a debt instrument, issued by a certified capital company, at par value or a premium, with an original maturity date of at least 5 years after the date of issuance, a repayment schedule which is no faster than a level principal amortization over a 5-year period, and interest, distribution, or payment features which are not related to the profitability of the certified capital company or the performance of the certified capital company's investment portfolio.

(m) "Qualified distribution" means any distribution or payment to equity holders of a certified capital company for:

1. Costs and expenses of forming, syndicating, managing, and operating the certified capital company, including an annual management fee in an amount that does not exceed 2.5 percent of the certified capital of the certified capital company, plus reasonable and necessary fees in accordance with industry custom for professional services, including, but not limited to, legal and accounting services, related to the operation of the certified capital company.

2. Any projected increase in federal or state taxes, including penalties and interest related to state and federal income taxes, of the equity owners of a certified capital company resulting from the earnings or other tax liability of the certified capital company to the extent that the increase is related to the ownership, management, or operation of a certified capital company.

(n) "Qualified investment" means the investment of cash by a certified capital company in a qualified business for the purchase of any debt, equity, or hybrid security of any nature and description whatsoever, including a debt instrument or security which has the characteristics of debt but which provides for conversion into equity or equity participation instruments such as options or warrants.

(6) PREMIUM TAX CREDIT; AMOUNT; LIMITATIONS.—

(a) Any certified investor who makes an investment of certified capital shall earn a vested credit against premium tax liability equal to 100 percent of the certified capital invested by the certified investor. Certified investors shall be entitled to use no more than 10 percentage points of the vested premium tax credit, including any carryforward credits under this act, per year beginning with premium tax filings for calendar year 2000. Any premium tax credits not used by certified investors in any single year may be carried forward and applied against the premium tax liabilities of such investors for subsequent calendar years. The carryforward credit may be applied against subsequent premium tax filings through calendar year 2017.

(b) The credit to be applied against premium tax liability in any single year may not exceed the premium tax liability of the certified investor for that taxable year.

(c) A certified investor claiming a credit against premium tax liability earned through an investment in a certified capital company shall not be required to pay any additional retaliatory tax levied pursuant to s. 624.5091 as a result of claiming such credit. Because credits under this section are available to a certified investor, s. 624.5091 does not limit such credit in any manner.

(d) The amount of tax credits vested under the Certified Capital Company Act shall not be considered in ratemaking proceedings involving a certified investor.

(11) TRANSFERABILITY.—The claim of a transferee of a certified investor's unused premium tax credit shall be permitted in the same manner and subject to the same provisions and limitations of this act as the original certified investor. The term "transferee" means any person who:

(a) Through the voluntary sale, assignment, or other transfer of the business or control of the business of the certified investor, including the sale or other transfer of stock or assets by merger, consolidation, or dissolution, succeeds to all or substantially all of the business and property of the certified investor;

(b) Becomes by operation of law or otherwise the parent company of the certified investor; ~~or~~

(c) Directly or indirectly owns, whether through rights, options, convertible interests, or otherwise, controls, or holds power to vote 10 percent or more of the outstanding voting securities or other ownership interest of the certified investor;~~.~~

(d) Is a subsidiary of the certified investor or 10 percent or more of whose outstanding voting securities or other ownership interest are directly or indirectly owned, whether through rights, options, convertible interests, or otherwise, by the certified investor; or

(e) Directly or indirectly controls, is controlled by, or is under the common control with the certified investor.

Section 27. Subsection (2) of section 220.191, Florida Statutes, 1998 Supplement, is amended to read:

220.191 Capital investment tax credit.—

(2) An annual credit against the tax imposed by this chapter shall be granted to any qualifying business in an amount equal to 5 percent of the eligible capital costs generated by a qualifying project, for a period not to exceed 20 years beginning with the commencement of operations of the project. The tax credit shall be granted against only the corporate income tax liability *or the premium tax liability* generated by or arising out of the qualifying project, and the sum of all tax credits provided pursuant to this section shall not exceed 100 percent of the eligible capital costs of the project. In no event may any credit granted under this section be carried forward or backward by any qualifying business with

respect to a subsequent or prior year. The annual tax credit granted under this section shall not exceed the following percentages of the annual corporate income tax liability *or the premium tax liability* generated by or arising out of a qualifying project:

(a) One hundred percent for a qualifying project which results in a cumulative capital investment of at least $100 million.

(b) Seventy-five percent for a qualifying project which results in a cumulative capital investment of at least $50 million but less than $100 million.

(c) Fifty percent for a qualifying project which results in a cumulative capital investment of at least $25 million but less than $50 million.

A qualifying project which results in a cumulative capital investment of less than $25 million is not eligible for the capital investment tax credit. *An insurance company claiming a credit against premium tax liability under this program shall not be required to pay any additional retaliatory tax levied pursuant to s. 624.5091 as a result of claiming such credit. Because credits under this section are available to an insurance company, s. 624.5091 does not limit such credit in any manner.*

Section 28. Subsection (7) of section 163.3178, Florida Statutes, is amended to read:

163.3178 Coastal management.—

(7) Each *port listed in s. 311.09(1) and each* local government in the coastal area which has spoil disposal responsibilities shall provide for or identify disposal sites for dredged materials in the future land use and port elements of the local comprehensive plan as needed to assure proper long-term management of material dredged from navigation channels, sufficient long-range disposal capacity, environmental sensitivity and compatibility, and reasonable cost and transportation. The disposal site selection criteria shall be developed in consultation with navigation and inlet districts and other appropriate state and federal agencies and the public. *For areas owned or controlled by ports listed in s. 311.09(1) and proposed port expansion areas, compliance with the provisions of this subsection shall be achieved through comprehensive master plans prepared by each port and integrated with the appropriate local plan pursuant to paragraph (2)(k).*

Section 29. Paragraph (h) is added to subsection (1) of section 163.3187, Florida Statutes, 1998 Supplement, and paragraph (a) of subsection (6) of that section is amended, to read:

163.3187 Amendment of adopted comprehensive plan.—

(1) Amendments to comprehensive plans adopted pursuant to this part may be made not more than two times during any calendar year, except:

(h) Any comprehensive plan amendments for port transportation facilities and projects that are eligible for funding by the Florida Seaport Transportation and Economic Development Council pursuant to s. 311.07.

(6)(a) No local government may amend its comprehensive plan after the date established by the state land planning agency for adoption of its evaluation and appraisal report unless it has submitted its report or addendum to the state land planning agency as prescribed by s. 163.3191, except for plan amendments described in paragraph (1)(b) *or paragraph (1)(h).*

Section 30. Subsection (4) is added to section 253.77, Florida Statutes, to read:

253.77 State lands; state agency authorization for use prohibited without consent of agency in which title vested; concurrent processing requirements.—

(4) Notwithstanding any other provision of this chapter, chapter 373, or chapter 403, for activities authorized by a permit or exemption pursuant to chapter 373 or chapter 403, ports listed in s. 403.021(9)(b) and inland navigation districts created pursuant to s. 374.975(3) shall not be required to pay any fees for activities involving the use of sovereign lands, including leases, easements, or consents of use, except application fees including, but not limited to, those required by chapter 161, chapter 253, chapter 373, or chapter 403. Further, any federal, state, or local agency or political subdivision that otherwise qualifies for an exemption under chapter 373 or chapter 403 shall be granted a consent of use or public easement for land owned by the Board of Trustees of the Internal Improvement Trust Fund or any water management district upon request and legal description of the affected land.

Section 31. Section 288.8155, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 288.8155, F.S., for present text.)

288.8155 International Trade Data Resource and Research Center.—Enterprise Florida, Inc., and the Florida Seaport Transportation and Economic Development Council shall establish a comprehensive trade data resource and research center to be known as the "International Trade Data Resource and Research Center." The center shall be incorporated as a private nonprofit corporation operated in compliance with chapter 617, and shall not be a unit or entity of state government.

(1) The center shall be governed by a board of directors composed of the following members: one representative appointed by Enterprise Florida, Inc., one representative appointed by the Florida Seaport Transportation and Economic Development Council, and one representative appointed by the Office of Tourism, Trade, and Economic Development.

(2) In addition to all powers authorized pursuant to chapter 617, the center shall have the power to:

(a) Develop a state-wide trade information system that may include, but is not limited to, timely import and export information; trade opportunities; intermodal transportation information that measures cargo flow by transportation mode; commodity trends; trade activity between Florida and specific countries; and other information as determined by the board of directors.

(b) Develop an Internet based electronic commerce system designed to facilitate international trade in the Americas.

(c) Provide research on trade opportunities in specific countries.

(d) Provide any other terms and conditions required to effect the intent of the Legislature to ensure the general availability of trade data and research to Florida users and to promote the development of a center for the purposes enumerated in this section.

(e) Make and enter into contracts and other instruments with public or private-sector entities, domestic or foreign, necessary or convenient for the purpose of exercising or performing its powers and functions.

(f) Secure funding for the programs and activities of the center from federal, state, local, or private sources, and enter into contracts that provide terms and conditions to secure such funding.

(g) Charge fees for services, programs, and activities developed pursuant to this section and for published materials.

(h) Solicit, receive, hold, invest, and administer any grant, payment, or gift of funds or property and make expenditures consistent with the powers granted to it.

(i) Acquire, enjoy, use, and dispose of patents, copyrights, and trademarks and any licenses, royalties, and other rights or interests thereunder or therein.

(3) Information produced by the center will be made available to Enterprise Florida, Inc., the Florida Seaport Transportation and Economic Development Council, the Office of Tourism, Trade, and Economic Development, and state agencies under such terms as decided by the board of directors.

Section 32. Section 311.14, Florida Statutes, is created to read:

311.14 Seaport freight-mobility planning.—

(1) The Florida Seaport Transportation and Economic Development Council, in cooperation with the Office of the State Public Transportation Administrator within the Department of Transportation, shall develop freight-mobility and trade-corridor plans to assist in making freight-mobility investments that contribute to the economic growth of the state. Such plans should enhance the integration and connectivity of the trans-

portation system across and between transportation modes throughout Florida for people and freight.

(2) The Office of the State Public Transportation Administrator shall act to integrate freight-mobility and trade-corridor plans into the Florida Transportation Plan developed pursuant to s. 339.155 and into the plans and programs of metropolitan planning organizations as provided in s. 339.175. The office may also provide assistance in expediting the transportation permitting process relating to the construction of seaport freight-mobility projects located outside the physical borders of seaports. The Department of Transportation may contract, as provided in s. 334.044, with any port listed in s. 311.09(1) or any such other statutorily authorized seaport entity to act as an agent in the construction of seaport freight-mobility projects.

Section 33. Subsection (6) of section 315.02, Florida Statutes, is amended to read:

315.02 Definitions.—As used in this law, the following words and terms shall have the following meanings:

(6) The term "port facilities" shall mean and shall include harbor, shipping, and port facilities, and improvements of every kind, nature, and description, including, but without limitation, channels, turning basins, jetties, breakwaters, public landings, wharves, docks, markets, parks, recreational facilities, structures, buildings, piers, storage facilities, *including facilities that may be used for warehouse, storage, and distribution of cargo transported or to be transported through an airport or port facility,* public buildings and plazas, anchorages, utilities, bridges, tunnels, roads, causeways, and any and all property and facilities necessary or useful in connection with the foregoing, and any one or more or any combination thereof and any extension, addition, betterment or improvement of any thereof.

Section 34. Paragraph (h) is added to subsection (24) of section 380.06, Florida Statutes, 1998 Supplement, to read:

380.06 Developments of regional impact.—

(24) STATUTORY EXEMPTIONS.—

(h) Expansion to port harbors, spoil disposal sites, navigation channels, turning basins, harbor berths, and other related inwater harbor facilities of ports listed in s. 403.021(9)(b), port transportation facilities and projects listed in s. 311.07(3)(b), and intermodal transportation facilities identified pursuant to s. 311.09(3) are exempt from the provisions of this section when such expansions, projects, or facilities are consistent with comprehensive master plans that are in compliance with the provisions of s. 163.3178.

Section 35. Subsection (6) is added to section 15.16, Florida Statutes, to read:

15.16 Reproduction of records; admissibility in evidence; electronic receipt and transmission of records; certification; acknowledgment.—

(6) The Secretary of State is authorized to issue apostilles. The Secretary of State shall have the sole authority to establish, in conformity with the laws of the United States, the requirements and procedures for the issuance of apostilles and may charge a fee for the issuance of an apostille not to exceed $10 per apostille.

Section 36. Section 117.103, Florida Statutes, 1998 Supplement, is amended to read:

117.103 Certification of notary's authority by Secretary of State.—A notary public is not required to record his or her notary public commission in an office of a clerk of the circuit court. If certification of the notary public's commission is required, it must be obtained from the Secretary of State. Upon the receipt of a written request~~, the notarized document,~~ and a fee of $10 payable to the Secretary of State, the Secretary of State shall provide a *certified copy of the notary public's original certificate of commission which shall be legally sufficient to establish the notary public's authority to provide the services specifically authorized for a notary public by the Florida Statutes, and shall issue a certificate of notarial authority, the contents of which shall be determined by the Secretary of State and shall establish for third parties the extent of the legal authority of the notary public.* ~~certificate of notarial authority. Documents destined for countries participating in an International Treaty called the Hague Convention require an Apostille, and that requirement shall be determined by the Secretary of State.~~

Section 37. Section 118.10, Florida Statutes, 1998 Supplement, is amended to read:

118.10 Civil-law notary.—

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

(a) "Authentic act" means an instrument executed by a civil-law notary referencing this section, which includes the particulars and capacities to act of *the* transacting *party or* parties, a confirmation of the full text of the instrument, the signatures of the *party or* parties or legal equivalent thereof, and the signature and seal of a civil-law notary as prescribed by the Florida Secretary of State.

(b) "Civil-law notary" means a person who is a member in good standing of The Florida Bar, who has practiced law for at least 5 years, and who is appointed by the Secretary of State as a civil-law notary.

(c) "Protocol" means a registry maintained by a civil-law notary in which the acts of the civil-law notary are archived.

(2) The Secretary of State shall have the power to appoint civil-law notaries and administer this section.

(3) A civil-law notary is authorized to issue authentic acts and *thereby may authenticate or certify any document, transaction, event, condition, or occurrence. The contents of an authentic act and matters incorporated therein shall be presumed correct. A civil-law notary* may *also* administer an oath and make a certificate thereof when it is necessary for execution of any writing or document to be attested, protested, or published under the seal of a notary public. A civil-law notary may also take acknowledgements of deeds and other instruments of writing for record, and solemnize the rites of matrimony, as fully as other officers of this state. A civil-law notary is not authorized to issue authentic acts for use in a jurisdiction if the United States Department of State has determined that the jurisdiction does not have diplomatic relations with the United States or is a terrorist country, or if trade with the jurisdiction is prohibited under the Trading With the Enemy Act of 1917, as amended, 50 U.S.C. ss. 1, et seq.

(4) The authentic acts, oaths and acknowledgements, and solemnizations of a civil-law notary shall be recorded in the civil-law notary's protocol in a manner prescribed by the Secretary of State.

(5) The Secretary of State may adopt rules prescribing:

(a) The form and content of *authentic acts, oaths and acknowledgments, solemnizations, and* signatures and seals or their legal equivalents ~~for authentic acts~~;

(b) Procedures for the permanent archiving of authentic acts, maintaining records of acknowledgments, oaths and solemnizations, and procedures for the administration of oaths and taking of acknowledgments *and for solemnizations*;

(c) The charging of reasonable fees to be retained by the Secretary of State for the purpose of administering this section;

(d) Educational requirements and procedures for testing applicants' knowledge of *all matters relevant to the appointment, authority, duties, or legal or ethical responsibilities of a civil-law notary* ~~the effects and consequences associated with authentic acts~~;

(e) Procedures for the disciplining of civil-law notaries, including, *but not limited to,* the suspension and revocation of appointments *for failure to comply with the requirements of chapter 118 or the rules of the Department of State,* for misrepresentation or fraud regarding the civil-law notary's authority, the effect of the civil-law notary's authentic acts, or the identities or acts of the parties to a transaction; ~~and~~

(f) Bonding or errors and omissions insurance requirements, or both, for civil-law notaries; and

(g)~~(f)~~ Other matters necessary for administering this section.

(6) The Secretary of State shall not regulate *or*~~,~~ discipline or attempt to discipline~~, or establish any educational requirements for~~ any civil-law

notary for, or with regard to, any action or conduct that would constitute the practice of law in this state, except by agreement with The Florida Bar. The Secretary of State shall not establish as a prerequisite to the appointment of a civil-law notary any test containing any question that inquires of the applicant's knowledge regarding the practice of law in the United States, *unless such test is offered in connection with an educational program approved by The Florida Bar for continuing legal education credit* ~~except by agreement with The Florida Bar~~.

(7) The powers of civil-law notaries include, but are not limited to, all of the powers of a notary public under any law of this state.

(8) This section shall not be construed as abrogating the provisions of any other act relating to notaries public, attorneys, or the practice of law in this state.

Section 38. Section 118.12, Florida Statutes, is created to read:

118.12 Certification of civil-law notary's authority; apostilles.—If certification of a civil-law notary's authority is necessary for a particular document or transaction, it must be obtained from the Secretary of State. Upon the receipt of a written request from a civil-law notary, a copy of the document, and a fee of $10 payable to the Secretary of State, the Secretary of State shall provide a certification of the civil-law notary's authority which may be used in support of the document submitted and any related transaction. Documents destined for countries participating in an International Treaty called the Hague Convention may require an apostille and the Secretary of State shall, upon receiving a written request from a civil-law notary, a copy of the document, and a fee of $10 payable to the Secretary of State, provide an apostille conforming to the requirements of the Hague Convention and including such other matters as the Secretary of State may establish by rule.

Section 39. Section 15.18, Florida Statutes, is amended to read:

15.18 International and cultural relations.—The Divisions of Cultural Affairs, Historical Resources, and Library and Information Services of the Department of State promote programs having substantial cultural, artistic, and indirect economic significance that emphasize American creativity. The Secretary of State, as the head administrator of these divisions, shall hereafter be known as "Florida's Chief Cultural Officer." As this officer, the Secretary of State is encouraged to initiate and develop relationships between the state and foreign cultural officers, their representatives, and other foreign governmental officials in order to promote Florida as the center of American creativity. The Secretary of State shall coordinate international activities pursuant to this section with *Enterprise Florida, Inc., and any other organization the secretary deems appropriate* ~~the Florida International Affairs Commission~~. For the accomplishment of this purpose, the Secretary of State shall have the power and authority to:

(1) Disseminate any information pertaining to the State of Florida which promotes the state's cultural assets.

(2) Plan and carry out activities designed to cause improved cultural and governmental programs and exchanges with foreign countries.

(3) Plan and implement cultural and social activities for visiting foreign heads of state, diplomats, dignitaries, and exchange groups.

(4) Encourage and cooperate with other public and private organizations or groups in their efforts to promote the cultural advantages of Florida.

(5) Establish and maintain the list prescribed in s. 55.605(2)(g), relating to recognition of foreign money judgments.

(6)~~(5)~~ Serve as the liaison with all foreign consular and ambassadorial corps, as well as international organizations, that are consistent with the purposes of this section.

(7)~~(6)~~ Provide, arrange, and make expenditures for the achievement of any or all of the purposes specified in this section.

(8)~~(7)~~ Notwithstanding the provisions of part I of chapter 287, promulgate rules for entering into contracts which are primarily for promotional services and events, which may include commodities involving a service. Such rules shall include the authority to negotiate costs with the offerors of such services and commodities who have been determined to be qualified on the basis of technical merit, creative ability, and professional competency. The rules shall only apply to the expenditure of funds donated for promotional services and events. Expenditures of appropriated funds shall be made only in accordance with part I of chapter 287.

Section 40. Subsections (1) and (6) of section 55.604, Florida Statutes, are amended to read:

55.604 Recognition and enforcement.—Except as provided in s. 55.605, a foreign judgment meeting the requirements of s. 55.603 is conclusive between the parties to the extent that it grants or denies recovery of a sum of money. Procedures for recognition and enforceability of a foreign judgment shall be as follows:

(1) The foreign judgment shall be filed with the *Department of State and the* clerk of the court and recorded in the public records in the county or counties where enforcement is sought. *The filing with the Department of State shall not create a lien on any property.*

(a) At the time of the recording of a foreign judgment, the judgment creditor shall make and record with the clerk of the circuit court an affidavit setting forth the name, social security number, if known, and last known post-office address of the judgment debtor and of the judgment creditor.

(b) Promptly upon the recording of the foreign judgment and the affidavit, the clerk shall mail notice of the recording of the foreign judgment, by registered mail with return receipt requested, to the judgment debtor at the address given in the affidavit and shall make a note of the mailing in the docket. The notice shall include the name and address of the judgment creditor and of the judgment creditor's attorney, if any, in this state. In addition, the judgment creditor may mail a notice of the recording of the judgment to the judgment debtor and may record proof of mailing with the clerk. The failure of the clerk to mail notice of recording will not affect the enforcement proceedings if proof of mailing by the judgment creditor has been recorded.

(6) Once an order recognizing the foreign judgment has been entered by a court of this state, the order and a copy of the judgment *shall be filed with the Department of State and* may be recorded in any other county of this state without further notice or proceedings, and shall be enforceable in the same manner as the judgment of a court of this state.

Section 41. Paragraph (g) of subsection (2) of section 55.605, Florida Statutes, is amended to read:

55.605 Grounds for nonrecognition.—

(2) A foreign judgment need not be recognized if:

(g) The foreign jurisdiction where judgment was rendered would not give recognition to a similar judgment rendered in this state. *For purposes of this paragraph, the Secretary of State shall establish and maintain a list of foreign jurisdictions where the condition specified in this paragraph has been found to apply.*

Section 42. Section 257.34, Florida Statutes, is created to read:

257.34 Florida International Archive and Repository.—

(1) There is created within the Division of Library and Information Services of the Department of State the Florida International Archive and Repository for the preservation of those public records, as defined in s. 119.011(1), manuscripts, international judgments involving disputes between domestic and foreign businesses, and all other public matters that the department or the Florida Council of International Development deems relevant to international issues. It is the duty and responsibility of the division to:

(a) Organize and administer the Florida International Archive and Repository.

(b) Preserve and administer records that are transferred to its custody; accept, arrange, and preserve them, according to approved archival and repository practices; and permit them, at reasonable times and under the supervision of the division, to be inspected, examined, and copied. All public records transferred to the custody of the division are subject to the provisions of s. 119.07(1).

(c) Assist the records and information management program in the determination of retention values for records.

(d) Cooperate with and assist, insofar as practicable, state institutions, departments, agencies, counties, municipalities, and individuals engaged in internationally related activities.

(e) Provide a public research room where, under rules established by the division, the materials in the international archive and repository may be studied.

(f) Conduct, promote, and encourage research in international trade, government, and culture and maintain a program of information, assistance, coordination, and guidance for public officials, educational institutions, libraries, the scholarly community, and the general public engaged in such research.

(g) Cooperate with and, insofar as practicable, assist agencies, libraries, institutions, and individuals in projects concerned with internationally related issues and preserve original materials relating to internationally related issues.

(h) Assist and cooperate with the records and information management program in the training and information program described in s. 257.36(1)(g).

(2) Any agency is authorized and empowered to turn over to the division any record no longer in current official use. The division may accept such record and provide for its administration and preservation as provided in this section and, upon acceptance, be considered the legal custodian of such record. The division may direct and effect the transfer to the archives of any records that are determined by the division to have such historical or other value to warrant their continued preservation or protection, unless the head of the agency that has custody of the records certifies in writing to the division that the records must be retained in the agency's custody for use in the conduct of the regular current business of the agency.

(3) Title to any record transferred to the Florida International Archive and Repository, as authorized in this chapter, is vested in the division.

(4) The division shall make certified copies under seal of any record transferred to it upon the application of any person, and the certificates shall have the same force and effect as if made by the agency from which the record was received. The division may charge a fee for this service based upon the cost of service.

(5) The division may establish and maintain a schedule of fees for services that may include, but need not be limited to, restoration of materials, storage of materials, special research services, and publications.

(6) The division shall establish and maintain a mechanism by which the information contained within the Florida International Archive and Repository may be accessed by computer via the World Wide Web. In doing so, the division shall take whatever measures it deems appropriate to ensure the validity, quality, and safety of the information being accessed.

(7) The division shall adopt rules necessary to implement this section.

(8) The Florida Council of International Development may select materials for inclusion in the Florida International Archive and Repository and shall be consulted closely by the division in all matters relating to its establishment and maintenance.

Section 43. Notwithstanding section 3 of chapter 89-150, section 112 of chapter 90-201, and section 53 of chapter 91-5, Laws of Florida, section 288.012, Florida Statutes, is not repealed but is revived, reenacted, and amended to read:

288.012 State of Florida foreign offices.—The Legislature finds that the expansion of international trade and tourism is vital to the overall health and growth of the economy of this state. This expansion is hampered by the lack of technical and business assistance, financial assistance, and information services for businesses in this state. The Legislature finds that these businesses could be assisted by providing these services at State of Florida foreign offices. The Legislature further finds that the accessibility and provision of services at these offices can be enhanced through cooperative agreements or strategic alliances between state entities, local entities, foreign entities, and private businesses.

(1) The Office of Tourism, Trade, and Economic Development is authorized to:

(a) Establish and operate offices in foreign countries for the purpose of promoting the trade and economic development of the state, and promoting the gathering of trade data information and research on trade opportunities in specific countries.

(b) Enter into agreements with governmental and private sector entities to establish and operate offices in foreign countries containing provisions which may be in conflict with general laws of the state pertaining to the purchase of office space, employment of personnel, and contracts for services. When agreements pursuant to this section are made which set compensation in foreign currency, such agreements shall be subject to the requirements of s. 215.425, but the purchase of foreign currency by the Office of Tourism, Trade, and Economic Development to meet such obligations shall be subject only to s. 216.311.

(c) By September 1, 1997, the Office of Tourism, Trade, and Economic Development shall develop a plan for the disposition of the current foreign offices and the development and location of additional foreign offices. The plan shall include, but is not limited to, a determination of the level of funding needed to operate the current offices and any additional offices and whether any of the current offices need to be closed or relocated. Enterprise Florida, Inc., the Florida Tourism Commission, the Florida Ports Council, the Department of State, the Department of Citrus, and the Department of Agriculture shall assist the Office of Tourism, Trade, and Economic Development in the preparation of the plan. All parties shall cooperate on the disposition or establishment of the offices and ensure that needed space, technical assistance, and support services are provided to such entities at such foreign offices.

(2) By June 30, 1998, each foreign office shall have in place an operational plan approved by the participating boards or other governing authority, a copy of which shall be provided to the Office of Tourism, Trade, and Economic Development. These operating plans shall be reviewed and updated each fiscal year and shall include, at a minimum, the following:

(a) Specific policies and procedures encompassing the entire scope of the operation and management of each office.

(b) A comprehensive, commercial strategic plan identifying marketing opportunities and industry sector priorities for the foreign country or area in which a foreign office is located.

(c) Provisions for access to information for Florida businesses through the Florida Trade Data Center. Each foreign office shall obtain and forward trade leads and inquiries to the center on a regular basis as called for in the plan pursuant to paragraph (1)(c).

(d) Identification of new and emerging market opportunities for Florida businesses. Each foreign office shall provide the Florida Trade Data Center with a compilation of foreign buyers and importers in industry sector priority areas on an annual basis. In return, the Florida Trade Data Center shall make available to each foreign office, and to the entities identified in paragraph (1)(c), trade industry, commodity, and opportunity information as specified in the plan required in that paragraph. This information shall be provided to the offices and the entities identified in paragraph (1)(c) either free of charge or on a fee basis with fees set only to recover the costs of providing the information.

(e) Provision of access for Florida businesses to the services of the Florida Trade Data Center, international trade assistance services provided by state and local entities, seaport and airport information, and other services identified in the plan pursuant to paragraph (1)(c).

(f) Qualitative and quantitative performance measures for each office including, but not limited to, the number of businesses assisted, the number of trade leads and inquiries generated, the number of foreign buyers and importers contacted, and the amount and type of marketing conducted.

(3) By October 1 of each year, each foreign office shall submit to the Office of Tourism, Trade, and Economic Development a complete and

detailed report on its activities and accomplishments during the preceding fiscal year. In a format provided by Enterprise Florida, Inc., the report must set forth information on:

(a) The number of Florida companies assisted.

(b) The number of inquiries received about investment opportunities in this state.

(c) The number of trade leads generated.

(d) The number of investment projects announced.

(e) The estimated U.S. dollar value of sales confirmations.

(f) The number of representation agreements.

(g) The number of company consultations.

(h) Barriers or other issues affecting the effective operation of the office.

(i) Changes in office operations which are planned for the current fiscal year.

(j) Marketing activities conducted.

(k) Strategic alliances formed with organizations in the country in which the office is located.

(l) Activities conducted with other Florida foreign offices.

(m) Any other information that the office believes would contribute to an understanding of its activities.

(4)~~(3)~~ The Office of Tourism, Trade, and Economic Development, in connection with the establishment, operation, and management of any of its offices located in a foreign country, is exempt from the provisions of ss. 255.21, 255.25, and 255.254 relating to leasing of buildings; ss. 283.33 and 283.35 relating to bids for printing; ss. 287.001-287.20 relating to purchasing and motor vehicles; and ss. 282.003-282.111 relating to communications, and from all statutory provisions relating to state employment.

(a) The Office of Tourism, Trade, and Economic Development may exercise such exemptions only upon prior approval of the Governor.

(b) If approval for an exemption under this section is granted as an integral part of a plan of operation for a specified foreign office, such action shall constitute continuing authority for the Office of Tourism, Trade, and Economic Development to exercise the exemption, but only in the context and upon the terms originally granted. Any modification of the approved plan of operation with respect to an exemption contained therein must be resubmitted to the Governor for his or her approval. An approval granted to exercise an exemption in any other context shall be restricted to the specific instance for which the exemption is to be exercised.

(c) As used in this subsection, the term "plan of operation" means the plan developed pursuant to subsection (2).

(d) Upon final action by the Governor with respect to a request to exercise the exemption authorized in this subsection, the Office of Tourism, Trade, and Economic Development shall report such action, along with the original request and any modifications thereto, to the President of the Senate and the Speaker of the House of Representatives within 30 days.

(5)~~(4)~~ Where feasible and appropriate, and subject to s. 288.1224(10), foreign offices established and operated under this section may provide one-stop access to the economic development, trade, and tourism information, services, and programs of the state. Where feasible and appropriate, and subject to s. 288.1224(10), such offices may also be collocated with other foreign offices of the state.

(6)~~(5)~~ The Office of Tourism, Trade, and Economic Development is authorized to make and to enter into contracts with Enterprise Florida, Inc., and the Florida Commission on Tourism to carry out the provisions of this section. The authority, duties, and exemptions provided in this section apply to Enterprise Florida, Inc., and the Florida Commission on Tourism to the same degree and subject to the same conditions as applied to the Office of Tourism, Trade, and Economic Development. To the greatest extent possible, such contracts shall include provisions for cooperative agreements or strategic alliances between state entities, foreign entities, local entities, and private businesses to operate foreign offices.

Section 44. *By December 31, 2001, the Legislature shall review Florida's foreign offices, including, but not limited to, those offices established and operated under sections 288.012 and 288.1224, Florida Statutes, to determine whether the state is experiencing effective international trade, investment, and tourism representation through such offices.*

Section 45. *Enterprise Florida, Inc., shall develop a master plan for integrating public–sector and private–sector international trade and reverse investment resources, in order that businesses may obtain comprehensive assistance and information in the most productive and efficient manner. The scope of this plan shall include, but need not be limited to, resources related to the provision of trade information, such as trade leads and reverse investment opportunities, trade counseling, and trade financing services. In developing the master plan, Enterprise Florida, Inc., shall solicit the participation and input of organizations providing these resources, the consumers of these resources, and others who have expertise and experience in international trade and reverse investment. The master plan may include recommendations for legislative action designed to enhance the delivery of international trade and reverse investment assistance. The master plan, which Enterprise Florida, Inc., may include within the annual update or modification to the strategic plan required under section 288.905, Florida Statutes, must be submitted to the Legislature and the Governor before January 1, 2000.*

Section 46. *Enterprise Florida, Inc., in conjunction with the Office of Tourism, Trade, and Economic Development, shall prepare a plan for promoting direct investment in Florida by foreign businesses. This plan must assess and inventory Florida's strengths as a location for foreign direct investment and must include a detailed strategy for capitalizing upon those strengths. In developing the plan, Enterprise Florida, Inc., shall focus on businesses with site selection criteria that are consistent with Florida's business climate, businesses likely to facilitate the transshipment of goods through Florida or to export Florida produced goods from the state, and businesses that complement or correspond to those industries identified as part of the sector strategy approach to economic development required under s. 288.905, Florida Statutes. The plan must also identify weaknesses in Florida's ability to attract foreign direct investment and must include a detailed strategy for addressing those weaknesses. The plan may include recommendations for legislative action designed to enhance Florida's ability to attract foreign direct investment. In developing the plan, Enterprise Florida, Inc., shall solicit the participation and input of entities that have expertise and experience in foreign direct investment. The plan, which Enterprise Florida, Inc., may include within the annual update or modification to the strategic plan required under s. 288.905, Florida Statutes, must be submitted to the Legislature and the Governor before January 1, 2000.*

Section 47. *In anticipation of the day when the people of Cuba are no longer denied the inalienable rights and freedom that all men and women should be guaranteed, Enterprise Florida, Inc., shall prepare a strategic plan designed to allow Florida to capitalize on the economic opportunities associated with a free Cuba. The plan should recognize the historical and cultural ties between this state and Cuba and should focus on building a long–term economic relationship between these communities. The plan should also recognize existing economic infrastructure in Florida that could be applied toward trade and other business activities with Cuba. The plan should identify specific preparatory steps to be taken in advance of a lifting of the trade embargo with Cuba. In developing this plan, Enterprise Florida, Inc., shall solicit the participation and input of individuals who have expertise concerning Cuba and its economy, including, but not limited to, business leaders in Florida who have had previous business experience in Cuba. The plan may include recommendations for legislative action necessary to implement the strategic plan. The plan must be submitted to the Governor and Legislature before January 1, 2000.*

Section 48. Effective June 30, 1999, section 288.1045, Florida Statutes, is amended to read:

288.1045 Qualified defense contractor tax refund program.—

(1) DEFINITIONS.—As used in this section:

(a) "Consolidation of a Department of Defense contract" means the consolidation of one or more of an applicant's facilities under one or more Department of Defense contracts either from outside this state or from inside and outside this state, into one or more of the applicant's facilities inside this state.

(b) "Average wage in the area" means the average of all wages and salaries in the state, the county, or in the standard metropolitan area in which the business unit is located.

(c) "Applicant" means any business entity that holds a valid Department of Defense contract or any business entity that is a subcontractor under a valid Department of Defense contract or any business entity that holds a valid contract for the reuse of a defense-related facility, including all members of an affiliated group of corporations as defined in s. 220.03(1)(b).

(d) *"Office"* ~~"Division"~~ means the *Office of Tourism, Trade, and Economic Development* ~~Division of Economic Development of the Department of Commerce~~.

(e) "Department of Defense contract" means a competitively bid Department of Defense contract or a competitively bid federal agency contract issued on behalf of the Department of Defense for manufacturing, assembling, fabricating, research, development, or design with a duration of 2 or more years, but excluding any contract to provide goods, improvements to real or tangible property, or services directly to or for any particular military base or installation in this state.

(f) "New Department of Defense contract" means a Department of Defense contract entered into after the date application for certification as a qualified applicant is made and after January 1, 1994.

(g) "Jobs" means full-time equivalent positions, consistent with the use of such terms by the Department of Labor and Employment Security for the purpose of unemployment compensation tax, resulting directly from a project in this state. This number does not include temporary construction jobs involved with the construction of facilities for the project.

(h) "Nondefense production jobs" means employment exclusively for activities that, directly or indirectly, are unrelated to the Department of Defense.

(i) "Project" means any business undertaking in this state under a new Department of Defense contract, consolidation of a Department of Defense contract, or conversion of defense production jobs over to nondefense production jobs or reuse of defense-related facilities.

(j) "Qualified applicant" means an applicant that has been approved by the *director* ~~secretary~~ to be eligible for tax refunds pursuant to this section.

(k) *"Director"* ~~"Secretary"~~ means the *director of the Office of Tourism, Trade, and Economic Development* ~~Secretary of Commerce~~.

(l) "Taxable year" means the same as in s. 220.03(1)(z).

(m) "Fiscal year" means the fiscal year of the state.

(n) "Business unit" means an employing unit, as defined in s. 443.036, that is registered with the Department of Labor and Employment Security for unemployment compensation purposes or means a subcategory or division of an employing unit that is accepted by the Department of Labor and Employment Security as a reporting unit.

(o) "Local financial support" means funding from local sources, public or private, which is paid to the Economic Development Trust Fund and which is equal to 20 percent of the annual tax refund for a qualified applicant. Local financial support may include excess payments made to a utility company under a designated program to allow decreases in service by the utility company under conditions, regardless of when application is made. A qualified applicant may not provide, directly or indirectly, more than 5 percent of such funding in any fiscal year. The sources of such funding may not include, directly or indirectly, state funds appropriated from the General Revenue Fund or any state trust fund, excluding tax revenues shared with local governments pursuant to law.

(p) "Contract for reuse of a defense-related facility" means a contract with a duration of 2 or more years for the use of a facility for manufacturing, assembling, fabricating, research, development, or design of tangible personal property, but excluding any contract to provide goods, improvements to real or tangible property, or services directly to or for any particular military base or installation in this state. Such facility must be located within a port, as defined in s. 313.21, and have been occupied by a business entity that held a valid Department of Defense contract or occupied by any branch of the Armed Forces of the United States, within 1 year of any contract being executed for the reuse of such facility. A contract for reuse of a defense-related facility may not include any contract for reuse of such facility for any Department of Defense contract for manufacturing, assembling, fabricating, research, development, or design.

(q) "Local financial support exemption option" means the option to exercise an exemption from the local financial support requirement available to any applicant whose project is located in a county designated by the Rural Economic Development Initiative, if the county commissioners of the county in which the project will be located adopt a resolution requesting that the applicant's project be exempt from the local financial support requirement. Any applicant that exercises this option is not eligible for more than 80 percent of the total tax refunds allowed such applicant under this section.

(2) GRANTING OF A TAX REFUND; ELIGIBLE AMOUNTS.—

(a) There shall be allowed, from the Economic Development Trust Fund, a refund to a qualified applicant for the amount of eligible taxes certified by the *director* ~~secretary~~ which were paid by such qualified applicant. The total amount of refunds for all fiscal years for each qualified applicant shall be determined pursuant to subsection (3). The annual amount of a refund to a qualified applicant shall be determined pursuant to subsection (5).

(b) A qualified applicant may not be qualified for any project to receive more than $5,000 times the number of jobs provided in the tax refund agreement pursuant to subparagraph (4)(a)1. A qualified applicant may not receive refunds of more than 25 percent of the total tax refunds provided in the tax refund agreement pursuant to subparagraph (4)(a)1. in any fiscal year, provided that no qualified applicant may receive more than $2.5 million in tax refunds pursuant to this section in any fiscal year.

(c) A qualified applicant may not receive more than $7.5 million in tax refunds pursuant to this section in all fiscal years.

(d) Contingent upon an annual appropriation by the Legislature, the *director* ~~secretary~~ may approve not more ~~than the lesser of $25 million~~ in tax refunds *than* ~~or~~ the amount appropriated to the Economic Development Trust Fund for tax refunds, for a fiscal year pursuant to subsection (5) *and s. 288.095*.

(e) For the first 6 months of each fiscal year, the *director* ~~secretary~~ shall set aside 30 percent of the amount appropriated for refunds pursuant to this section by the Legislature to provide tax refunds only to qualified applicants who employ 500 or fewer full-time employees in this state. Any unencumbered funds remaining undisbursed from this set-aside at the end of the 6-month period may be used to provide tax refunds for any qualified applicants pursuant to this section.

(f) After entering into a tax refund agreement pursuant to subsection (4), a qualified applicant may receive refunds from the Economic Development Trust Fund for the following taxes due and paid by the qualified applicant beginning with the applicant's first taxable year that begins after entering into the agreement:

1. Taxes on sales, use, and other transactions paid pursuant to chapter 212.

2. Corporate income taxes paid pursuant to chapter 220.

3. Intangible personal property taxes paid pursuant to chapter 199.

4. Emergency excise taxes paid pursuant to chapter 221.

5. Excise taxes paid on documents pursuant to chapter 201.

6. Ad valorem taxes paid, as defined in s. 220.03(1)(a) on June 1, 1996.

However, a qualified applicant may not receive a tax refund pursuant to this section for any amount of credit, refund, or exemption granted such contractor for any of such taxes. If a refund for such taxes is provided by the *office* ~~Department of Commerce~~, which *taxes* are subsequently adjusted by the application of any credit, refund, or exemption granted to the qualified applicant other than that provided in this section, the qualified applicant shall reimburse the Economic Development Trust Fund for the amount of such credit, refund, or exemption. A qualified applicant must notify and tender payment to the *office* ~~Department of Commerce~~ within 20 days after receiving a credit, refund, or exemption, other than that provided in this section.

(g) Any qualified applicant who fraudulently claims this refund is liable for repayment of the refund to the Economic Development Trust Fund plus a mandatory penalty of 200 percent of the tax refund which shall be deposited into the General Revenue Fund. Any qualified applicant who fraudulently claims this refund commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(h) Funds made available pursuant to this section may not be expended in connection with the relocation of a business from one community to another community in this state unless the Office of Tourism, Trade, and Economic Development determines that without such relocation the business will move outside this state or determines that the business has a compelling economic rationale for the relocation which creates additional jobs.

(3) APPLICATION PROCESS; REQUIREMENTS; AGENCY DETERMINATION.—

(a) To apply for certification as a qualified applicant pursuant to this section, an applicant must file an application with the *office* ~~division~~ which satisfies the requirements of paragraphs (b) and (e), paragraphs (c) and (e), or paragraphs (d) and (e). An applicant may not apply for certification pursuant to this section after a proposal has been submitted for a new Department of Defense contract, after the applicant has made the decision to consolidate an existing Department of Defense contract in this state for which such applicant is seeking certification, or after the applicant has made the decision to convert defense production jobs to nondefense production jobs for which such applicant is seeking certification.

(b) Applications for certification based on the consolidation of a Department of Defense contract or a new Department of Defense contract must be submitted to the *office* ~~division~~ as prescribed by the *office* ~~Department of Commerce~~ and must include, but are not limited to, the following information:

1. The applicant's federal employer identification number, the applicant's Florida sales tax registration number, and a notarized signature of an officer of the applicant.

2. The permanent location of the manufacturing, assembling, fabricating, research, development, or design facility in this state at which the project is or is to be located.

3. The Department of Defense contract numbers of the contract to be consolidated, the new Department of Defense contract number, or the "RFP" number of a proposed Department of Defense contract.

4. The date the contract was executed or is expected to be executed, and the date the contract is due to expire or is expected to expire.

5. The commencement date for project operations under the contract in this state.

6. The number of full-time equivalent jobs in this state which are or will be dedicated to the project during the year and the average wage of such jobs.

7. The total number of full-time equivalent employees employed by the applicant in this state.

8. The percentage of the applicant's gross receipts derived from Department of Defense contracts during the 5 taxable years immediately preceding the date the application is submitted.

9. The amount of:

a. Taxes on sales, use, and other transactions paid pursuant to chapter 212;

b. Corporate income taxes paid pursuant to chapter 220;

c. Intangible personal property taxes paid pursuant to chapter 199;

d. Emergency excise taxes paid pursuant to chapter 221;

e. Excise taxes paid on documents pursuant to chapter 201; and

f. Ad valorem taxes paid

during the 5 fiscal years immediately preceding the date of the application, and the projected amounts of such taxes to be due in the 3 fiscal years immediately following the date of the application.

10. The estimated amount of tax refunds to be claimed in each fiscal year.

11. A brief statement concerning the applicant's need for tax refunds, and the proposed uses of such refunds by the applicant.

12. A resolution adopted by the county commissioners of the county in which the project will be located, which recommends the applicant be approved as a qualified applicant, and which indicates that the necessary commitments of local financial support for the applicant exist. Prior to the adoption of the resolution, the county commission may review the proposed public or private sources of such support and determine whether the proposed sources of local financial support can be provided or, for any applicant whose project is located in a county designated by the Rural Economic Development Initiative, a resolution adopted by the county commissioners of such county requesting that the applicant's project be exempt from the local financial support requirement.

13. Any additional information requested by the *office* ~~division~~.

(c) Applications for certification based on the conversion of defense production jobs to nondefense production jobs must be submitted to the *office* ~~division~~ as prescribed by the *office* ~~Department of Commerce~~ and must include, but are not limited to, the following information:

1. The applicant's federal employer identification number, the applicant's Florida sales tax registration number, and a notarized signature of an officer of the applicant.

2. The permanent location of the manufacturing, assembling, fabricating, research, development, or design facility in this state at which the project is or is to be located.

3. The Department of Defense contract numbers of the contract under which the defense production jobs will be converted to nondefense production jobs.

4. The date the contract was executed, and the date the contract is due to expire or is expected to expire, or was canceled.

5. The commencement date for the nondefense production operations in this state.

6. The number of full-time equivalent jobs in this state which are or will be dedicated to the nondefense production project during the year and the average wage of such jobs.

7. The total number of full-time equivalent employees employed by the applicant in this state.

8. The percentage of the applicant's gross receipts derived from Department of Defense contracts during the 5 taxable years immediately preceding the date the application is submitted.

9. The amount of:

a. Taxes on sales, use, and other transactions paid pursuant to chapter 212;

b. Corporate income taxes paid pursuant to chapter 220;

c. Intangible personal property taxes paid pursuant to chapter 199;

d. Emergency excise taxes paid pursuant to chapter 221;

e. Excise taxes paid on documents pursuant to chapter 201; and

f. Ad valorem taxes paid

during the 5 fiscal years immediately preceding the date of the application, and the projected amounts of such taxes to be due in the 3 fiscal years immediately following the date of the application.

10. The estimated amount of tax refunds to be claimed in each fiscal year.

11. A brief statement concerning the applicant's need for tax refunds, and the proposed uses of such refunds by the applicant.

12. A resolution adopted by the county commissioners of the county in which the project will be located, which recommends the applicant be approved as a qualified applicant, and which indicates that the necessary commitments of local financial support for the applicant exist. Prior to the adoption of the resolution, the county commission may review the proposed public or private sources of such support and determine whether the proposed sources of local financial support can be provided or, for any applicant whose project is located in a county designated by the Rural Economic Development Initiative, a resolution adopted by the county commissioners of such county requesting that the applicant's project be exempt from the local financial support requirement.

13. Any additional information requested by the *office* ~~division~~.

(d) Applications for certification based on a contract for reuse of a defense-related facility must be submitted to the *office* ~~division~~ as prescribed by the *office* ~~Department of Commerce~~ and must include, but are not limited to, the following information:

1. The applicant's Florida sales tax registration number and a notarized signature of an officer of the applicant.

2. The permanent location of the manufacturing, assembling, fabricating, research, development, or design facility in this state at which the project is or is to be located.

3. The business entity holding a valid Department of Defense contract or branch of the Armed Forces of the United States that previously occupied the facility, and the date such entity last occupied the facility.

4. A copy of the contract to reuse the facility, or such alternative proof as may be prescribed by the *office* ~~department~~ that the applicant is seeking to contract for the reuse of such facility.

5. The date the contract to reuse the facility was executed or is expected to be executed, and the date the contract is due to expire or is expected to expire.

6. The commencement date for project operations under the contract in this state.

7. The number of full-time equivalent jobs in this state which are or will be dedicated to the project during the year and the average wage of such jobs.

8. The total number of full-time equivalent employees employed by the applicant in this state.

9. The amount of:

a. Taxes on sales, use, and other transactions paid pursuant to chapter 212.

b. Corporate income taxes paid pursuant to chapter 220.

c. Intangible personal property taxes paid pursuant to chapter 199.

d. Emergency excise taxes paid pursuant to chapter 221.

e. Excise taxes paid on documents pursuant to chapter 201.

f. Ad valorem taxes paid during the 5 fiscal years immediately preceding the date of the application, and the projected amounts of such taxes to be due in the 3 fiscal years immediately following the date of the application.

10. The estimated amount of tax refunds to be claimed in each fiscal year.

11. A brief statement concerning the applicant's need for tax refunds, and the proposed uses of such refunds by the applicant.

12. A resolution adopted by the county commissioners of the county in which the project will be located, which recommends the applicant be approved as a qualified applicant, and which indicates that the necessary commitments of local financial support for the applicant exist. Prior to the adoption of the resolution, the county commission may review the proposed public or private sources of such support and determine whether the proposed sources of local financial support can be provided or, for any applicant whose project is located in a county designated by the Rural Economic Development Initiative, a resolution adopted by the county commissioners of such county requesting that the applicant's project be exempt from the local financial support requirement.

13. Any additional information requested by the *office* ~~division~~.

(e) To qualify for review by the *office* ~~division~~, the application of an applicant must, at a minimum, establish the following to the satisfaction of the *office* ~~division~~:

1. The jobs proposed to be provided under the application, pursuant to subparagraph (b)6. or subparagraph (c)6., must pay an estimated annual average wage equaling at least 115 percent of the average wage in the area where the project is to be located.

2. The consolidation of a Department of Defense contract must result in a net increase of at least 25 percent in the number of jobs at the applicant's facilities in this state or the addition of at least 80 jobs at the applicant's facilities in this state.

3. The conversion of defense production jobs to nondefense production jobs must result in net increases in nondefense employment at the applicant's facilities in this state.

4. The Department of Defense contract cannot allow the business to include the costs of relocation or retooling in its base as allowable costs under a cost-plus, or similar, contract.

5. A business unit of the applicant must have derived not less than 70 percent of its gross receipts in this state from Department of Defense contracts over the applicant's last fiscal year, and must have derived not less than 80 percent of its gross receipts in this state from Department of Defense contracts over the 5 years preceding the date an application is submitted pursuant to this section. This subparagraph does not apply to any application for certification based on a contract for reuse of a defense-related facility.

6. The reuse of a defense-related facility must result in the creation of at least 100 jobs at such facility.

(f) Each application meeting the requirements of paragraphs (b) and (e), paragraphs (c) and (e), or paragraphs (d) and (e) must be submitted to the *office* ~~division~~ for a determination of eligibility. The *office* ~~division~~ shall review, evaluate, and score each application based on, but not limited to, the following criteria:

1. Expected contributions to the state strategic economic development plan adopted by Enterprise Florida, Inc., taking into account the extent to which the project contributes to the state's high-technology base, and the long-term impact of the project and the applicant on the state's economy.

2. The economic benefit of the jobs created or retained by the project in this state, taking into account the cost and average wage of each job created or retained, and the potential risk to existing jobs.

3. The amount of capital investment to be made by the applicant in this state.

4. The local commitment and support for the project and applicant.

5. The impact of the project on the local community, taking into account the unemployment rate for the county where the project will be located.

6. The dependence of the local community on the defense industry.

7. The impact of any tax refunds granted pursuant to this section on the viability of the project and the probability that the project will occur in this state if such tax refunds are granted to the applicant, taking into account the expected long-term commitment of the applicant to economic growth and employment in this state.

8. The length of the project, or the expected long-term commitment to this state resulting from the project.

(g) The *office* ~~division~~ shall forward its written findings and evaluation on each application meeting the requirements of paragraphs (b) and (e), paragraphs (c) and (e), or paragraphs (d) and (e) to the *director* ~~secretary~~ within 60 calendar days of receipt of a complete application. The *office* ~~division~~ shall notify each applicant when its application is complete, and when the 60-day period begins. In its written report to the *director* ~~secretary~~, the *office* ~~division~~ shall specifically address each of the factors specified in paragraph (f), and shall make a specific assessment with respect to the minimum requirements established in paragraph (e). The *office* ~~division~~ shall include in its report projections of the tax refund claims that will be sought by the applicant in each fiscal year based on the information submitted in the application.

(h) Within 30 days after receipt of the *office's* ~~division's~~ findings and evaluation, the *director* ~~secretary~~ shall enter a final order that either approves or disapproves an application. The decision must be in writing and provide the justifications for either approval or disapproval. If appropriate, the *director* ~~secretary~~ shall enter into a written agreement with the qualified applicant pursuant to subsection (4).

(i) The *director* ~~secretary~~ may not enter any final order that certifies any applicant as a qualified applicant when the *value of tax refunds to be included in that final order exceeds the available amount of authority to enter final orders as determined in s. 288.095(3)* ~~aggregate amount of tax refunds for all qualified applicants projected by the division in any fiscal year exceeds the lesser of $25 million or the amount appropriated for tax refunds for that fiscal year~~. A final order that approves an application must specify the maximum amount of a tax refund that is to be available to the contractor in each fiscal year and the total amount of tax refunds for all fiscal years.

(j) This section does not create a presumption that an applicant should receive any tax refunds under this section.

(4) QUALIFIED DEFENSE CONTRACTOR TAX REFUND AGREEMENT.—

(a) A qualified applicant shall enter into a written agreement with the *office* ~~department~~ containing, but not limited to, the following:

1. The total number of full-time equivalent jobs in this state that are or will be dedicated to the qualified applicant's project, the average wage of such jobs, the definitions that will apply for measuring the achievement of these terms during the pendency of the agreement, and a time schedule or plan for when such jobs will be in place and active in this state. This information must be the same as the information contained in the application submitted by the contractor pursuant to subsection (3).

2. The maximum amount of a refund that the qualified applicant is eligible to receive in each fiscal year.

3. An agreement with the *office* ~~department~~ allowing the *office* ~~department~~ to review and verify the financial and personnel records of the qualified applicant to ascertain whether the qualified applicant is complying with the requirements of this section.

4. The date after which, each fiscal year, the qualified applicant may file an annual claim pursuant to subsection (5).

5. That local financial support shall be annually available and will be paid to the Economic Development Trust Fund.

(b) Compliance with the terms and conditions of the agreement is a condition precedent for receipt of tax refunds each year. The failure to comply with the terms and conditions of the agreement shall result in the loss of eligibility for receipt of all tax refunds previously authorized pursuant to this section, and the revocation of the certification as a qualified applicant by the *director* ~~secretary~~.

(c) The agreement shall be signed by the *director* ~~secretary~~ and the authorized officer of the qualified applicant.

(d) The agreement must contain the following legend, clearly printed on its face in bold type of not less than 10 points:

"This agreement is neither a general obligation of the State of Florida, nor is it backed by the full faith and credit of the State of Florida. Payment of tax refunds are conditioned on and subject to specific annual appropriations by the Florida Legislature of funds sufficient to pay amounts authorized in *s. 288.1045* ~~s. 288.104~~, Florida Statutes."

(5) ANNUAL CLAIM FOR REFUND FROM A QUALIFIED DEFENSE CONTRACTOR.—

(a) Qualified applicants who have entered into a written agreement with the *office* ~~department~~ pursuant to subsection (4) and who have entered into a valid new Department of Defense contract, commenced the consolidation of a Department of Defense contract, commenced the conversion of defense production jobs to nondefense production jobs or who have entered into a valid contract for reuse of a defense-related facility may apply once each fiscal year to the *office* ~~Department of Commerce~~ for tax refunds. The application must be made on or after the date contained in the agreement entered into pursuant to subsection (4) and must include a notarized signature of an officer of the applicant.

(b) The claim for refund by the qualified applicant must include a copy of all receipts pertaining to the payment of taxes for which a refund is sought, and data related to achieving each performance item contained in the tax refund agreement pursuant to subsection (4). The amount requested as a tax refund may not exceed the amount for the fiscal year in the written agreement entered pursuant to subsection (4).

(c) A tax refund may not be approved for any qualified applicant unless local financial support has been paid to the Economic Development Trust Fund in that fiscal year. If the local financial support is less than 20 percent of the approved tax refund, the tax refund shall be reduced. The tax refund paid may not exceed 5 times the local financial support received. Funding from local sources includes tax abatement under s. 196.1995 provided to a qualified applicant. The amount of any tax refund for an applicant approved under this section shall be reduced by the amount of any such tax abatement, and the limitations in subsection (2) and paragraph (3)(h) shall be reduced by the amount of any such tax abatement. A report listing all sources of the local financial support shall be provided to the *office* ~~division~~ when such support is paid to the Economic Development Trust Fund.

(d) The *director* ~~secretary~~, with assistance from the *office* ~~division~~, the Department of Revenue, and the Department of Labor and Employment Security, shall determine the amount of the tax refund that is authorized for the qualified applicant for the fiscal year in a written final order within 30 days after the date the claim for the annual tax refund is received by the *office* ~~Department of Commerce~~.

(e) The total amount of tax refunds approved by the *director* ~~secretary~~ under this section in any fiscal year may not exceed the amount appropriated to the Economic Development Trust Fund for such purposes for the fiscal year. If the Legislature does not appropriate an amount sufficient to satisfy projections by the *office* ~~division~~ for tax refunds in a fiscal year, the *director* ~~secretary~~ shall, not later than July 15 of such year, determine the proportion of each refund claim which shall be paid by dividing the amount appropriated for tax refunds for the fiscal year by the projected total amount of refund claims for the fiscal year. The amount of each claim for a tax refund shall be multiplied by the resulting quotient. If, after the payment of all such refund claims, funds remain in the Economic Development Trust Fund for tax refunds, the *director* ~~secretary~~ shall recalculate the proportion for each refund claim and adjust the amount of each claim accordingly.

(f) Upon approval of the tax refund pursuant to paragraphs (c) and (d), the Comptroller shall issue a warrant for the amount included in the final order. In the event of any appeal of the final order, the Comptroller may not issue a warrant for a refund to the qualified applicant until the conclusion of all appeals of the final order.

(g) A prorated tax refund, less a 5 percent penalty, shall be approved for a qualified applicant provided all other applicable requirements have been satisfied and the applicant proves to the satisfaction of the director that it has achieved at least 80 percent of its projected employment.

(6) ADMINISTRATION.—

(a) The *office may* ~~department shall~~ adopt rules pursuant to chapter 120 for the administration of this section.

(b) The *office* ~~department~~ may verify information provided in any claim submitted for tax credits under this section with regard to employment and wage levels or the payment of the taxes with the appropriate agency or authority including the Department of Revenue, the Department of Labor and Employment Security, or any local government or authority.

(c) To facilitate the process of monitoring and auditing applications made under this program, the *office* ~~department~~ may provide a list of qualified applicants to the Department of Revenue, the Department of Labor and Employment Security, or to any local government or authority. The *office* ~~department~~ may request the assistance of said entities with respect to monitoring the payment of the taxes listed in subsection (2).

(d) By December 1 of each year, the *office* ~~department~~ shall submit a complete and detailed report to the Governor, the President of the Senate, and the Speaker of the House of Representatives of all tax refunds paid under this section, including analyses of benefits and costs, types of projects supported, employment and investment created, geographic distribution of tax refunds granted, and minority business participation. The report must indicate whether the moneys appropriated by the Legislature to the qualified applicant tax refund program were expended in a prudent, fiducially sound manner.

(7) EXPIRATION.—An applicant may not be certified as qualified under this section after June 30, *2004* ~~1999~~.

Section 49. Subsection (2) of section 212.097, Florida Statutes, 1998 Supplement, is amended to read:

212.097 Urban High-Crime Area Job Tax Credit Program.—

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

(a) "Eligible business" means any sole proprietorship, firm, partnership, or corporation that is located in a qualified county and is predominantly engaged in, or is headquarters for a business predominantly engaged in, activities usually provided for consideration by firms classified within the following standard industrial classifications: SIC 01 through SIC 09 (agriculture, forestry, and fishing); SIC 20 through SIC 39 (manufacturing); *SIC 52 through SIC 57 and SIC 59 (retail);* SIC 422 (public warehousing and storage); SIC 70 (hotels and other lodging places); SIC 7391 (research and development); SIC 7992 (public golf courses); and SIC 7996 (amusement parks). *A call center or similar customer service operation that services a multistate market or international market is also an eligible business. In addition, the Office of Tourism, Trade, and Economic Development may, as part of its final budget request submitted pursuant to s. 216.023, recommend additions to or deletions from the list of standard industrial classifications used to determine an eligible business, and the Legislature may implement such recommendations.* Excluded from eligible receipts are receipts from retail sales, except such receipts for *SIC 52 through SIC 57 and SIC 59 (retail)* hotels and other lodging places classified in SIC 70, public golf courses in SIC 7992, and amusement parks in SIC 7996. For purposes of this paragraph, the term "predominantly" means that more than 50 percent of the business's gross receipts from all sources is generated by those activities usually provided for consideration by firms in the specified standard industrial classification. The determination of whether the business is located in a qualified high-crime area and the tier ranking of that area must be based on the date of application for the credit under this section. Commonly owned and controlled entities are to be considered a single business entity.

(b) "Qualified employee" means any employee of an eligible business who performs duties in connection with the operations of the business on a regular, full-time basis for an average of at least 36 hours per week for at least 3 months within the qualified high-crime area in which the eligible business is located. An owner or partner of the eligible business is not a qualified employee. The term also includes an employee leased from an employee leasing company licensed under chapter 468, if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.

(c) "New business" means any eligible business first beginning operation on a site in a qualified high-crime area and clearly separate from any other commercial or business operation of the business entity within a qualified high-crime area. A business entity that operated an eligible business within a qualified high-crime area within the 48 months before the period provided for application by subsection (3) is not considered a new business.

(d) "Existing business" means any eligible business that does not meet the criteria for a new business.

(e) "Qualified high-crime area" means an area selected by the Office of Tourism, Trade, and Economic Development in the following manner: every third year, the office shall rank and tier those areas nominated under subsection (8), according to the following prioritized criteria:

1. Highest arrest rates within the geographic area for violent crime and for such other crimes as drug sale, drug possession, prostitution, vandalism, and civil disturbances;

2. Highest reported crime volume and rate of specific property crimes such as business and residential burglary, motor vehicle theft, and vandalism;

3. Highest percentage of reported index crimes that are violent in nature;

4. Highest overall index crime volume for the area; and

5. Highest overall index crime rate for the geographic area.

Tier-one areas are ranked 1 through 5 and represent the highest crime areas according to this ranking. Tier-two areas are ranked 6 through 10 according to this ranking. Tier-three areas are ranked 11 through 15.

Section 50. Paragraph (a) of subsection (2) of section 212.098, Florida Statutes, 1998 Supplement, is amended to read:

212.098 Rural Job Tax Credit Program.—

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

(a) "Eligible business" means any sole proprietorship, firm, partnership, or corporation that is located in a qualified county and is predominantly engaged in, or is headquarters for a business predominantly engaged in, activities usually provided for consideration by firms classified within the following standard industrial classifications: SIC 01 through SIC 09 (agriculture, forestry, and fishing); SIC 20 through SIC 39 (manufacturing); SIC 422 (public warehousing and storage); SIC 70 (hotels and other lodging places); SIC 7391 (research and development); SIC 7992 (public golf courses); and SIC 7996 (amusement parks). *A call center or similar customer service operation that services a multistate market or an international market is also an eligible business. In addition, the Office of Tourism, Trade, and Economic Development may, as part of its final budget request submitted pursuant to s. 216.023, recommend additions to or deletions from the list of standard industrial classifications used to determine an eligible business, and the Legislature may implement such recommendations.* Excluded from eligible receipts are receipts from retail sales, except such receipts for hotels and other lodging places classified in SIC 70, public golf courses in SIC 7992, and amusement parks in SIC 7996. For purposes of this paragraph, the term "predominantly" means that more than 50 percent of the business's gross receipts from all sources is generated by those activities usually provided for consideration by firms in the specified standard industrial classification. The determination of whether the business is located in a qualified county and the tier ranking of that county must be based on the date of application for the credit under this section. Commonly owned and controlled entities are to be considered a single business entity.

Section 51. *(1) There is created the Institute on Urban Policy and Commerce as a Type I Institute under the Board of Regents at Florida Agricultural and Mechanical University to improve the quality of life in urban communities through research, teaching, and outreach activities.*

(2) The major purposes of the institute are to pursue basic and applied research on urban policy issues confronting the inner-city areas and neighborhoods in the state; to influence the equitable allocation and stewardship of federal, state, and local financial resources; to train a new

generation of civic leaders and university students interested in approaches to community planning and design; to assist with the planning, development, and capacity building of urban area nonprofit organizations and government agencies; to develop and maintain a database relating to inner-city areas; and to support the community development efforts of inner-city areas, neighborhood-based organizations, and municipal agencies.

(3) The institute shall research and recommend strategies concerning critical issues facing the underserved population in urban communities, including, but not limited to, transportation and physical infrastructure; affordable housing; tourism and commerce; environmental restoration; job development and retention; child care; public health; life-long learning; family intervention; public safety; and community relations.

(4) The institute may establish regional urban centers to be located in the inner cities of St. Petersburg, Tampa, Jacksonville, Orlando, West Palm Beach, Fort Lauderdale, Miami, Daytona Beach, and Pensacola to assist urban communities on critical economic, social, and educational problems affecting the underserved population.

(5) Before January 1 of each year, the institute shall submit a report of its critical findings and recommendations for the prior year to the President of the Senate, the Speaker of the House of Representatives, and the appropriate committees of the Legislature. The report shall be titled "The State of Unmet Needs in Florida's Urban Communities" and shall include, but is not limited to, a recommended list of resources that could be made available for revitalizing urban communities; significant accomplishments and activities of the institute; and recommendations concerning the expansion, improvement, or termination of the institute.

(6) The Governor shall submit an annual report to the Legislature on the unmet needs in the state's urban communities.

Section 52. *Legislative intent.—*

(1) The Legislature finds and declares that because of climate, tourism, industrialization, technological advances, federal and state government policies, transportation, and migration, Florida's urban communities have grown rapidly over the past 40 years. This growth and prosperity, however, have not been shared by Florida's rural communities, although they are the stewards of the vast majority of the land and natural resources. Without this land and these resources, the state's growth and prosperity cannot continue. In short, successful rural communities are essential to the overall success of the state's economy.

(2) The Legislature further finds and declares that many rural areas of the state are experiencing not only a lack of growth, but severe and sustained economic distress. Median household incomes are significantly less than the state's median household income level. Job creation rates trail those in more urbanized areas. In many cases, rural counties have lost jobs, which handicaps local economies and drains wealth from these communities. These and other factors, including government policies, amplify and compound social, health, and community problems, making job creation and economic development even more difficult. Moreover, the Legislature finds that traditional program and service delivery is often hampered by the necessarily rigid structure of the programs themselves and the lack of local resources.

(3) It is the intent of the Legislature to provide for the most efficient and effective delivery of programs of assistance and support to rural communities, including the use, where appropriate, of regulatory flexibility through multiagency coordination and adequate funding. Therefore, the Legislature determines and declares that the provisions of this act fulfill an important state interest.

Section 53. Paragraph (a) of subsection (6) of section 163.3177, Florida Statutes, 1998 Supplement, is amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. The future land use plan shall include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives. Each land use category shall be defined in terms of the types of uses included and specific standards for the density or intensity of use. The future land use plan shall be based upon surveys, studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected population of the area; the character of undeveloped land; the availability of public services; ~~and~~ the need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community*; and, in rural communities, the need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy*. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this act. *In addition, for rural communities, the amount of land designated for future planned industrial use shall be based upon surveys and studies that reflect the need for job creation, capital investment, and the necessity to strengthen and diversify the local economies, and shall not be limited solely by the projected population of the rural community.* The future land use plan of a county may also designate areas for possible future municipal incorporation. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use. All comprehensive plans must comply with this paragraph no later than October 1, 1999, or the deadline for the local government evaluation and appraisal report, whichever occurs first. The failure by a local government to comply with this requirement will result in the prohibition of the local government's ability to amend the local comprehensive plan as provided by s. 163.3187(6). An amendment proposed by a local government for purposes of identifying the land use categories in which public schools are an allowable use is exempt from the limitation on the frequency of plan amendments contained in s. 163.3187. The future land use element shall include criteria which encourage the location of schools proximate to urban residential areas to the extent possible and shall require that the local government seek to collocate public facilities, such as parks, libraries, and community centers, with schools to the extent possible.

Section 54. Subsection (5) is added to section 186.502, Florida Statutes, to read:

186.502 Legislative findings; public purpose.—

(5) The regional planning council shall have a duty to assist local governments with activities designed to promote and facilitate economic development in the geographic area covered by the council.

Section 55. Subsection (4) of section 186.504, Florida Statutes, is amended to read:

186.504 Regional planning councils; creation; membership.—

(4) In addition to voting members appointed pursuant to paragraph (2)(c), the Governor shall appoint the following ex officio nonvoting members to each regional planning council:

(a) A representative of the Department of Transportation.

(b) A representative of the Department of Environmental Protection.

(c) A representative *nominated by Enterprise Florida, Inc., and the Office of Tourism, Trade, and Economic Development* ~~of the Department of Commerce~~.

(d) A representative of the appropriate water management district or districts.

The Governor may also appoint ex officio nonvoting members representing appropriate metropolitan planning organizations and regional water supply authorities.

Section 56. Subsection (25) is added to section 186.505, Florida Statutes, to read:

186.505 Regional planning councils; powers and duties.—Any regional planning council created hereunder shall have the following powers:

(25) To use personnel, consultants, or technical or professional assistants of the council to help local governments within the geographic area covered by the council conduct economic development activities.

Section 57. Subsections (1) and (3) of section 288.018, Florida Statutes, are amended to read:

288.018 Regional Rural Development Grants Program.—

(1) The Office of Tourism, Trade, and Economic Development shall establish a matching grant program to provide funding to regionally based economic development organizations representing rural counties and communities for the purpose of building the professional capacity of their organizations. The Office of Tourism, Trade, and Economic Development is authorized to approve, *on an annual basis,* grants to such regionally based economic development organizations. The maximum amount an organization may receive in any year will be *$35,000, or $100,000 in a rural area of critical economic concern recommended by the Rural Economic Development Initiative and designated by the Governor,* ~~$20,000~~ and must be matched each year by an equivalent amount of nonstate resources.

(3) The Office of Tourism, Trade, and Economic Development may expend up to *$600,000* ~~$100,000~~ each fiscal year from funds appropriated to the Rural Community Development Revolving Loan Fund for the purposes outlined in this section.

Section 58. Subsection (2) of section 288.065, Florida Statutes, is amended to read:

288.065 Rural Community Development Revolving Loan Fund.—

(2) The program shall provide for long-term loans, loan guarantees, and loan loss reserves to units of local governments within counties with populations *of 75,000 or* less ~~than 50,000~~, or any county that has a population of 100,000 or less and is contiguous to a county with a population *of 75,000 or* less ~~than 50,000~~, as determined by the most recent official estimate pursuant to s. 186.901, residing in incorporated and unincorporated areas of the county. Requests for loans shall be made by application to the Office of Tourism, Trade, and Economic Development. Loans shall be made pursuant to agreements specifying the terms and conditions agreed to between the local government and the Office of Tourism, Trade, and Economic Development. The loans shall be the legal obligations of the local government. All repayments of principal and interest shall be returned to the loan fund and made available for loans to other applicants. *However, in a rural area of critical economic concern designated by the Governor, and upon approval by the Office of Tourism, Trade, and Economic Development, repayments of principal and interest may be retained by a unit of local government if such repayments are dedicated and matched to fund regionally based economic development organizations representing the rural area of critical economic concern.*

Section 59. Section 288.0655, Florida Statutes, is created to read:

288.0655 Rural Infrastructure Fund.—

(1) There is created within the Office of Tourism, Trade, and Economic Development the Rural Infrastructure Fund to facilitate the planning, preparing, and financing of infrastructure projects in rural communities which will encourage job creation, capital investment, and the strengthening and diversification of rural economies by promoting tourism, trade, and economic development.

(2)(a) Funds appropriated by the Legislature shall be distributed by the office through a grant program that maximizes the use of federal, local, and private resources, including, but not limited to, those available under the Small Cities Community Development Block Grant Program.

(b) To facilitate access of rural communities and rural areas of critical economic concern as defined by the Rural Economic Development Initiative to infrastructure funding programs of the Federal Government, such as those offered by the U.S. Department of Agriculture and the U.S. Department of Commerce, the office may award grants to applicants for such federal programs for up to 30 percent of the total infrastructure project cost. Eligible projects must be related to specific job–creating opportunities. Eligible uses of funds shall include improvements to public infrastructure for industrial or commercial sites and upgrades to or development of public tourism infrastructure. Authorized infrastructure may include the following public or public–private partnership facilities: storm water systems; telecommunications facilities; roads or other remedies to transportation impediments; nature–based tourism facilities; or other physical requirements necessary to facilitate tourism, trade, and economic development activities in the community. Authorized infrastructure may also include publicly–owned self–powered nature–based tourism facilities and additions to the distribution facilities of the existing natural gas utility as defined in s. 366.04(3)(c), the existing electric utility as defined in s. 366.02, or the existing water or wastewater utility as defined in s. 367.021(12), or any other existing water or wastewater facility, which owns a gas or electric distribution system or a water or wastewater system in this state where:

1. A contribution–in–aid of construction is required to serve public or public–private partnership facilities under the tariffs of any natural gas, electric, water or wastewater utility as defined herein; and

2. Such utilities as defined herein are willing and able to provide such service.

(c) To facilitate timely response and induce the location or expansion of specific job creating opportunities, the office may award grants for infrastructure feasibility studies, design and engineering activities, or other infrastructure planning and preparation activities. Authorized grants shall be up to $50,000 for an employment project with a business committed to create at least 100 jobs, up to $150,000 for an employment project with a business committed to create at least 300 jobs, and up to $300,000 for a project in a rural area of critical economic concern. Grants awarded under this paragraph may be used in conjunction with grants awarded under paragraph (b), provided that the total amount of both grants does not exceed 30 percent of the total project cost. In evaluating applications under this paragraph, the office shall consider the extent to which the application seeks to minimize administrative and consultant expenses.

(d) By September 1, 1999, the office shall pursue execution of a memorandum of agreement with the U.S. Department of Agriculture under which state funds available through the Rural Infrastructure Fund may be advanced, in excess of the prescribed state share, for a project that has received from the department a preliminary determination of eligibility for federal financial support. State funds in excess of the prescribed state share which are advanced pursuant to this paragraph and the memorandum of agreement shall be reimbursed when funds are awarded under an application for federal funding.

(e) To enable local governments to access the resources available pursuant to s. 403.973(16), the office may award grants for surveys, feasibility studies, and other activities related to the identification and preclearance review of land which is suitable for preclearance review. Authorized grants under this paragraph shall not exceed $75,000 each, except in the case of a project in a rural area of critical economic concern, in which case the grant shall not exceed $300,000. Any funds awarded under this paragraph must be matched at a level of 50 percent with local funds, except that any funds awarded for a project in a rural area of critical economic concern must be matched at a level of 33 percent with local funds. In evaluating applications under this paragraph, the office shall consider the extent to which the application seeks to minimize administrative and consultant expenses.

(3) The office, in consultation with Enterprise Florida, Inc., VISIT Florida, the Department of Environmental Protection, and the Florida Fish and Wildlife Conservation Commission, as appropriate, shall review applications and evaluate the economic benefit of the projects and their long–term viability. The office shall have final approval for any grant under this section and must make a grant decision within 30 days of receiving a completed application.

(4) By September 1, 1999, the office shall, in consultation with the organizations listed in subsection (3), and other organizations, develop guidelines and criteria governing submission of applications for funding, review and evaluation of such applications, and approval of funding under this section. The office shall consider factors including, but not limited to, the project's potential for enhanced job creation or increased capital investment, the demonstration of local public and private commitment, the location of the project in an enterprise zone, the location of the project in a community development corporation service area as defined in s. 290.035(2), the location of the project in a county designated under s. 212.097, the unemployment rate of the surrounding area, and the poverty rate of the community.

(5) Notwithstanding the provisions of s. 216.301, funds appropriated for the purposes of this section shall not be subject to reversion.

Section 60. *Rural Economic Development Initiative.—*

(1) The Rural Economic Development Initiative, known as "REDI," is created within the Office of Tourism, Trade, and Economic Development, and the participation of state and regional agencies in this initiative is authorized.

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

(a) "Economic distress" means conditions affecting the fiscal and economic viability of a rural community, including such factors as low per capita income, low per capita taxable values, high unemployment, high underemployment, low weekly earned wages compared to the state average, low housing values compared to the state average, high percentages of the population receiving public assistance, high poverty levels compared to the state average, and a lack of year-round stable employment opportunities.

(b) "Rural community" means:

1. A county with a population of 75,000 or less.

2. A county with a population of 100,000 or less that is contiguous to a county with a population of 75,000 or less.

3. A municipality within a county described in subparagraph 1. or subparagraph 2.

4. An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or less and an employment base focused on traditional agricultural or resource–based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors identified in paragraph (2)(a) and verified by the Office of Tourism, Trade, and Economic Development.

For purposes of this paragraph, population shall be determined in accordance with the most recent official estimate pursuant to section 186.901, Florida Statutes.

(3) REDI shall be responsible for coordinating and focusing the efforts and resources of state and regional agencies on the problems which affect the fiscal, economic, and community viability of Florida's economically distressed rural communities, working with local governments, community-based organizations, and private organizations that have an interest in the growth and development of these communities to find ways to balance environmental and growth management issues with local needs.

(4) REDI shall review and evaluate the impact of statutes and rules on rural communities and shall work to minimize any adverse impact.

(5) REDI shall facilitate better access to state resources by promoting direct access and referrals to appropriate state and regional agencies and statewide organizations. REDI may undertake outreach, capacity-building, and other advocacy efforts to improve conditions in rural communities. These activities may include sponsorship of conferences and achievement awards.

(6)(a) No later than August 1, 1999, the head of each of the following agencies and organizations shall designate a high-level staff person from within the agency or organization to serve as the REDI representative for the agency or organization:

1. The Department of Community Affairs.

2. The Department of Transportation.

3. The Department of Environmental Protection.

4. The Department of Agriculture and Consumer Services.

5. The Department of State.

6. The Department of Health.

7. The Department of Children and Family Services.

8. The Department of Corrections.

9. The Department of Labor and Employment Security.

10. The Department of Education.

11. The Fish and Wildlife Conservation Commission.

12. Each water management district.

13. Enterprise Florida, Inc.

14. The Florida Commission on Tourism or VISIT Florida.

15. The Florida Regional Planning Council Association.

16. The Florida State Rural Development Council.

17. The Institute of Food and Agricultural Sciences (IFAS).

An alternate for each designee shall also be chosen, and the names of the designees and alternates shall be sent to the director of the Office of Tourism, Trade, and Economic Development.

(b) Each REDI representative must have comprehensive knowledge of his or her agency's functions, both regulatory and service in nature, and of the state's economic goals, policies, and programs. This person shall be the primary point of contact for his or her agency with REDI on issues and projects relating to economically distressed rural communities and with regard to expediting project review, shall ensure a prompt effective response to problems arising with regard to rural issues, and shall work closely with the other REDI representatives in the identification of opportunities for preferential awards of program funds and allowances and waiver of program requirements when necessary to encourage and facilitate long-term private capital investment and job creation.

(c) The REDI representatives shall work with REDI in the review and evaluation of statutes and rules for adverse impact on rural communities and the development of alternative proposals to mitigate that impact.

(d) Each REDI representative shall be responsible for ensuring that each district office or facility of his or her agency is informed about the Rural Economic Development Initiative and for providing assistance throughout the agency in the implementation of REDI activities.

(7) REDI may recommend to the Governor up to three rural areas of critical economic concern. A rural area of critical economic concern must be a rural community, or a region composed of such, that has been adversely affected by an extraordinary economic event or a natural disaster or that presents a unique economic development opportunity of regional impact that will create more than 1,000 jobs over a 5–year period. The Governor may by executive order designate up to three rural areas of critical economic concern which will establish these areas as priority assignments for REDI as well as to allow the Governor, acting through REDI, to waive criteria, requirements, or similar provisions of any economic development incentive. Such incentives shall include, but not be limited to: the Qualified Target Industry Tax Refund Program under section 288.106, Florida Statutes, the Quick Response Training Program under section 288.047, Florida Statutes, the WAGES Quick Response Training Program under section 288.047(10), Florida Statutes, transportation projects under section 288.063, Florida Statutes, the brownfield redevelopment bonus refund under section 288.107, Florida Statutes, and the rural job tax credit program under sections 212.098 and 220.1895, Florida Statutes. Designation as a rural area of critical economic concern under this subsection shall be contingent upon the execution of a memorandum of agreement among the Office of Tourism, Trade,

and Economic Development, the governing body of the county, and the governing bodies of any municipalities to be included within a rural area of critical economic concern. Such agreement shall specify the terms and conditions of the designation, including, but not limited to, the duties and responsibilities of the county and any participating municipalities to take actions designed to facilitate the retention and expansion of existing businesses in the area, as well as the recruitment of new businesses to the area.

(8) REDI shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives each year on or before February 1 on all REDI activities. This report shall include a status report on all projects currently being coordinated through REDI, the number of preferential awards and allowances made pursuant to this section, the dollar amount of such awards, and the names of the recipients. The report shall also include a description of all waivers of program requirements granted. The report shall also include information as to the economic impact of the projects coordinated by REDI.

Section 61. *Florida rural economic development strategy grants.—*

(1) As used in this section, the term "rural community" means:

(a) A county with a population of 75,000 or less.

(b) A county with a population of 100,000 or less that is contiguous to a county with a population of 75,000 or less.

(c) A municipality within a county described in paragraph (a) or paragraph (b).

For purposes of this subsection, population shall be determined in accordance with the most recent official estimate pursuant to section 186.901, Florida Statutes.

(2) The Office of Tourism, Trade, and Economic Development may accept and administer moneys appropriated to the office for providing grants to assist rural communities to develop and implement strategic economic development plans.

(3) A rural community, an economic development organization in a rural area, or a regional organization representing at least one rural community or such economic development organizations may apply for such grants.

(4) Enterprise Florida, Inc., and VISIT Florida, shall establish criteria for reviewing grant applications. These criteria shall include, but are not limited to, the degree of participation and commitment by the local community and the application's consistency with local comprehensive plans or the application's proposal to ensure such consistency. The International Trade and Economic Development Board of Enterprise Florida, Inc., and VISIT Florida, shall review each application for a grant and shall submit annually to the office for approval a list of all applications that are recommended by the board and VISIT Florida, arranged in order of priority. The office may approve grants only to the extent that funds are appropriated for such grants by the Legislature.

Section 62. Subsection (5) of section 378.601, Florida Statutes, is amended to read:

378.601 Heavy minerals.—

(5) Any heavy mineral mining operation which annually mines less than 500 acres and whose proposed consumption of water is 3 million gallons per day or less shall not be required to undergo development of regional impact review pursuant to s. 380.06, provided permits and plan approvals pursuant to either this section and part IV of chapter 373, or s. 378.901, are issued. This subsection applies only in the following circumstances:

(a) Mining is conducted in counties where the operator has conducted heavy mineral mining activities prior to March 1, 1997; and

(b) The operator of the heavy mineral mining operation has executed a developer agreement pursuant to s. 380.032 *or has received a development order under s. 380.06(15)* as of March 1, 1997. Lands mined pursuant to this section need not be the subject of the developer agreement *or development order*.

Section 63. *The Florida Fish and Wildlife Conservation Commission is directed to assist the Florida Commission on Tourism; the Florida Tourism Industry Marketing Corporation, doing business as VISIT Florida; convention and visitor bureaus; tourist development councils; economic development organizations; and local governments through the provision of marketing advice, technical expertise, promotional support, and product development related to nature–based recreation and sustainable use of natural resources. In carrying out this responsibility, the Florida Fish and Wildlife Conservation Commission shall focus its efforts on fostering nature–based recreation in rural communities and regions encompassing rural communities. As used in this section, the term "nature–based recreation" means leisure activities related to the state's lands, waters, and fish and wildlife resources, including, but not limited to, wildlife viewing, fishing, hiking, canoeing, kayaking, camping, hunting, backpacking, and nature photography.*

Section 64. Section 288.980, Florida Statutes, 1998 Supplement, is amended to read:

288.980 Military base retention; legislative intent; grants program.—

(1)*(a)* It is the intent of this state to provide the necessary means to assist communities with military installations that would be adversely affected by federal base realignment or closure actions. It is further the intent to encourage communities to initiate a coordinated program of response and plan of action in advance of future actions of the federal Base Realignment and Closure Commission. It is critical that closure-vulnerable communities develop such a program to preserve affected military installations. *The Legislature hereby recognizes that the state needs to coordinate all efforts that can facilitate the retention of all remaining military installations in the state.* The Legislature, therefore, declares that providing such assistance to support the defense-related initiatives within this section is a public purpose for which public money may be used.

(b) The Florida Defense Alliance, an organization within Enterprise Florida, is designated as the organization to ensure that Florida, its resident military bases and missions, and its military host communities are in competitive positions as the United States continues its defense realignment and downsizing. The defense alliance shall serve as an overall advisory body for Enterprise Florida defense-related activity. The Florida Defense Alliance shall receive funding from appropriations made for that purpose administered by the Office of Tourism, Trade, and Economic Development.

(2)(a) The Office of Tourism, Trade, and Economic Development is authorized to award grants from any funds available to it to support activities related to the retention of military installations potentially affected by federal base closure or realignment.

(b) The term "activities" as used in this section means studies, presentations, analyses, plans, and modeling. ~~Travel and costs incidental thereto, and~~ Staff salaries, are not considered an "activity" for which grant funds may be awarded. *Travel costs and costs incidental thereto incurred by a grant recipient shall be considered an "activity" for which grant funds may be awarded.*

(c) *Except for grants issued pursuant to the Florida Military Installation Reuse Planning and Marketing Grant Program as described in (3)(c),* the amount of any grant provided to an applicant may not exceed $250,000. The Office of Tourism, Trade, and Economic Development shall require that an applicant:

1. Represent a local government with a military installation or military installations that could be adversely affected by federal base realignment or closure.

2. Agree to match at least *30* ~~50~~ percent of any grant awarded.

3. Prepare a coordinated program or plan of action delineating how the eligible project will be administered and accomplished.

4. Provide documentation describing the potential for realignment or closure of a military installation located in the applicant's community and the adverse impacts such realignment or closure will have on the applicant's community.

(d) In making grant awards the office shall consider, at a minimum, the following factors:

1. The relative value of the particular military installation in terms of its importance to the local and state economy relative to other military installations vulnerable to closure.

2. The potential job displacement within the local community should the military installation be closed.

3. The potential adverse impact on industries and technologies which service the military installation.

(3) The Florida Economic Reinvestment Initiative is established to respond to the need for this state and defense-dependent communities in this state to develop alternative economic diversification strategies to lessen reliance on national defense dollars in the wake of base closures and reduced federal defense expenditures and the need to formulate specific base reuse plans and identify any specific infrastructure needed to facilitate reuse. The initiative shall consist of the following three distinct grant programs to be administered by the Office of Tourism, Trade, and Economic Development:

(a) The Florida Defense Planning Grant Program, through which funds shall be used to analyze the extent to which the state is dependent on defense dollars and defense infrastructure and prepare alternative economic development strategies. The state shall work in conjunction with defense-dependent communities in developing strategies and approaches that will help communities make the transition from a defense economy to a nondefense economy. Grant awards may not exceed *$250,000* ~~$100,000~~ per applicant and shall be available on a competitive basis.

(b) The Florida Defense Implementation Grant Program, through which funds shall be made available to defense-dependent communities to implement the diversification strategies developed pursuant to paragraph (a). Eligible applicants include defense-dependent counties and cities, and local economic development councils located within such communities. Grant awards may not exceed $100,000 per applicant and shall be available on a competitive basis. Awards shall be matched on a one-to-one basis.

(c) The Florida Military Installation Reuse Planning and Marketing Grant Program, through which funds shall be used to help counties, cities, and local economic development councils develop and implement plans for the reuse of closed or realigned military installations, including any necessary infrastructure improvements needed to facilitate reuse and related marketing activities. ~~Grant awards are limited to not more than $100,000 per eligible applicant and made available through a competitive process. Awards shall be matched on a one-to-one basis.~~

Applications for grants under this subsection must include a coordinated program of work or plan of action delineating how the eligible project will be administered and accomplished, which must include a plan for ensuring close cooperation between civilian and military authorities in the conduct of the funded activities and a plan for public involvement.

(4)(a) The Defense-Related Business Adjustment Program is hereby created. The Director of the Office of Tourism, Trade, and Economic Development shall coordinate the development of the Defense-Related Business Adjustment Program. Funds shall be available to assist defense-related companies in the creation of increased commercial technology development through investments in technology. Such technology must have a direct impact on critical state needs for the purpose of generating investment-grade technologies and encouraging the partnership of the private sector and government defense-related business adjustment. The following areas shall receive precedence in consideration for funding commercial technology development: law enforcement or corrections, environmental protection, transportation, education, and health care. Travel and costs incidental thereto, and staff salaries, are not considered an "activity" for which grant funds may be awarded.

(b) The office shall require that an applicant:

1. Be a defense-related business that could be adversely affected by federal base realignment or closure or reduced defense expenditures.

2. Agree to match at least 50 percent of any funds awarded by the department in cash or in-kind services. Such match shall be directly related to activities for which the funds are being sought.

3. Prepare a coordinated program or plan delineating how the funds will be administered.

4. Provide documentation describing how defense-related realignment or closure will adversely impact defense-related companies.

(5) The Retention of Military Installations Program is created. The Director of the Office of Tourism, Trade, and Economic Development shall coordinate and implement this program. The sum of $1.2 million is appropriated from the General Revenue Fund for fiscal year 1999-2000 to the Office of Tourism, Trade, and Economic Development to implement this program for military installations located in counties with a population greater than 824,000. The funds shall be used to assist military installations potentially affected by federal base closure or realignment in covering current operating costs in an effort to retain the installation in this state. An eligible military installation for this program shall include a provider of simulation solutions for warfighting experimentation, testing, and training which employs at least 500 civilian and military employees and has been operating in the state for a period of more than 10 years, or a joint military command in a constitutional charter county as defined by s. 125.001(1).

(6)~~(5)~~ The director may award nonfederal matching funds specifically appropriated for construction, maintenance, and analysis of a Florida defense workforce database. Such funds will be used to create a registry of worker skills that can be used to match the worker needs of companies that are relocating to this state or to assist workers in relocating to other areas within this state where similar or related employment is available.

(7) Payment of administrative expenses shall be limited to no more than 10 percent of any grants issued pursuant to this section.

(8)~~(6)~~ The Office of Tourism, Trade, and Economic Development shall establish guidelines to implement and carry out the purpose and intent of this section.

Section 65. Section 230.23027, Florida Statutes, is created to read:

230.23027 Small School District Stabilization Program.—

(1) There is created the Small School District Stabilization Program to assist school districts in rural communities that document economic conditions or other significant community influences that negatively impact the school district. The purpose of the program is to provide technical assistance and financial support to maintain the stability of the educational program in the school district. A rural community means a county with a population of 75,000 or less; or a county with a population of 100,000 or less that is contiguous to a county with a population of 75,000 or less.

(2) In order to participate in this program, a school district must be located in a rural area of critical economic concern designated by the Executive Office of the Governor, and the school board must submit a resolution to the Office of Tourism, Trade, and Economic Development requesting participation in the program. A rural area of critical economic concern must be a rural community, or a region composed of such, that has been adversely affected by an extraordinary economic event or a natural disaster or that presents a unique economic development concern or opportunity of regional impact. The resolution must be accompanied with documentation of the economic conditions in the community, provide information indicating the negative impact of these conditions on the school district's financial stability, and the school district must participate in a best financial management practices review to determine potential efficiencies that could be implemented to reduce program costs in the district.

(3) The Office of Tourism, Trade, and Economic Development, in consultation with the Department of Education, shall review the resolution and other information required by subsection (2) and determine whether the school district is eligible to participate in the program. Factors influencing the office's determination may include, but are not limited to, reductions in the county tax roll resulting from business closures or other causes, or a reduction in student enrollment due to business closures or impacts in the local economy.

(4) Effective July 1, 2000, and thereafter, when the Office of Tourism, Trade, and Economic Development authorizes a school district to participate in the program, the Legislature may give priority to that district for a best financial management practices review in the school district, as authorized in s. 11.515, to the extent that funding is provided annually

for such purpose in the General Appropriations Act. The scope of the review shall be as set forth in s. 11.515.

(5) Effective July 1, 2000, and thereafter, the Department of Education may award the school district a stabilization grant intended to protect the district from continued financial reductions. The amount of the grant will be determined by the Department of Education and may be equivalent to the amount of the decline in revenues projected for the next fiscal year. In addition, the Office of Tourism, Trade, and Economic Development may implement a rural economic development initiative to identify the economic factors that are negatively impacting the community and may consult with Enterprise Florida, Inc., in developing a plan to assist the county with its economic transition. The grant will be available to the school district for a period of up to 5 years to the extent that funding is provided for such purpose in the General Appropriations Act.

(6) Based on the availability of funds the Office of Tourism, Trade, and Economic Development or the Department of Education may enter into contracts or issue grants necessary to implement the program.

Section 66. Section 290.0069, Florida Statutes, is created to read:

290.0069 Designation of enterprise zone pilot project area.—

(1) The Office of Tourism, Trade, and Economic Development shall designate one pilot project area within one state enterprise zone. The Office of Tourism, Trade, and Economic Development shall select a pilot project area by July 1, 1999, which meets the following qualifications:

(a) The area is contained within an enterprise zone that is composed of one contiguous area and is placed in the category delineated in s. 290.0065(3)(a)1.

(b) The local government having jurisdiction over the enterprise zone grants economic development ad valorem tax exemptions in the enterprise zone pursuant to s. 196.1995, and electrical energy public service tax exemptions pursuant to s. 166.231(8).

(c) The local government having jurisdiction over the enterprise zone has developed a plan for revitalizing the pilot project area or for revitalizing an area within the enterprise zone that contains the pilot project area, and has committed at least $5 million to redevelop an area including the pilot project area.

(d) The pilot project area is contiguous and is limited to no more than 70 acres, or equivalent square miles, to avoid a dilution of additional state assistance and effectively concentrate these additional resources on revitalizing the acute area of economic distress.

(e) The pilot project area contains a diverse cluster or grouping of facilities or space for a mix of retail, restaurant, or service related businesses necessary to an overall revitalization of surrounding neighborhoods through community involvement, investment, and enhancement of employment markets.

(2)(a) Beginning December 1, 1999, no more than four businesses located within the pilot project area are eligible for a credit against any tax due for a taxable year under chapters 212 and 220.

(b) The credit shall be computed as $5,000 times the number of full–time employees of the business and $2,500 times the number of part–time employees of the business. For purposes of this section, a person shall be deemed to be employed by such a business on a full-time basis if the person performs duties in connection with the operations of the business for an average of at least 36 hours per week each month, or on a part-time basis if the person is performing such duties for an average of at least 20 hours per week each month throughout the year. The person must be performing such duties at a business site located in the pilot project area.

(c) The total amount of tax credits that may be granted under this section is $1 million annually. In the event the Office of Tourism, Trade, and Economic Development receives applications that total more than $1 million in any year, the director shall prorate the amount of tax credit each applicant is eligible to receive to ensure that all eligible applicants receive a tax credit.

(d) In order to be eligible to apply to the Office of Tourism, Trade, and Economic Development for tax credits under this section a business must:

1. Have entered into a contract with the developer of the diverse cluster or grouping of facilities or space located in the pilot project area, governing lease of commercial space in a facility.

2. Have commenced operations in the facility after July 1, 1999, and before July 1, 2000.

3. Be a business predominantly engaged in activities usually provided for consideration by firms classified under the Standard Industrial Classification Manual Industry Number 5311, Industry Number 5399, or Industry Number 7832.

(e) All applications for the granting of the tax credits allowed under this section shall require the prior approval of the director of the Office of Tourism, Trade, and Economic Development. The director shall establish one submittal date each year for the receipt of applications for such tax credits.

(f) Any business wishing to receive tax credits pursuant to this section must submit an application to the Office of Tourism, Trade, and Economic Development which sets forth the business name and address and the number of employees of the business.

(g) The decision of the director shall be in writing, and, if approved, the application shall state the maximum credits allowable to the business. A copy of the decision shall be transmitted to the executive director of the Department of Revenue, who shall apply such credits to the tax liabilities of the business firm.

(h) If any credit granted pursuant to this section is not fully used in any one year because of insufficient tax liability on the part of the business, the unused amount may be carried forward for a period not to exceed 5 years.

(4) The Office of Tourism, Trade, and Economic Development is authorized to adopt all rules necessary to administer this section, including rules for the approval or disapproval of applications for tax incentives by businesses.

(5) The Department of Revenue shall adopt any rules necessary to ensure the orderly implementation and administration of this section.

(6) For purposes of this section, "business" and "taxable year" shall have the same meaning as in s. 220.03.

(7) Prior to the 2004 Regular Session of the Legislature, the Office of Program Policy Analysis and Government Accountability shall review and evaluate the effectiveness and viability of the pilot project area created under this section, using the research design prescribed pursuant to s. 290.015. The office shall specifically evaluate whether relief from certain taxes induced new investment and development in the area, increased the number of jobs created or retained in the area, induced the renovation, rehabilitation, restoration, improvement, or new construction of businesses or housing within the area, and contributed to the economic viability and profitability of business and commerce located within the area. The office shall submit a report of its findings and recommendations to the Speaker of the House of Representatives and the President of the Senate no later than January 15, 2004.

(8) This section shall stand repealed on June 30, 2004, and any designation made pursuant to this section shall be revoked on that date.

Section 67. *Quick Action Closing Fund.—*

(1)(a) The Legislature finds that attracting, retaining, and providing favorable conditions for the growth of certain high-impact business facilities provides widespread economic benefits to the public through high-quality employment opportunities in such facilities and in related facilities attracted to the state, through the increased tax base provided by the high-impact facility and businesses in related sectors, through an enhanced entrepreneurial climate in the state and the resulting business and employment opportunities, and through the stimulation and enhancement of the state's universities and community colleges. In the global economy, there exists serious and fierce international competition for these facilities, and in most instances, when all available resources for economic development have been used, the state continues to encounter severe competitive disadvantages in vying for these high-impact business facilities.

(b) The Legislature therefore declares that sufficient resources shall be available to respond to extraordinary economic opportunities and to compete effectively for these high-impact business facilities.

(2) There is created within the Office of Tourism, Trade, and Economic Development the Quick Action Closing Fund.

(3)(a) Enterprise Florida, Inc., shall evaluate individual proposals for high-impact business facilities and forward recommendations regarding the use of moneys in the fund for such facilities to the director of the Office of Tourism, Trade, and Economic Development. Such evaluation and recommendation must include, but need not be limited to:

1. A description of the type of facility, its business operation, and the product or service associated with the facility.

2. The number of full-time-equivalent jobs that will be created by the facility and the total estimated average annual wages of those jobs.

3. The cumulative amount of investment to be dedicated to the facility within a specified period.

4. A statement of any special impacts the facility is expected to stimulate in a particular business sector in the state or regional economy or in the state's universities and community colleges.

5. A statement of the role the incentive is expected to play in the decision of the applicant business to locate or expand in this state.

(b) Upon receipt of the evaluation and recommendation from Enterprise Florida, Inc., the director shall recommend approval or disapproval of a project for receipt of funds from the Quick Action Closing Fund to the Governor. In recommending a high-impact business facility, the director shall include proposed performance conditions that the facility must meet to obtain incentive funds. The Governor shall consult with the President of the Senate and the Speaker of the House of Representatives before giving final approval for a project. The Executive Office of the Governor shall recommend approval of a project and release of funds pursuant to the legislative consultation and review requirements set forth in s. 216.177, Florida Statutes. The recommendation must include proposed performance conditions the project must meet to obtain funds.

(c) Upon the approval of the Governor, the director of the Office of Tourism, Trade, and Economic Development and the high-impact business shall enter into a contract that sets forth the conditions for payment of moneys from the fund. The contract must include the total amount of funds awarded; the performance conditions that must be met to obtain the award, including, but not limited to, net new employment in the state, average salary, and total capital investment; the methodology for validating performance; and the schedule of payments from the fund.

Section 68. *Response to economic emergencies in small communities.—*

(1) The Legislature finds that attracting, retaining, and providing favorable conditions for businesses which contribute to the economic health of small communities through the generation of business and employment opportunities is in the public interest. The Legislature recognizes that conditions may exist where criteria for existing economic development programs prevent some businesses from participating and that existing criteria should be waived in order to allow businesses which are significant employers in these small communities to participate in these programs in order to improve the economic health of these communities. The Legislature further recognizes that the loss of an industry or the inability of a significant employer to open or reopen a business in a small community creates a state of economic emergency within that community.

(2) A community is in a state of economic emergency when any of the following conditions occur:

(a) Closure of a business which is a significant employer of workers in the community.

(b) Closure of a business which significantly affects the operations of other businesses which are significant employers of workers in the community.

(c) A business which would be a significant employer of workers in the community is unable to open or reopen due to a lack of economic incentives or a business environment which is not favorable to the opening or reopening of that business.

(d) The community experiences substantial unemployment due to the closure of a major industry.

(3) A local government entity shall notify the Governor, the Office of Tourism, Trade, and Economic Development, and Enterprise Florida, Inc., when one or more of the conditions specified in subsection (2) have occurred or will occur if action is not taken to assist the local governmental entity or the affected community.

(4) Upon notification that one or more of the conditions described in subsection (2) exist, the Governor or his or her designee shall contact the local governmental entity to determine what actions have been taken by the local governmental entity or the affected community to resolve the economic emergency. The Governor has the authority to waive the eligibility criteria of any program or activity administered by the Office of Tourism, Trade, and Economic Development, or Enterprise Florida, Inc., to provide economic relief to the affected community by granting participation in such programs or activities. The Governor shall consult with the President of the Senate and the Speaker of the House of Representatives and shall take other action, as necessary, to resolve the economic emergency in the most expedient manner possible. All actions taken pursuant to this section shall be within current appropriations and shall have no annualized impact beyond normal growth.

Section 69. *Funds in the amount of $224,750, originally assigned to the Florida First Capital Finance Corporation, Inc., to administer hurricane and storm relief programs and which are presently deposited in Florida First Capital Finance Corporation Inc., accounts (Suntrust Bank account numbers 0787000579797; 0787000579805; and 0787000579748) shall be returned to the State Treasury on or before July 31, 1999. Once these funds are deposited in the State Treasury, they are appropriated as follows:*

(1) $122,000 to the Florida-Korea Economic Cooperation Committee for expenses related to Florida's hosting of the annual meeting of the Southeast United States-Korea Economic Committee in the year 2000.

(2) $102,750 to the San Carlos Institute of Key West, to enhance its facilities and pay for expenses related to its newly designated affiliation with the Smithsonian Institution and to enable it to offer programs and exhibits that will attract more visitors and to contribute to the economic development of Key West and the Florida Keys.

Section 70. Section 425.04, Florida Statutes, is amended to read:

425.04 Powers.—A cooperative shall have power:

(1) To sue and be sued, in its corporate name;

(2) To have perpetual existence;

(3) To adopt a corporate seal and alter the same at pleasure;

(4) To generate, manufacture, purchase, acquire, accumulate and transmit electric energy, and to distribute, sell, supply, and dispose of electric energy in rural areas to its members, to governmental agencies and political subdivisions, and to other persons not in excess of 10 percent of the number of its members; to process, treat, sell, and dispose of water and water rights; to purchase, construct, own and operate water systems; to own and operate sanitary sewer systems; and to supply water and sanitary sewer services. However, no cooperative shall distribute or sell any electricity, or electric energy to any person residing within any town, city or area which person is receiving adequate central station service or who at the time of commencing such service, or offer to serve, by a cooperative, is receiving adequate central station service from any utility agency, privately or municipally owned individual partnership or corporation;

(5) To make loans to persons to whom electric energy is or will be supplied by the cooperative for the purpose of, and otherwise to assist such person in, wiring their premises and installing therein electric and plumbing fixtures, appliances, apparatus and equipment of any and all kinds and character, and in connection therewith, to purchase, acquire, lease, sell, distribute, install and repair such electric and plumbing fixtures, appliances, apparatus and equipment, and to accept or otherwise acquire, and to sell, assign, transfer, endorse, pledge, hypothecate

and otherwise dispose of notes, bonds and other evidences of indebtedness and any and all types of security therefor;

(6) To make loans to persons to whom electric energy is or will be supplied by the cooperative for the purpose of, and otherwise to assist such persons in, constructing, maintaining and operating electric refrigeration plants;

(7) To become a member in one or more other cooperatives or corporations or to own stock therein;

(8) To construct, purchase, take, receive, lease as lessee, or otherwise acquire, and to own, hold, use, equip, maintain, and operate, and to sell, assign, transfer, convey, exchange, lease as lessor, mortgage, pledge, or otherwise dispose of or encumber, electric transmission and distribution lines or systems, electric generating plants, electric refrigeration plants, lands, buildings, structures, dams, plants and equipment, and any and all kinds and classes of real or personal property whatsoever, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized;

(9) To purchase or otherwise acquire; to own, hold, use and exercise; and to sell, assign, transfer, convey, mortgage, pledge, hypothecate, or otherwise dispose of or encumber, franchises, rights, privileges, licenses, rights-of-way and easement;

(10) To borrow money and otherwise contract indebtedness; to issue notes, bonds, and other evidences of indebtedness therefor; and to secure the payment thereof by mortgage, pledge, deed of trust, or any other encumbrance upon any or all of its then owned or after-acquired real or personal property, assets, franchises, revenues or income;

(11) To construct, maintain, and operate electric transmission and distribution lines along, upon, under and across all public thoroughfares, including without limitation, all roads, highways, streets, alleys, bridges and causeways, and upon, under and across all publicly owned lands, subject, however, to the requirements in respect of the use of such thoroughfares and lands that are imposed by the respective authorities having jurisdiction thereof upon corporations constructing or operating electric transmission and distribution lines or systems;

(12) To exercise the power of eminent domain in the manner provided by the laws of this state for the exercise of that power by corporations constructing or operating electric transmission and distribution lines or systems;

(13) To conduct its business and exercise any or all of its powers within or without this state;

(14) To adopt, amend and repeal bylaws; and

(15) To do and perform any and all other acts and things, and to have and exercise any and all other powers which may be necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized.

To promote economic development, an electric cooperative may provide any energy or nonenergy services to its membership.

Section 71. Except as otherwise provided herein, 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 economic development; amending s. 14.2015, F.S.; revising provisions relating to the powers and duties of the Office of Tourism, Trade, and Economic Development; providing for the office to facilitate the involvement of the Governor and Lieutenant Governor in job–creating efforts; revising program cross–references; deleting provisions relating to the expenditure of funds for general economic development grants; authorizing the expenditure of certain interest earnings in order to contract for the administration of programs; reducing the number of meetings of leaders in business, government, and economic development which the office must convene annually; eliminating a required report on the status of certain contracts; creating the Office of Urban Opportunity within the Office of Tourism, Trade, and Economic Development; providing for the appointment of a director of the Office of Urban Opportunity; prescribing the purpose of the office; amending s. 288.0251, F.S.; changing authority to contract for Florida's international volunteer corps to the Department of State from the Office of Tourism, Trade, and Economic Development; amending s. 288.095, F.S.; revising criteria for approval of applications for tax refunds for economic development purposes by the Office of Tourism, Trade, and Economic Development; limiting the amount of refunds that may be made in a fiscal year; amending s. 288.106, F.S.; revising criteria for approval of tax refunds under the tax-refund program for qualified target industry businesses; redefining the terms "expansion of an existing business," "local financial support exemption option," and "rural county"; defining the term "authorized local economic development agency" and "rural community"; extending the refund program to additional counties; revising the amount of refunds; revising the time periods to which certain refunds apply; revising application requirements; providing requirements for waiver of minimum standards; prescribing duties of the office director; authorizing acceptance of the value of certain land conveyed as part of the required local financial support; amending s. 288.901, F.S.; revising the membership and appointment process for the board of directors of Enterprise Florida, Inc.; amending s. 288.9015, F.S.; specifying responsibilities for Enterprise Florida, Inc., relating to rural communities and distressed urban communities, evaluation of the state's competitiveness, and the needs of small and minority businesses; amending s. 288.903, F.S.; revising the required membership of the executive committee of Enterprise Florida, Inc.; deleting certain prescribed powers and duties of the president; requiring a performance–based contract in order to exceed certain employee compensation levels; amending s. 288.904, F.S.; prescribing terms of certain contracts executed by Enterprise Florida, Inc.; authorizing Enterprise Florida, Inc., to create and dissolve advisory committees and similar organizations; requiring the creation of advisory committees on international business and small business; prescribing the purpose and procedures of such committees; providing for reimbursement of expenses; amending s. 288.905, F.S.; revising the duties of the board of directors of Enterprise Florida, Inc.; revising the required content of the board's strategic plan; requiring the involvement of certain local and regional economic development organizations and rural and urban organizations in the policies of Enterprise Florida, Inc.; revising the date for a review of Enterprise Florida, Inc., by the Office of Program Policy Analysis and Government Accountability; removing provisions relating to deposit of funds in certain depositories; amending s. 288.906, F.S.; revising requirements for the annual report of Enterprise Florida, Inc.; expanding the audit authority of the Auditor General to include advisory committees or similar groups created by Enterprise Florida, Inc.; amending ss. 288.9415, 288.9511, 288.9515, 288.95155, 288.9519, 288.9520, 288.9603, 288.9604, 288.9614, 288.9618, F.S.; conforming to the dissolution of certain boards; repealing s. 288.902, F.S., which relates to the Enterprise Florida Nominating Council; repealing s. 288.9412, F.S., which relates to the International Trade and Economic Development Board; repealing s. 288.9413, F.S., which relates to the organization of the International Trade and Economic Development Board; repealing s. 288.9414, F.S., which relates to the powers and authority of the International Trade and Economic Development Board; repealing s. 288.942, F.S., which relates to the grant review panel; repealing s. 288.9510, F.S., which relates to legislative intent on the Enterprise Florida Innovation Partnership; repealing s. 288.9512, F.S., which relates to the technology development board; repealing s. 288.9513, F.S., which relates to the organization of the technology development board; repealing s. 288.9514, F.S., which relates to powers and authority of the technology development board; repealing s. 288.9516, F.S., which relates to the annual report of the technology development board; repealing s. 288.9611, F.S., which relates to the capital development board; repealing s. 288.9612, F.S., which relates to the organization of the capital development board; repealing s. 288.9613, F.S., which relates to the powers and authority of the capital development board; repealing s. 288.9615, F.S., which relates to the annual report of the capital development board; providing for the continuation of certain contracts; providing for the transfer of certain property; authorizing Enterprise Florida, Inc., to assume responsibilities of certain repealed boards; directing the Division of Statutory Revision to redesignate certain parts in the Florida Statutes; amending s. 288.707, F.S.; directing the Florida Black Business Investment Board to increase access to capital for black businesses; amending s. 288.709, F.S.; revising the powers of the Black Business Investment Board; amending s. 288.99, F.S.; revising the purpose and definitions related to the Certified Capital Company Act; specifying that tax credits vested under the Certified Capital Company Act are not to be considered in ratemaking proceedings involving a certified investor; redefining the term "transferee" for purposes of allocating unused premium tax credits; amending s. 220.191, F.S.; providing that credits may be granted against premium tax liability under the capital investment tax credit program; specifying that an insurance company claiming premium tax credits under such program is not required to pay additional

retaliatory tax under s. 624.5091, F.S.; amending s. 163.3178, F.S.; requiring certain ports to identify certain spoil disposal sites; requiring such ports to prepare comprehensive master plans; amending s. 163.3187, F.S.; exempting comprehensive plan amendments for port transportation facilities and projects from a time limitation; amending s. 253.77, F.S.; exempting certain ports from paying certain fees for activities involving the use of sovereign lands; providing that certain government agencies shall be granted a consent of use or easement for certain land upon request; amending s. 288.8155, F.S.; providing that the International Trade Data Resource and Research Center be incorporated as a private nonprofit corporation, and not be a unit or entity of state government; providing for the creation and constitution of a board of directors of the center; authorizing the center to acquire patents, copyrights, and trademarks on its property and publications; creating s. 311.14, F.S.; directing the Florida Seaport Transportation and Economic Development Council to develop freight-mobility and trade-corridor plans; amending s. 315.02, F.S.; redefining the term "port facilities" to include certain storage facilities used for warehousing, storage, and distribution of cargo; amending s. 380.06, F.S.; exempting certain port projects from review as developments of regional impact; amending s. 15.16, F.S.; authorizing the Secretary of State to issue apostilles; authorizing a fee; amending s. 117.103, F.S.; providing procedures and effect relating to issuance of certified copies of certificates of notary public commission; amending s. 118.10, F.S.; revising the definition and purposes of "authentic act" governing civil–law notaries; providing for a presumption of correctness of matters incorporated into authentic acts; authorizing civil-law notaries to authenticate documents, transactions, events, conditions, or occurrences; expanding the rulemaking authority of the Secretary of State governing civil-law notaries; authorizing the Secretary of State to test the legal knowledge of a civil-law notary applicant under certain circumstances; creating s. 118.12, F.S.; authorizing the issuance of certificates of notarial authority and apostilles to civil-law notaries; amending s. 15.18, F.S.; providing for coordination of international activities of the Department of State; requiring the Secretary of State to maintain lists relating to foreign money judgments; amending s. 55.604, F.S.; requiring that foreign judgments be filed with the Secretary of State; amending s. 55.605, F.S.; requiring the Secretary of State to create and maintain a specified list relative to foreign money judgments; creating s. 257.34, F.S.; creating the Florida International Archive and Repository; providing requirements for the archive; providing for access to the archive; providing for fees; providing for rules; reviving, reenacting, and amending s. 288.012, F.S., relating to establishment and operation of foreign offices by the Office of Tourism, Trade, and Economic Development; abrogating the repeal of the section; requiring offices to report annually on activities and accomplishments; prescribing the content of the reports; providing for future review of foreign offices; requiring Enterprise Florida, Inc., to develop a master plan for integrating international trade and reverse investment resources; prescribing procedures, content, and a submission deadline related to the plan; requiring Enterprise Florida, Inc., in conjunction with the Office of Tourism, Trade, and Economic Development, to prepare a plan to promote foreign direct investment in Florida; prescribing procedures, content, and a submission deadline related to the plan; requiring Enterprise Florida, Inc., to develop a strategic plan that will allow Florida to capitalize on the economic opportunities associated with a free Cuba; amending s. 288.1045, F.S.; conforming the limitation on the amount of tax refunds approved for payment under the qualified defense contractor tax refund program to the amount appropriated by the Legislature for such refunds; correcting references relating to program administration; extending the expiration date for certification for such refunds; amending ss. 212.097 and 212.098, F.S.; clarifying the definition of an "eligible business" under the Urban High-Crime Area Job Tax Credit Program and the Rural Job Tax Credit Program; providing that certain call centers or similar customer service operations are eligible businesses under these programs; authorizing the recommendation of additions to or deletions from the list of eligible businesses; providing that certain retail businesses are eligible businesses under the Urban High-Crime Area Job Tax Credit Program; creating the Institute on Urban Policy and Commerce at Florida Agricultural and Mechanical University; providing its purposes and duties; providing for the establishment of regional urban centers; requiring annual reports by the institute and the Governor; providing intent with respect to rural communities; amending s. 163.3177, F.S.; providing requirements for the future land use element of a local government comprehensive plan with respect to rural areas; amending s. 186.502, F.S.; providing that a regional planning council shall have a duty to assist local governments with economic development; amending s. 186.504, F.S.; providing that the ex officio, nonvoting membership of each regional planning council shall include a representative nominated by Enterprise Florida, Inc., and the Office of Tourism, Trade, and Economic Development; amending s. 186.505, F.S.; authorizing the use of regional planning council personnel, consultants, or technical or professional assistants to help local governments with economic development activities; amending s. 288.018, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to approve regional rural development grants on an annual basis; increasing the maximum amount of each grant award; increasing the total amount that may be expended annually for such grants; amending s. 288.065, F.S.; revising the population criteria for local government participation in the Rural Community Development Revolving Loan Fund; prescribing conditions under which repayments of principal and interest under the Rural Community Development Revolving Loan Fund may be retained by a unit of local government; creating s. 288.0655, F.S.; creating the Rural Infrastructure Fund for infrastructure projects in rural communities; authorizing grants for infrastructure projects and related studies; requiring the development of guidelines; providing that funds appropriated for such infrastructure fund shall not be subject to reversion; creating the Rural Economic Development Initiative within the office and providing its duties and responsibilities; directing specified agencies to select a representative to work with the initiative; providing for the recommendation and designation of rural areas of critical economic concern; providing for the waiver of certain economic development incentive criteria with respect to such areas; requiring execution of a memorandum of agreement as a condition to designation as a rural area of critical economic concern; providing for an annual report; authorizing the Office of Tourism, Trade, and Economic Development to accept and administer moneys appropriated for grants to assist rural communities to develop and implement strategic economic development plans; providing for review of grant applications; amending s. 378.601, F.S.; exempting specified heavy mining operations from requirements for development–of–regional–impact review under certain circumstances; directing the Florida Fish and Wildlife Conservation Commission to provide assistance related to promotion and development of nature–based recreation; creating s. 230.23027, F.S.; establishing the Small School District Stabilization Program; providing eligibility criteria; providing for priority for a best financial management practices review of participating districts; providing for stabilization grants and other assistance; 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; amending s. 288.980, F.S.; providing legislative intent; providing for the role of the Florida Defense Alliance; providing funding; removing a limitation on the amount of a grant under the Florida Military Installation Reuse Planning and Marketing Grant Program; increasing a grant limitation with respect to the Florida Defense Planning Grant Program; reducing the amount of matching funds required under certain grant programs; creating the Retention of Military Installations Program; providing an appropriation to implement the program for military installations in certain counties and providing for use of such funds; providing a cap on the payment of administrative expenses from certain grants; creating the Quick Action Closing Fund within the Office of Tourism, Trade, and Economic Development; directing Enterprise Florida, Inc., to evaluate proposals for use of funds for certain business facilities and make recommendations to the office; requiring approval by the Governor; providing requirements for recommendations for approval and release of funds; providing for a contract between the director of the office and an approved business with respect to payment of such funds; providing legislative findings with respect to the economic health of small communities; providing conditions for determining when a state of economic emergency exists in a community; providing for notification by a local government entity to the Governor, the office, and Enterprise Florida, Inc., when such conditions exist; authorizing the Governor to waive eligibility criteria for certain programs or activities and take other action to resolve the economic emergency; providing for return of certain funds in Florida First Capital Finance Corporation, Inc., to the State Treasury; providing appropriations from such funds to the Florida-Korea Economic Cooperation Committee and to the San Carlos Institute of Key West; amending s. 425.04, F.S.; authorizing an electric cooperative to provide any energy or nonenergy services to its membership; providing effective dates.

House Amendment 1 to House Amendment 1 (594471)—On page 163, lines 20 and 21, remove from the amendment: all of said lines and insert in lieu thereof: *methodology for validating performance; the schedule of payments from the fund; and sanctions for failure to meet performance conditions.*

(d) Enterprise Florida, Inc., shall validate contractor performance. Such validation shall be reported within 6 months after completion of the contract to the Governor, President of the Senate, and the Speaker of the House of Representatives.

House Amendment 2 to House Amendment 1 (114575)—On page 150, line 16, remove from the amendment: *shall* and insert in lieu thereof: *may*

House Amendment 3 to House Amendment 1 (060445)(with title amendment)—On page 168, between lines 26 & 27, insert:

Section 71. Paragraph (c) is added to subsection (15) of section 196.012, Florida Statutes, to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(15) "New business" means:

(c) A business that is situated on property annexed into a municipality and that, at the time of the annexation, is receiving an economic development ad valorem tax exemption from the county under s. 196.1995.

Section 72. Present subsections (6), (7), (8), and (9) of section 196.1995, Florida Statutes, are redesignated as subsections (7), (8), (9), and (10), respectively, and a new subsection (6) is added to said section, to read:

196.1995 Economic development ad valorem tax exemption.—

(6) With respect to a new business as defined by s. 196.012(15)(c), the municipality annexing the property on which the business is situated may grant an economic development ad valorem tax exemption under this section to that business for a period that will expire upon the expiration of the exemption granted by the county. If the county renews the exemption under subsection (7), the municipality may also extend its exemption. A municipal economic development ad valorem tax exemption granted under this subsection may not extend beyond the duration of the county exemption.

(Redesignate subsequent section.)

And the title is amended as follows:

On page 181, line 31, of the amendment after the semicolon insert: amending s. 196.012, F.S.; providing that a business that is receiving an economic development ad valorem tax exemption from a county and that is situated on property annexed into a municipality qualifies as a "new business" for ad valorem tax exemption purposes; amending s. 196.1995, F.S.; providing that the annexing municipality may grant an economic development ad valorem tax exemption to said business for the same duration as the county exemption;

House Amendment 5 to House Amendment 1 (735691)(with title amendment)—On page 12, between lines 9 and 10, insert:

Section 2. Effective upon this act becoming a law, section 163.055, Florida Statutes, is created to read:

163.055 Local Government Financial Technical Assistance Program.—

(1) Among municipalities and special districts, the Legislature finds that:

(a) Florida is a state comprised of 400 municipalities and almost 1,000 special districts statewide.

(b) Of the 400 municipalities in the state, over 200 have a population under 5,000.

(c) State and federal mandates will continue to place additional funding demands on all municipalities and special districts.

(d) State government lacks the specific technical expertise or resources to effectively perform ongoing educational support and financial emergency detection or assistance.

(2) Recognizing the findings in subsection (1), the Legislature declares that:

(a) The fiscal challenges confronting various municipalities and special districts require an investment that will facilitate efforts to improve the productivity and efficiency of their financial structures and operating procedures.

(b) Current and additional revenue enhancements authorized by the Legislature should be managed and administered using appropriate management practices and expertise.

(3) The purpose of this section is to provide technical assistance to municipalities and special districts to enable them to implement workable solutions to financially related problems.

(4) The Comptroller shall enter into contracts with program providers who shall:

(a) Be a public agency or private, nonprofit corporation, association, or entity.

(b) Use existing resources, services, and information that are available from state or local agencies, universities, or the private sector.

(c) Seek and accept funding from any public or private source.

(d) Annually submit information to assist the Legislative Committee on Intergovernmental Relations in preparing a performance review that will include a analysis of the effectiveness of the program.

(e) Assist municipalities and independent special districts in developing alternative revenue sources.

(f) Provide for an annual independent financial audit of the program, if the program receives funding.

(g) Provide assistance to municipalities and special districts in the areas of financial management, accounting, investing, budgeting, and debt issuance.

(h) Develop a needs assessment to determine where assistance should be targeted, and to establish a priority system to deliver assistance to those jurisdictions most in need through the most economical means available.

(i) Provide financial emergency assistance upon direction from the Executive Office of the Governor pursuant to s. 218.503.

(5)(a) The Comptroller shall issue a request for proposals to provide assistance to municipalities and special districts. At the request of the Comptroller, the Legislative Committee on Intergovernmental Relations shall assist in the preparation of the request for proposals.

(b) The Comptroller shall review each contract proposal submitted.

(c) The Legislative Committee on Intergovernmental Relations shall review each contract proposal and submit to the Comptroller, in writing, advisory comments and recommendations, citing with specificity the reasons for its recommendations.

(d) The Comptroller and the Legislative Committee on Intergovernmental Relations shall consider the following factors in reviewing contract proposals:

1. The demonstrated capacity of the provider to conduct needs assessments and implement the program as proposed.

2. The number of municipalities and special districts to be served under the proposal.

3. The cost of the program as specified in a proposed budget.

4. The short-term and long-term benefits of the assistance to municipalities and special districts.

5. The form and extent to which existing resources, services, and information that are available from state and local agencies, universities, and the private sector will be used by the provider under the contract.

(6) A decision of the Comptroller to award a contract under this section is final and shall be in writing with a copy provided to the Legislative Committee on Intergovernmental Relations.

(7) The Comptroller may enter into contracts and agreements with other state and local agencies and with any person, association, corporation, or entity other than the program providers, for the purpose of administering this section.

(8) The Comptroller shall provide fiscal oversight to ensure that funds expended for the program are used in accordance with the contracts entered into pursuant to subsection (4).

(9) The Legislative Committee on Intergovernmental Relations shall annually conduct a performance review of the program. The findings of the review shall be presented in a report submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Comptroller by January 15 of each year.

Section 3. Effective upon this act becoming a law, paragraph (d) of subsection (7) of section 163.01, Florida Statutes, is amended to read:

163.01 Florida Interlocal Cooperation Act of 1969.—

(7)(d) Notwithstanding the provisions of paragraph (c), any separate legal entity created pursuant to this section and controlled by the municipalities or counties of this state or by one or more municipality and one or more county of this state, the membership of which consists or is to consist of municipalities only, counties only, or one or more municipality and one or more county, may, for the purpose of financing or refinancing any capital projects, exercise all powers in connection with the authorization, issuance, and sale of bonds. Notwithstanding any limitations provided in this section, all of the privileges, benefits, powers, and terms of part I of chapter 125, part II of chapter 166, and part I of chapter 159 shall be fully applicable to such entity. Bonds issued by such entity shall be deemed issued on behalf of the counties or municipalities which enter into loan agreements with such entity as provided in this paragraph. Any loan agreement executed pursuant to a program of such entity shall be governed by the provisions of part I of chapter 159 or, in the case of counties, part I of chapter 125, or in the case of municipalities and charter counties, part II of chapter 166. Proceeds of bonds issued by such entity may be loaned to counties or municipalities of this state or a combination of municipalities and counties, whether or not such counties or municipalities are also members of the entity issuing the bonds. The issuance of bonds by such entity to fund a loan program to make loans to municipalities or counties or a combination of municipalities and counties with one another for capital projects to be identified subsequent to the issuance of the bonds to fund such loan programs is deemed to be a paramount public purpose. Any entity so created may also issue bond anticipation notes, as provided by s. 215.431, in connection with the authorization, issuance, and sale of such bonds. In addition, the governing body of such legal entity may also authorize bonds to be issued and sold from time to time and may delegate, to such officer, official, or agent of such legal entity as the governing body of such legal entity may select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer, official, or agent so designated by the governing body of such legal entity. However, the amounts and maturities of such bonds and the interest rate or rates of such bonds shall be within the limits prescribed by the governing body of such legal entity and its resolution delegating to such officer, official, or agent the power to authorize the issuance and sale of such bonds. *A local government self-insurance fund established under this section may financially guarantee bonds or bond anticipation notes issued or loans made under this subsection.* Bonds issued pursuant to this paragraph may be validated as provided in chapter 75. The complaint in any action to validate such bonds shall be filed only in the Circuit Court for Leon County. The notice required to be published by s. 75.06 shall be published only in Leon County, and the complaint and order of the circuit court shall be served only on the State Attorney of the Second Judicial Circuit and on the state attorney of each circuit in each county where the public agencies which were initially a party to the agreement are located. Notice of such proceedings shall be published in the manner and the time required by s. 75.06 in Leon County and in each county where the public agencies which were initially a party to the agreement are located. Obligations of any county or municipality pursuant to a loan agreement as described in this paragraph may be validated as provided in chapter 75.

And the title is amended as follows:

On page 169, line 28, after the semicolon, insert: 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;

(Redesignate subsequent section.)

House Amendment 6 to House Amendment 1 (915119)—On page 161, line 13, remove from the amendment: *2004* and insert in lieu thereof: *2010*

House Amendment 7 to House Amendment 1 (313949)(with title amendment)—On page 1, line 18, through page 12, line 9, remove from the amendment: all of said lines and insert in lieu thereof:

Section 1. Section 14.2015, Florida Statutes, 1998 Supplement, is amended to read:

14.2015 Office of Tourism, Trade, and Economic Development; creation; powers and duties.—

(1) The Office of Tourism, Trade, and Economic Development is created within the Executive Office of the Governor. The director of the Office of Tourism, Trade, and Economic Development shall be appointed by and serve at the pleasure of the Governor.

(2) The purpose of the Office of Tourism, Trade, and Economic Development is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to provide economic opportunities for all Floridians. To accomplish such purposes, the Office of Tourism, Trade, and Economic Development shall:

~~(a) Contract, notwithstanding the provisions of part I of chapter 287, with the direct-support organization created under s. 288.1228, or a designated Florida not-for-profit corporation whose board members have had prior experience in promoting, throughout the state, the economic development of the Florida motion picture, television, radio, video, recording, and entertainment industries, to guide, stimulate, and promote the entertainment industry in the state.~~

(a)~~(b)~~ Contract, notwithstanding the provisions of part I of chapter 287, with the direct-support organization created under s. 288.1229 to guide, stimulate, and promote the sports industry in the state, *to promote the participation of Florida's citizens in amateur athletic competition, and to promote Florida as a host for national and international amateur athletic competitions.*

(b)~~(c)~~ Monitor the activities of public-private partnerships and state agencies in order to avoid duplication and promote coordinated and consistent implementation of programs in areas including, but not limited to, tourism; international trade and investment; business recruitment, creation, retention, and expansion; minority and small business development; and rural community development.

(c)~~(d)~~ Facilitate the direct involvement of the Governor and the Lieutenant Governor in economic development projects designed to create, expand, and retain Florida businesses and to recruit worldwide business, *as well as in other job-creating efforts.*

(d)~~(e)~~ Assist the Governor, in cooperation with Enterprise Florida, Inc., and the Florida Commission on Tourism, in preparing an annual report to the Legislature on the state of the business climate in Florida and on the state of economic development in Florida which will include

the identification of problems and the recommendation of solutions. This report shall be submitted to the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader by January 1 of each year, and it shall be in addition to the Governor's message to the Legislature under the State Constitution and any other economic reports required by law.

(e)~~(f)~~ Plan and conduct at least *one meeting* ~~three meetings~~ per calendar year of leaders in business, government, and economic development called by the Governor to address the business climate in the state, develop a common vision for the economic future of the state, and identify economic development efforts to fulfill that vision.

(f)~~(g)~~1. Administer the Florida Enterprise Zone Act under ss. 290.001-290.016, the community contribution tax credit program under ss. 220.183 and 624.5105, the tax refund program for qualified target industry businesses under s. 288.106, *the tax-refund program for qualified defense contractors under s. 288.1045,* contracts for transportation projects under s. 288.063, the sports franchise facility program under s. 288.1162, the professional golf hall of fame facility program under s. 288.1168, the *expedited permitting process under s. 403.973* ~~Florida Jobs Siting Act under ss. 403.950-403.972~~, the Rural Community Development Revolving Loan Fund under s. 288.065, the Regional Rural Development Grants Program under s. 288.018, the Certified Capital Company Act under s. 288.99, the Florida State Rural Development Council, ~~and~~ the Rural Economic Development Initiative*, and other programs that are specifically assigned to the office by law, by the appropriations process, or by the Governor. Notwithstanding any other provisions of law, the office may expend interest earned from the investment of program funds deposited in the Economic Development Trust Fund, the Grants and Donations Trust Fund, the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund, and the Economic Development Transportation Trust Fund to contract for the administration of the programs, or portions of the programs, enumerated in this paragraph or assigned to the office by law, by the appropriations process, or by the Governor. Such expenditures shall be subject to review under chapter 216.*

2. The office may enter into contracts in connection with the fulfillment of its duties concerning the Florida First Business Bond Pool under chapter 159, tax incentives under chapters 212 and 220, tax incentives under the Certified Capital Company Act in chapter 288, foreign offices under chapter 288, the Enterprise Zone program under chapter 290, the Seaport Employment Training program under chapter 311, the Florida Professional Sports Team License Plates under chapter 320, Spaceport Florida under chapter 331, ~~Job Siting and~~ Expedited Permitting under chapter 403, and in carrying out other functions that are specifically assigned to the office by law*, by the appropriations process, or by the Governor*.

(g)~~(h)~~ Serve as contract administrator for the state with respect to contracts with Enterprise Florida, Inc., the Florida Commission on Tourism, and all direct-support organizations under this act, excluding those relating to tourism. To accomplish the provisions of this act and applicable provisions of chapter 288, and notwithstanding the provisions of part I of chapter 287, the office shall enter into specific contracts with Enterprise Florida, Inc., the Florida Commission on Tourism, and other appropriate direct-support organizations. Such contracts may be multiyear and shall include specific performance measures for each year. ~~The office shall provide the President of the Senate and the Speaker of the House of Representatives with a report by February 1 of each year on the status of these contracts, including the extent to which specific contract performance measures have been met by these contractors.~~

(h) Provide administrative oversight for the Office of the Film Commissioner, created under s. 288.1251, to develop, promote, and provide services to the state's entertainment industry and to administratively house the Florida Film Advisory Council created under s. 288.1252.

(i) Prepare and submit as a separate budget entity a unified budget request for tourism, trade, and economic development in accordance with chapter 216 for, and in conjunction with, Enterprise Florida, Inc., and its boards, the Florida Commission on Tourism and its direct-support organization, the Florida Black Business Investment Board, *the Office of the Film Commissioner,* and the direct-support *organization* ~~organizations~~ created to promote the ~~entertainment and~~ sports *industry* ~~industries~~.

(j) *Adopt* ~~Promulgate~~ rules*, as necessary,* to carry out its functions in connection with the administration of the Qualified Target Industry program, the Qualified Defense Contractor program, the Certified Capital Company Act, the Enterprise Zone program, and the Florida First Business Bond pool.

(3) The Chief Inspector General, as defined in s. 14.32:

(a) Shall advise public-private partnerships in their development, utilization, and improvement of internal control measures necessary to ensure fiscal accountability.

(b) May conduct, direct, and supervise audits relating to the programs and operations of public-private partnerships.

(c) Shall receive and investigate complaints of fraud, abuses, and deficiencies relating to programs and operations of public-private partnerships.

(d) May request and have access to any records, data, and other information of public-private partnerships that the Chief Inspector General deems necessary to carry out his or her responsibilities with respect to accountability.

(e) Shall monitor public-private partnerships for compliance with the terms and conditions of contracts with the Office of Tourism, Trade, and Economic Development and report noncompliance to the Governor.

(f) Shall advise public-private partnerships in the development, utilization, and improvement of performance measures for the evaluation of their operations.

(g) Shall review and make recommendations for improvements in the actions taken by public-private partnerships to meet performance standards.

(4) The director of the Office of Tourism, Trade, and Economic Development shall designate a position within the office to advocate and coordinate the interests of minority businesses. The person in this position shall report to the director and shall be the primary point of contact for the office on issues and projects important to the recruitment, creation, preservation, and growth of minority businesses.

(5) The director of the Office of Tourism, Trade, and Economic Development shall designate a position within the office to advocate and coordinate the interests of rural communities in the state. The person in this position shall report to the director and shall be the primary point of contact for the office on issues and projects important to the economic capacity of Florida's rural communities.

(6)(a) In order to improve the state's regulatory environment, the Office of Tourism, Trade, and Economic Development shall consider the impact of agency rules on businesses, provide one-stop permit information and assistance, and serve as an advocate for businesses, particularly small businesses, in their dealings with state agencies.

(b) As used in this subsection, the term "permit" means any approval of an agency required as a condition of operating a business in this state, including, but not limited to, licenses and registrations.

(c) The office shall have powers and duties to:

1. Review proposed agency actions for impacts on small businesses and offer alternatives to mitigate such impacts, as provided in s. 120.54.

2. In consultation with the Governor's rules ombudsman, make recommendations to agencies on any existing and proposed rules for alleviating unnecessary or disproportionate adverse effects to businesses.

3. Make recommendations to the Legislature and to agencies for improving permitting procedures affecting business activities in the state. By October 1, 1997, and annually thereafter, the Office of Tourism, Trade, and Economic Development shall submit a report to the Legislature containing the following:

a. An identification and description of methods to eliminate, consolidate, simplify, or expedite permits.

b. An identification and description of those agency rules repealed or modified during each calendar year to improve the regulatory climate for businesses operating in the state.

c. A recommendation for an operating plan and funding level for establishing an automated one-stop permit registry to provide the following services:

(I) Access by computer network to all permit applications and approval requirements of each state agency.

(II) Assistance in the completion of such applications.

(III) Centralized collection of any permit fees and distribution of such fees to agencies.

(IV) Submission of application data and circulation of such data among state agencies by computer network.

If the Legislature establishes such a registry, subsequent annual reports must cover the status and performance of this registry.

4. Serve as a clearinghouse for information on which permits are required for a particular business and on the respective application process, including criteria applied in making a determination on a permit application. Each state agency that requires a permit, license, or registration for a business shall submit to the Office of Tourism, Trade, and Economic Development by August 1 of each year a list of the types of businesses and professions that it regulates and of each permit, license, or registration that it requires for a type of business or profession.

5. Obtain information and permit applications from agencies and provide such information and permit applications to the public.

6. Arrange, upon request, informal conferences between a business and an agency to clarify regulatory requirements or standards or to identify and address problems in the permit review process.

7. Determine, upon request, the status of a particular permit application.

8. Receive complaints and suggestions concerning permitting policies and activities of governmental agencies which affect businesses.

(d) Use of the services authorized in this subsection does not preclude a person or business from dealing directly with an agency.

(e) In carrying out its duties under this subsection, the Office of Tourism, Trade, and Economic Development may consult with state agency personnel appointed to serve as economic development liaisons under s. 288.021.

(f) The office shall clearly represent that its services are advisory, informational, and facilitative only. Advice, information, and assistance rendered by the office does not relieve any person or business from the obligation to secure a required permit. The office is not liable for any consequences resulting from the failure to issue or to secure a required permit. However, an applicant who uses the services of the office and who receives a written statement identifying required state permits relating to a business activity may not be assessed a penalty for failure to obtain a state permit that was not identified, if the applicant submits an application for each such permit within 60 days after written notification from the agency responsible for issuing the permit.

(7) The Office of Tourism, Trade, and Economic Development shall develop performance measures, standards, and sanctions for each program it administers under this act and, in conjunction with the applicable entity, for each program for which it contracts with another entity under this act. The performance measures, standards, and sanctions shall be developed in consultation with the legislative appropriations committees and the appropriate substantive committees, and are subject to the review and approval process provided in s. 216.177. The approved performance measures, standards, and sanctions shall be included and made a part of *the strategic plan for the Office of the Film Commissioner and* each contract entered into for delivery of programs authorized by this act.

(8) The Office of Tourism, Trade, and Economic Development shall ensure that the contract between the Florida Commission on Tourism and the commission's direct-support organization contains a provision to provide the data on the visitor counts and visitor profiles used in revenue estimating, employing the same methodology used in fiscal year 1995-1996 by the Department of Commerce. The Office of Tourism, Trade, and Economic Development and the Florida Commission on Tourism must reach agreement with the Consensus Estimating Conference principals before making any changes in methodology used or information gathered.

(9)(a) The Office of Urban Opportunity is created within the Office of Tourism, Trade, and Economic Development. The director of the Office of Urban Opportunity shall be appointed by and serve at the pleasure of the Governor.

(b) The purpose of the Office of Urban Opportunity shall be to administer the Front Porch Florida initiative, a comprehensive, community-based urban core redevelopment program that will empower urban core residents to craft solutions to the unique challenges of each designated community.

~~(9)(a) Subject to the cooperative recommendations of Enterprise Florida, Inc., and the Florida Commission on Tourism and also to the approval of the Governor, the Office of Tourism, Trade, and Economic Development is authorized to expend appropriated state and federal funds for general economic development grants. The office shall establish criteria for the award of grants, including criteria relating to highest economic return for the state as a whole, or a particular region, county, city, or community, ability to properly administer grant funds, and such other matters deemed necessary and appropriate to further the purposes of this subsection. The office shall expend all funds in accordance with state law and shall use such appropriations to supplement the financial support of:~~

~~1. Programs that have a substantial economic significance, giving emphasis to programs that benefit the state as a whole.~~

~~2. Programs with a high potential for match funding from nonstate sources.~~

~~3. Economic development programs for which no other state grants are available.~~

~~4. Rural areas and distressed urban areas.~~

~~(b) Grants shall be made by contract with any nonprofit corporation or local or state governmental entity. Of the total amount of funds available from all sources for grants, 70 percent of such funds shall be awarded on a 50-percent matching basis. Up to 30 percent of such funds available may be awarded on a nonmatching basis.~~

~~(c) In administering grants, contracts, and funds appropriated for economic development programs, the office may release moneys in advance on a quarterly basis. By the end of the contract period, the grantee or contractee shall furnish to the office a complete and accurate accounting of how all grant funds were expended. Postaudits to be conducted by an independent certified public accountant may be required in accordance with criteria adopted by the office.~~

~~(d) The office shall not award any new grant which will, in whole or in part, inure to the personal benefit of any board member of Enterprise Florida, Inc., or the Florida Commission on Tourism during that member's term of office, if the board member participated in the vote of the board or panel thereof recommending the award. However, this subsection does not prohibit the office from awarding a grant to an entity with which a board member is associated.~~

~~(e) This subsection is repealed on July 1, 1999.~~

Section 2. Section 288.125, Florida Statutes, is created to read:

288.125 Definitions.—For the purposes of sections 288.1251 through 288.1258, "entertainment industry" means those persons or entities engaged in the operation of motion picture or television studios or recording studios, or those persons or entities engaged in the preproduction, production, or postproduction of motion pictures, made-for-TV motion pictures, television series, commercial advertising, music videos, or sound recordings.

Section 3. Section 288.1251, Florida Statutes, is created to read:

288.1251 Promotion and development of entertainment industry; Office of the Film Commissioner; creation; purpose; powers and duties.—

(1) CREATION.—

(a) There is hereby created within the Office of Tourism, Trade, and Economic Development the Office of the Film Commissioner for the purpose of developing, marketing, promoting, and providing services to the state's entertainment industry.

(b) The Office of Tourism, Trade, and Economic Development shall conduct a national search for a qualified person to fill the position of Film Commissioner, and the Executive Director of the Office of Tourism, Trade, and Economic Development shall hire the Film Commissioner. Guidelines for selection of the Film Commissioner shall include, but not be limited to, the Film Commissioner having the following:

1. A working knowledge of the equipment, personnel, financial, and day-to-day production operations of the industries to be served by the office;

2. Marketing and promotion experience related to the industries to be served by the office;

3. Experience working with a variety of individuals representing large and small entertainment-related businesses, industry associations, local community entertainment industry liaisons, and labor organizations; and

4. Experience working with a variety of state and local governmental agencies.

(2) POWERS AND DUTIES.—

(a) The Office of the Film Commissioner, in performance of its duties, shall:

1. In consultation with the Florida Film Advisory Council, develop and implement a 5-year strategic plan to guide the activities of the Office of the Film Commissioner in the areas of entertainment industry development, marketing, promotion, liaison services, field office administration, and information. The plan, to be developed by no later than June 30, 2000, shall:

a. Be annual in construction and ongoing in nature.

b. Include recommendations relating to the organizational structure of the office.

c. Include an annual budget projection for the office for each year of the plan.

d. Include an operational model for the office to use in implementing programs for rural and urban areas designed to:

(I) Develop and promote the state's entertainment industry.

(II) Have the office serve as a liaison between the entertainment industry and other state and local governmental agencies, local film commissions, and labor organizations.

(III) Gather statistical information related to the state's entertainment industry.

(IV) Provide information and service to businesses, communities, organizations, and individuals engaged in entertainment industry activities.

(V) Administer field offices outside the state and coordinate with regional offices maintained by counties and regions of the state, as described in sub-sub-subparagraph (II), as necessary.

e. Include performance standards and measurable outcomes for the programs to be implemented by the office.

f. Include an assessment of, and make recommendations on, the feasibility of creating an alternative public-private partnership for the purpose of contracting with such a partnership for the administration of the state's entertainment industry promotion, development, marketing, and service programs.

2. Develop, market, and facilitate a smooth working relationship between state agencies and local governments in cooperation with local film commission offices for out-of-state and indigenous entertainment industry production entities.

3. Implement a structured methodology prescribed for coordinating activities of local offices with each other and the commissioner's office.

4. Represent the state's indigenous entertainment industry to key decisionmakers within the national and international entertainment industry, and to state and local officials.

5. Prepare an inventory and analysis of the state's entertainment industry, including, but not limited to, information on crew, related businesses, support services, job creation, talent, and economic impact and coordinate with local offices to develop an information tool for common use.

6. Represent key decisionmakers within the national and international entertainment industry to the indigenous entertainment industry and to state and local officials.

7. Serve as liaison between entertainment industry producers and labor organizations.

8. Identify, solicit, and recruit entertainment production opportunities for the state.

9. Assist rural communities and other small communities in the state in developing the expertise and capacity necessary for such communities to develop, market, promote, and provide services to the state's entertainment industry.

(b) The Office of the Film Commissioner, in the performance of its duties, may:

1. Conduct or contract for specific promotion and marketing functions, including, but not limited to, production of a statewide directory, production and maintenance of an Internet web site, establishment and maintenance of a toll-free number, organization of trade show participation, and appropriate cooperative marketing opportunities.

2. Conduct its affairs, carry on its operations, establish offices, and exercise the powers granted by this act in any state, territory, district, or possession of the United States.

3. Carry out any program of information, special events, or publicity designed to attract entertainment industry to Florida.

4. Develop relationships and leverage resources with other public and private organizations or groups in their efforts to publicize to the entertainment industry in this state, other states, and other countries the depth of Florida's entertainment industry talent, crew, production companies, production equipment resources, related businesses, and support services, including the establishment of and expenditure for a program of cooperative advertising with these public and private organizations and groups in accordance with the provisions of chapter 120.

5. Provide and arrange for reasonable and necessary promotional items and services for such persons as the office deems proper in connection with the performance of the promotional and other duties of the office.

6. Prepare an annual economic impact analysis on entertainment industry-related activities in the state.

Section 4. Section 288.1252, Florida Statutes, is created to read:

288.1252 Florida Film Advisory Council; creation; purpose; membership; powers and duties.—

(1) CREATION.—There is hereby created within the Office of Tourism, Trade, and Economic Development of the Executive Office of the Governor, for administrative purposes only, the Florida Film Advisory Council.

(2) PURPOSE.—The purpose of the council shall be to serve as an advisory body to the Office of Tourism, Trade, and Economic Development and to the Office of the Film Commissioner to provide these offices with industry insight and expertise related to developing, marketing, promoting, and providing service to the state's entertainment industry.

(3) MEMBERSHIP.—

(a) The council shall consist of 17 members, seven to be appointed by the Governor, five to be appointed by the President of the Senate, and five to be appointed by the Speaker of the House of Representatives, with the initial appointments being made no later than August 1, 1999.

(b) When making appointments to the council, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall appoint persons who are residents of the state and who are highly knowledgeable of, active in, and recognized leaders in Florida's motion picture, television, video, sound recording, or other entertainment industries. These persons shall include, but not be limited to, representatives of local film commissions, representatives of entertainment associations, a representative of the broadcast industry, representatives of labor organizations in the entertainment industry, and board chairs, presidents, chief executive officers, chief operating officers, or persons of comparable executive position or stature of leading or otherwise important entertainment industry businesses and offices. Council members shall be appointed in such a manner as to equitably represent the broadest spectrum of the entertainment industry and geographic areas of the state.

(c) Council members shall serve for 4-year terms, except that the initial terms shall be staggered:

1. The Governor shall appoint one member for a 1-year term, two members for 2-year terms, two members for 3-year terms, and two members for 4-year terms.

2. The President of the Senate shall appoint one member for a 1-year term, one member for a 2-year term, two members for 3-year terms, and one member for a 4-year term.

3. The Speaker of the House of Representatives shall appoint one member for a 1-year term, one member for a 2-year term, two members for 3-year terms, and one member for a 4-year term.

(d) Subsequent appointments shall be made by the official who appointed the council member whose expired term is to be filled.

(e) The Film Commissioner, a representative of Enterprise Florida, Inc., and a representative of the Florida Tourism Industry Marketing Corporation shall serve as ex officio, nonvoting members of the council, and shall be in addition to the 17 appointed members of the council.

(f) Absence from three consecutive meetings shall result in automatic removal from the council.

(g) A vacancy on the council shall be filled for the remainder of the unexpired term by the official who appointed the vacating member.

(h) No more than one member of the council may be an employee of any one company, organization, or association.

(i) Any member shall be eligible for reappointment but may not serve more than two consecutive terms.

(4) MEETINGS; ORGANIZATION.—

(a) The council shall meet no less frequently than once each quarter of the calendar year, but may meet more often as set by the council.

(b) The council shall annually elect one member to serve as chair of the council and one member to serve as vice chair. The Office of the Film Commissioner shall provide staff assistance to the council, which shall include, but not be limited to, keeping records of the proceedings of the council, and serving as custodian of all books, documents, and papers filed with the council.

(c) A majority of the members of the council shall constitute a quorum.

(d) Members of the council shall serve without compensation, but shall be entitled to reimbursement for per diem and travel expenses in accordance with s. 112.061 while in performance of their duties.

(5) POWERS AND DUTIES.—The Florida Film Advisory Council shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including, but not limited to, the power to:

(a) Adopt bylaws for the governance of its affairs and the conduct of its business.

(b) Advise and consult with the Office of the Film Commissioner on the content, development, and implementation of the 5-year strategic plan to guide the activities of the office.

(c) Review the Film Commissioner's administration of the programs related to the strategic plan, and advise the commissioner on the programs and any changes that might be made to better meet the strategic plan.

(d) Consider and study the needs of the entertainment industry for the purpose of advising the commissioner and the Office of Tourism, Trade, and Economic Development.

(e) Identify and make recommendations on state agency and local government actions that may have an impact on the entertainment industry or that may appear to industry representatives as an official state or local action affecting production in the state.

(f) Consider all matters submitted to it by the commissioner and the Office of Tourism, Trade, and Economic Development.

(g) Advise and consult with the commissioner and the Office of Tourism, Trade, and Economic Development, at their request or upon its own initiative, regarding the promulgation, administration, and enforcement of all laws and rules relating to the entertainment industry.

(h) Suggest policies and practices for the conduct of business by the Office of the Film Commissioner or by the Office of Tourism, Trade, and Economic Development that will improve internal operations affecting the entertainment industry and will enhance the economic development initiatives of the state for the industry.

(i) Appear on its own behalf before boards, commissions, departments, or other agencies of municipal, county, or state government, or the Federal Government.

Section 5. Section 288.1253, Florida Statutes, is created to read:

288.1253 Travel and entertainment expenses.—

(1) As used in this section:

(a) "Business client" means any person, other than a state official or state employee, who receives the services of representatives of the Office of the Film Commissioner in connection with the performance of its statutory duties, including persons or representatives of entertainment industry companies considering location, relocation, or expansion of an entertainment industry business within the state.

(b) "Entertainment expenses" means the actual, necessary, and reasonable costs of providing hospitality for business clients or guests, which costs are defined and prescribed by rules adopted by the Office of Tourism, Trade, and Economic Development, subject to approval by the Comptroller.

(c) "Guest" means a person, other than a state official or state employee, authorized by the Office of Tourism, Trade, and Economic Development to receive the hospitality of the Office of the Film Commissioner in connection with the performance of its statutory duties.

(d) "Travel expenses" means the actual, necessary, and reasonable costs of transportation, meals, lodging, and incidental expenses normally incurred by a traveler, which costs are defined and prescribed by rules adopted by the Office of Tourism, Trade, and Economic Development, subject to approval by the Comptroller.

(2) Notwithstanding the provisions of s. 112.061, the Office of Tourism, Trade, and Economic Development shall adopt rules by which it may make expenditures by advancement or reimbursement, or a combination thereof, to:

(a) The Governor, the Lieutenant Governor, security staff of the Governor or Lieutenant Governor, the Film Commissioner, or staff of the Office of the Film Commissioner for travel expenses or entertainment expenses incurred by such individuals solely and exclusively in connection with the performance of the statutory duties of the Office of the Film Commissioner.

(b) The Governor, the Lieutenant Governor, security staff of the Governor or Lieutenant Governor, the Film Commissioner, or staff of the Office of the Film Commissioner for travel expenses or entertainment expenses incurred by such individuals on behalf of guests, business clients, or authorized persons as defined in s. 112.061(2)(e) solely and exclusively in connection with the performance of the statutory duties of the Office of the Film Commissioner.

(c) Third-party vendors for the travel or entertainment expenses of guests, business clients, or authorized persons as defined in s. 112.061(2)(e) incurred solely and exclusively while such persons are participating in activities or events carried out by the Office of the Film Commissioner in connection with that office's statutory duties.

The rules shall be subject to approval by the Comptroller prior to promulgation. The rules shall require the submission of paid receipts, or other proof of expenditure prescribed by the Comptroller, with any claim for reimbursement and shall require, as a condition for any advancement of funds, an agreement to submit paid receipts or other proof of expenditure and to refund any unused portion of the advancement within 15 days after the expense is incurred or, if the advancement is made in connection with travel, within 10 working days after the traveler's return to headquarters. However, with respect to an advancement of funds made solely for travel expenses, the rules may allow paid receipts or other proof of expenditure to be submitted, and any unused portion of the advancement to be refunded, within 10 working days after the traveler's return to headquarters. Operational or promotional advancements, as defined in s. 288.35(4), obtained pursuant to this section shall not be commingled with any other state funds.

(3) The Office of Tourism, Trade, and Economic Development shall prepare an annual report of the expenditures of the Office of the Film Commissioner and provide such report to the Legislature no later than December 30 of each year for the expenditures of the previous fiscal year. The report shall consist of a summary of all travel, entertainment, and incidental expenses incurred within the United States and all travel, entertainment, and incidental expenses incurred outside the United States, as well as a summary of all successful projects that developed from such travel.

(4) The Office of the Film Commissioner and its employees and representatives, when authorized, may accept and use complimentary travel, accommodations, meeting space, meals, equipment, transportation, and any other goods or services necessary for or beneficial to the performance of the office's duties and purposes, so long as such acceptance or use is not in conflict with part III of chapter 112. The Office of Tourism, Trade, and Economic Development shall, by rule, develop internal controls to ensure that such goods or services accepted or used pursuant to this subsection are limited to those that will assist solely and exclusively in the furtherance of the office's goals and are in compliance with part III of chapter 112.

(5) Any claim submitted under this section shall not be required to be sworn to before a notary public or other officer authorized to administer oaths, but any claim authorized or required to be made under any provision of this section shall contain a statement that the expenses were actually incurred as necessary travel or entertainment expenses in the performance of official duties of the Office of the Film Commissioner and shall be verified by written declaration that it is true and correct as to every material matter. Any person who willfully makes and subscribes to any claim which he or she does not believe to be true and correct as to every material matter or who willfully aids or assists in, procures, or counsels or advises with respect to, the preparation or presentation of a claim pursuant to this section that is fraudulent or false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present the claim, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Whoever receives an advancement or reimbursement by means of a false claim is civilly liable, in the amount of the overpayment, for the reimbursement of the public fund from which the claim was paid.

Section 6. *21st Century Digital Television and Education Task Force; membership; duties.—*

(1) The 21st Century Digital Television and Education Task Force is 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:

(a) Two members to be appointed by the Governor.

(b) Two members of the Senate, or their designees, to be appointed by the President of the Senate.

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

(d) The Commissioner of Education or the commissioner's designee.

(e) The Chancellor of the State University System or the chancellor's designee.

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

(g) The President of the Independent Colleges and Universities of Florida or the president's designee.

(h) A representative of Enterprise Florida, Inc., with knowledge on workforce development and economic development issues.

(i) The Film Commissioner within the Office of Tourism, Trade, and Economic Development.

(2) 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.

(3) 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 election by the task force members.

(4) 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.

(5) 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.

(6) 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 section. The task force shall have the following duties:

(a) To devise a plan to recruit the following industry segments to locate in Florida:

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

2. 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.

3. 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.

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

(b) To investigate and recommend strong economic incentives to encourage the digital industry segments described in subparagraph (a)1. to locate and compete in Florida.

(c) To devise a plan to create and maintain higher education opportunities for students wishing to enter the digital television field. At a minimum, the plan shall consider and address the following:

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

2. The workforce needs of the digital television industry segments described in subparagraph (a)1.

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

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

(d) To recommend methods to hasten the conversion of existing commercial television studios and soundstages from analog to digital technology.

(e) To 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.

(f) To issue a report to the Legislature no later than February 1, 2000, summarizing its findings, stating its conclusions, and proposing its recommendations.

Section 7. Subsections (1) and (2) of section 288.1229, Florida Statutes, are amended, and subsections (8) and (9) are added to that section, to read:

288.1229 Promotion and development of sports-related industries *and amateur athletics*; direct-support organization; powers and duties.—

(1) The Office of Tourism, Trade, and Economic Development may authorize a direct-support organization to assist the office in*:*

(a) The promotion and development of the sports industry and related industries for the purpose of improving the economic presence of these industries in Florida.

(b) The promotion of amateur athletic participation for the citizens of Florida and the promotion of Florida as a host for national and international amateur athletic competitions for the purpose of encouraging and increasing the direct and ancillary economic benefits of amateur athletic events and competitions.

(2) To be authorized as a direct-support organization, an organization must:

(a) Be incorporated as a corporation not for profit pursuant to chapter 617.

(b) Be governed by a board of directors, which must consist of *up to* 15 members appointed by the Governor and up to 15 members appointed by the existing board of directors. In making appointments, the board must consider a potential member's background in community service and sports activism in, and financial support of, the sports industry, *professional sports, or organized amateur athletics.* Members must be residents of the state and highly knowledgeable about or active in professional *or organized amateur* sports. The board must contain representatives of all geographical regions of the state and must represent ethnic and gender diversity. The terms of office of the members shall be 4 years. No member may serve more than two consecutive terms. The Governor may remove any member for cause and shall fill all vacancies that occur.

(c) Have as its purpose, as stated in its articles of incorporation, to receive, hold, invest, and administer property; to raise funds and receive gifts; and to promote and develop the sports industry and related industries for the purpose of increasing the economic presence of these industries in Florida.

(d) Have a prior determination by the Office of Tourism, Trade, and Economic Development that the organization will benefit the office and act in the best interests of the state as a direct-support organization to the office.

(8) To promote amateur sports and physical fitness, the direct-support organization shall:

(a) Develop, foster, and coordinate services and programs for amateur sports for the people of Florida.

(b) Sponsor amateur sports workshops, clinics, conferences, and other similar activities.

(c) Give recognition to outstanding developments and achievements in, and contributions to, amateur sports.

(d) Encourage, support, and assist local governments and communities in the development of or hosting of local amateur athletic events and competitions.

(e) Promote Florida as a host for national and international amateur athletic competitions. As part of this effort, the direct-support organization shall:

1. Assist and support Florida cities or communities bidding or seeking to host the Summer Olympics or Pan American Games.

2. Annually report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of the efforts of cities or communities bidding to host the Summer Olympics or Pan American Games, including, but not limited to, current financial and infrastructure status, projected financial and infrastructure needs, and recommendations for satisfying the unmet needs and fulfilling the requirements for a successful bid in any year that the Summer Olympics or Pan American Games are held in this state.

(f) Develop a statewide program of amateur athletic competition to be known as the "Sunshine State Games."

(g) Continue the successful amateur sports programs previously conducted by the Florida Governor's Council on Physical Fitness and Amateur Sports created under s. 14.22.

(h) Encourage and continue the use of volunteers in its amateur sports programs to the maximum extent possible.

(i) Develop, foster, and coordinate services and programs designed to encourage the participation of Florida's youth in Olympic sports activities and competitions.

(j) Foster and coordinate services and programs designed to contribute to the physical fitness of the citizens of Florida.

(9)(a) The Sunshine State Games shall be patterned after the Summer Olympics with variations as necessitated by availability of facilities, equipment, and expertise. The games shall be designed to encourage the participation of athletes representing a broad range of age groups, skill levels, and Florida communities. Participants shall be residents of this state. Regional competitions shall be held throughout the state, and the top qualifiers in each sport shall proceed to the final competitions to be held at a site in the state with the necessary facilities and equipment for conducting the competitions.

(b) The Executive Office of the Governor is authorized to permit the use of property, facilities, and personal services of or at any State University System facility or institution by the direct-support organization operating the Sunshine State Games. For the purposes of this paragraph, personal services includes full-time or part-time personnel as well as payroll processing.

Section 8. Paragraph (a) of subsection (6) of section 320.08058, Florida Statutes, 1998 Supplement, is amended to read:

320.08058 Specialty license plates.—

(6) FLORIDA UNITED STATES OLYMPIC COMMITTEE LICENSE PLATES.—

(a) Because the United States Olympic Committee has selected this state to participate in a combined fundraising program that provides for one-half of all money raised through volunteer giving to stay in this state and be administered by the *direct-support organization established under s. 288.1229* ~~Sunshine State Games Foundation~~ to support amateur sports, and because the United States Olympic Committee and the *direct-support organization* ~~Sunshine State Games Foundation~~ are nonprofit organizations dedicated to providing athletes with support and training and preparing athletes of all ages and skill levels for sports competition, and because the *direct-support organization* ~~Sunshine State Games Foundation~~ assists in the bidding for sports competitions

that provide significant impact to the economy of this state, and the Legislature supports the efforts of the United States Olympic Committee and the *direct-support organization* ~~Florida Sunshine State Games Foundation~~, the Legislature establishes a Florida United States Olympic Committee license plate for the purpose of providing a continuous funding source to support this worthwhile effort. Florida United States Olympic Committee license plates must contain the official United States Olympic Committee logo and must bear a design and colors that are approved by the department. The word "Florida" must be centered at the top of the plate.

(b) The license plate annual use fees are to be annually distributed as follows:

1. The first $5 million collected annually must be paid to the *direct-support organization* ~~Florida Governor's Council on Physical Fitness and Amateur Sports~~ to be distributed as follows:

a. Fifty percent must be distributed to the *direct-support organization to be used* ~~Sunshine State Games Foundation~~ for Florida's *Sunshine State Games* ~~Olympic Sports Festival for Amateur Athletes~~.

b. Fifty percent must be distributed to the United States Olympic Committee.

2. Any additional fees must be deposited into the General Revenue Fund.

Section 9. *Any funds or property held in trust by the Sunshine State Games Foundation, Inc., and the Florida Governor's Council on Physical Fitness and Amateur Sports shall revert to the direct-support organization created under s. 288.1229, Florida Statutes, upon expiration or cancellation of the contract with the Sunshine State Games Foundation, Inc., and the Florida Governor's Council on Physical Fitness and Amateur Sports, to be used for the promotion of amateur sports in Florida.*

Section 10. *Section 14.22, Florida Statutes, is repealed.*

Section 11. Paragraph (e) of subsection (6) of section 288.108, Florida Statutes, is amended to read:

288.108 High-impact business.—

(6) SELECTION AND DESIGNATION OF HIGH-IMPACT SECTORS.—

(e) The study and its findings and recommendations and the recommendations gathered from the sector-business network must be discussed and considered during ~~at least one of~~ the *meeting* ~~quarterly meetings~~ required in s. 14.2015(2)*(e)*~~(h)~~.

Section 12. *Sections 288.051, 288.052, 288.053, 288.054, 288.055, 288.056, 288.057, 288.1228, and 288.12285, Florida Statutes, are repealed.*

Section 13. *Effective July 1, 1999, three full-time-equivalent positions are hereby appropriated to the Executive Office of the Governor in order to implement the provisions of this act relating to the Office of the Film Commissioner.*

Section 14. Subsection (1) of section 288.1221, Florida Statutes, is amended to read:

288.1221 Legislative intent.—

(1) It is the intent of the Legislature to establish a public-private partnership to provide policy direction to and technical expertise in the promotion and marketing of the state's tourism attributes. The Legislature further intends to authorize this partnership to recommend the tenets of an industry standard *4-year* ~~5-year~~ marketing plan for an annual marketing plan for tourism promotion and recommend a comparable organizational structure to carry out such a plan. The Legislature intends to have such a plan funded by that portion of the rental car surcharge annually dedicated to the Tourism Promotional Trust Fund, pursuant to s. 212.0606, and by the tourism industry. ~~The Legislature intends that the exercise of this authority by the public-private partnership shall take into consideration the recommendations made to the 1992 Legislature in the report submitted by the Florida Tourism Commission created pursuant to chapter 91-31, Laws of Florida.~~

Section 15. Subsection (2) of section 288.1222, Florida Statutes, is amended to read:

288.1222 Definitions.—For the purposes of ss. 288.017, 288.121-288.1226, and 288.124, the term:

(2) "Tourist" means any person who participates in trade or recreation activities outside the *county* ~~country~~ of his or her permanent residence or who rents or leases transient living quarters or accommodations as described in s. 125.0104(3)(a).

Section 16. Paragraphs (e), (f), and (g) of subsection (2) of section 288.1223, Florida Statutes, are amended to read:

288.1223 Florida Commission on Tourism; creation; purpose; membership.—

(2)

(e) General tourism-industry-related members shall be limited to two 4-year full consecutive terms. *This limitation applies to terms begun after June 30, 1996.*

(f) The commission shall ~~hold its first meeting no later than September 1992 and must~~ meet at least quarterly. A majority of the members shall constitute a quorum for the purpose of conducting business.

(g) The Governor shall serve as chair of the commission. The commission shall *annually* ~~biennially~~ elect one of its tourism-industry-related members as vice chair, who shall preside in the absence of the chair.

Section 17. Paragraphs (a), (c), and (d) of subsection (4) and subsection (11) of section 288.1224, Florida Statutes, are amended to read:

288.1224 Powers and duties.—The commission:

(4)(a) Shall~~, no later than December 31, 1996,~~ recommend the tenets of a 4-year marketing plan to sustain tourism growth, which plan shall be annual in construction and ongoing in nature. ~~The initial plan shall use as its model the marketing plan recommended by the Florida Tourism Commission, created pursuant to chapter 91-31, Laws of Florida, and presented to the Legislature.~~ Any annual revisions of such a plan shall carry forward the concepts of the remaining 3-year portion of that plan and consider a continuum portion to preserve the 4-year timeframe of the plan. ~~Such plan 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 no later than January 1, 1997.~~

(c) The plan shall include provisions for the direct-support organization to reach the targeted one-to-one match of private to public contributions within a period of 4 calendar years after the implementation date of the plan. *For the purposes of calculating the required one-to-one match, matching private funds shall be divided into four categories. The first category is direct cash contributions, which include, but are not limited to, cash derived from strategic alliances, contributions of stocks and bonds, and partnership contributions. The second category is fees for services, which include, but are not limited to, event participation, research, and brochure placement and transparencies. The third category is cooperative advertising, which is the value based on cost of contributed productions, air time, and print space. The fourth category is in-kind contributions, which include, but are not limited to, the value of strategic alliance services contributed, the value of loaned employees, discounted service fees, items contributed for use in promotions, and radio or television air time or print space for promotions. The value of air time or print space shall be calculated by taking the actual time or space and multiplying by the nonnegotiated unit price for that specific time or space which is known as the media equivalency value. In order to avoid duplication in determining media equivalency value, only the value of the promotion itself shall be included; the value of the items contributed for the promotion shall not be included. Documentation for the components of the four categories of private match shall be kept on file for inspection as determined necessary.*

(d) The plan shall include recommendations regarding specific performance standards and measurable outcomes~~. By July 1, 1997, the Florida Commission on Tourism, in consultation with the Office of Program Policy Analysis and Government Accountability, shall establish performance measure outcomes~~ for the commission and its direct-support organization. The commission, in consultation with the Office of

Program Policy Analysis and Government Accountability, shall develop a plan for monitoring its operations to ensure that performance data are maintained and supported by records of the organization.

(11) *Shall receive staff support from the Florida Tourism Industry Marketing Corporation and shall not employ any additional staff. The president and chief executive officer of the Florida Tourism Industry Marketing Corporation shall serve without compensation as the executive director of the commission. As executive director, he or she shall have the authority to conduct any official business of the commission, as authorized by the commission.* ~~Shall create an advisory committee of the commission which shall be charged with developing a regionally based plan to protect and promote all of the natural, coastal, historical, cultural, and commercial tourism assets of this state.~~

~~(a) Members of the advisory committee shall be appointed by the chair of the commission and shall include representatives of the commission, the Departments of Agriculture, Environmental Protection, Community Affairs, Transportation, and State, the Florida Greenways Coordinating Council, the Florida Game and Freshwater Fish Commission, and, as deemed appropriate by the chair of the commission, representatives from other federal, state, regional, local, and private sector associations representing environmental, historical, cultural, recreational, and tourism-related activities.~~

~~(b) The advisory committee shall submit its plan to the commission by December 1, 1997.~~

~~(c) The commission shall review and make recommendations on the plan, including recommending any legislation considered necessary for implementing the plan, to the Legislature by January 1, 1998.~~

Section 18. Paragraphs (h) through (n) of subsection (5) of section 288.1226, Florida Statutes, are renumbered as paragraphs (i) through (o), respectively, and a new paragraph (h) is added to said subsection to read:

288.1226 Florida Tourism Industry Marketing Corporation; use of property; board of directors; duties; audit.—

(5) POWERS AND DUTIES.—The corporation, in the performance of its duties:

(h) Shall provide staff support to the Florida Commission on Tourism. The president and chief executive officer of the Florida Tourism Industry Marketing Corporation shall serve without compensation as the executive director of the commission.

Section 19. Effective upon this act becoming a law, section 335.166, Florida Statutes, is renumbered as section 288.12265, Florida Statutes, and amended to read:

288.12265 ~~335.166~~ Welcome centers ~~Office~~.—

(1) *Effective July 1, 1999, responsibility for* the welcome centers ~~Office~~ is assigned to the *Florida Commission on Tourism which shall contract with the commission's direct-support organization to employ all welcome center staff. On or before June 30, 1999, all welcome center staff shall be offered employment through the direct-support organization at the same salary such staff received through the Department of Transportation, prior to July 1, 1999, but with the same benefits provided by the direct-support organization to the organization's employees. Welcome center employees shall have until January 1, 2000, to choose to be employed by the direct-support organization or to remain employed by the state. Those employees who choose to remain employed by the state may continue to be assigned by the Department of Transportation to the welcome centers until June 30, 2001. Upon vacating a career service position by a career service employee, the position shall be abolished. The agreement between the Department of Transportation and the Florida Commission on Tourism concerning the funding of positions in the welcome centers shall continue until all welcome center employees are employed by the direct-support organization, or until those employees choosing to remain employed by the state have found other state employment, or until June 30, 2001, whichever occurs first* ~~Department of Transportation for administrative and fiscal accountability purposes, but it shall otherwise function independently of the control, supervision, and direction of the Department of Transportation~~.

(2) *Effective July 1, 1999,* the Florida Commission on Tourism, *through its direct-support organization, shall administer and operate the welcome centers. Pursuant to a contract with the Department of Transportation, the commission shall be responsible for routine repair, replacement, or improvement and the day-to-day management of interior areas occupied by the welcome centers. All other repairs, replacements, or improvements to the welcome centers shall be the responsibility of the Department of Transportation* ~~shall provide direction for the administration of the Welcome Centers Office and direction for the operation of the welcome centers. Funding for the office shall be solely from the rental car surcharge provided to the Tourism Promotional Trust Fund pursuant to s. 212.0606(2), through a nonoperating transfer to the State Transportation Trust Fund or contract with the commission or the commission's direct-support organization~~.

Section 20. *Section 335.165, Florida Statutes, is repealed.*

Section 21. *The welcome center tangible personal property transferred to the Department of Transportation pursuant to section 4 of chapter 96-320, Laws of Florida, is hereby transferred to the Florida Commission on Tourism.*

(Redesignate subsequent section.)

And the title is amended as follows:

On page 169, line 28, of the amendment after the semicolon insert: providing duties of the Office of Tourism, Trade, and Economic Development with respect to amateur athletics and the entertainment industry; creating s. 288.125, F.S.; defining "entertainment industry"; creating s. 288.1251, F.S.; creating the Office of the Film Commissioner; providing procedure for selection of the Film Commissioner; providing powers and duties of the office; creating s. 288.1252, F.S.; creating the Florida Film Advisory Council within the Office of Tourism, Trade, and Economic Development of the Executive Office of the Governor; providing purpose, membership, terms, organization, powers, and duties of the council; creating s. 288.1253, F.S.; providing definitions; requiring the Office of Tourism, Trade, and Economic Development to adopt rules by which it may make specified expenditures for expenses incurred in connection with the performance of the duties of the Office of the Film Commissioner; requiring approval of such rules by the Comptroller; requiring an annual report; authorizing the acceptance and use of specified goods and services by employees and representatives of the Office of the Film Commissioner; providing certain requirements with respect to claims for expenses; providing a penalty for false or fraudulent claims; providing for civil liability; creating the 21st Century Digital Television and Education Task Force; providing membership; providing duties; providing for a report; amending s. 288.1229, F.S.; revising the purposes of the direct-support organization authorized to assist the Office of Tourism, Trade, and Economic Development in the promotion and development of the sports industry and related industries; specifying the duties of the direct-support organization with respect to the promotion of the sports industry, amateur sports, and physical fitness; revising provisions relating to the board of directors; providing requirements with respect to the Sunshine State Games; providing authority of the Executive Office of the Governor with respect to the use of specified property, facilities, and personal services; amending s. 320.08058, F.S.; revising provisions relating to the Florida United States Olympic Committee license plate to remove references to the Sunshine State Games Foundation; revising the distribution of annual use fees from the sale of the Florida United States Olympic Committee license plate; providing for the reversion of funds and property of the Sunshine State Games Foundation, Inc., and the Florida Governor's Council on Physical Fitness and Amateur Sports to the direct-support organization; specifying use of such funds and property; repealing s. 14.22, F.S.; removing provisions relating to the Florida Governor's Council on Physical Fitness and Amateur Sports within the Office of the Governor, the Sunshine State Games, national and international amateur athletic competitions and Olympic development centers, direct-support organizations, and the Olympics and Pan American Games Task Force; amending s. 288.108, F.S.; correcting a cross reference; repealing s. 288.051, F.S., which provides a short title; repealing s. 288.052, F.S., relating to legislative findings and intent with respect to the "Florida Film and Television Investment Act"; repealing s. 288.053, F.S., relating to the Florida Film and Television Investment Board; repealing s. 288.054, F.S., relating to the administration and powers of the Florida Film and Television Investment Board; repealing s. 288.055, F.S., relating to the Florida Film and Investment Trust Fund; repealing s. 288.056, F.S., relating to conditions for film and television investment by the board; repealing s. 288.057, F.S., which requires an annual report by the board; repealing s. 288.1228, F.S., relating to the direct-support organization authorized by

the Office of Tourism, Trade, and Economic Development to assist in the promotion and development of the entertainment industry; repealing s. 288.12285, F.S., relating to confidentiality of identities of donors to the direct-support organization; appropriating positions to the Executive Office of the Governor; amending s. 288.1221, F.S.; revising legislative intent; amending s. 288.1222, F.S.; clarifying a definition; amending s. 288.1223, F.S.; specifying application of a limitation on terms of certain members of the Florida Commission on Tourism; clarifying meeting and vice chair election provisions; amending s. 288.1224, F.S.; deleting obsolete provisions; specifying categories of matching private funds for certain purposes; specifying staff support for the Florida Commission on Tourism; providing for responsibilities of staff; prohibiting the commission from employing staff; deleting provisions relating to an advisory committee for the commission; amending s. 288.1226, F.S.; requiring the Florida Tourism Industry Marketing Corporation to provide staff support to the Florida Commission on Tourism; specifying that the president and chief executive officer shall serve without compensation as executive director; renumbering and amending s. 335.166, F.S.; removing the Welcome Centers Office from the Department of Transportation; transferring administrative and fiscal responsibility for welcome center staff from the Department of Transportation to the Florida Commission on Tourism for employment through the Florida Tourism Industry Marketing Corporation by a designated time; requiring the corporation to administer and operate welcome centers; providing for maintenance and improvements to welcome centers; repealing s. 335.165, F.S., relating to welcome stations and the payment for improvements by the Department of Commerce; providing for the transfer of welcome center tangible personal property to the Florida Commission on Tourism;

House Amendment 8 to House Amendment 1 (913867)—On page 87, line 7 thru page 91, line 23 of the bill remove: all of said lines and insert in lieu thereof:

Section 35. Subsection (6) is added to section 15.16, Florida Statutes, to read.

15.16 Reproduction of records; admissibility in evidence; electronic receipt and transmission of records; certification; acknowledgment.—

(6) The Secretary of State may issue apostilles conforming to the requirements of the international treaty known as the Hague Convention of 1961 and may charge a fee for the issuance of apostilles not to exceed $10 per apostille. The Secretary of State has the sole authority in this state to establish, in accordance with the laws of the United States, the requirements and procedures for the issuance of apostilles. The Department of State may adopt rules to implement this subsection.

Section 36. Section 117.103, Florida Statutes, 1998 Supplement, is amended to read:

117.103 Certification of notary's authority by Secretary of State.—A notary public is not required to record his or her notary public commission in an office of a clerk of the circuit court. If certification of the notary public's commission is required, it must be obtained from the Secretary of State. Upon the receipt of a written request~~, the notarized document,~~ and a fee of $10 payable to the Secretary of State, the Secretary of State shall ~~provide a~~ *issue a certificate of notarial authority, in a form prescribed by the Secretary of State, which shall include a statement explaining the legal qualifications and authority of a notary public in this state* ~~certificate of notarial authority. Documents destined for countries participating in an International Treaty called the Hague Convention require an Apostille, and that requirement shall be determined by the Secretary of State~~.

Section 37. Subsections (1), (3), (5), and (6) of section 118.10, Florida Statutes, 1998 Supplement, are amended to read:

118.10 Civil-law notary.—

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

(a) "Authentic act" means an instrument executed by a civil-law notary referencing this section, which *instrument* includes the particulars and capacities to act of *any* transacting parties, a confirmation of the full text of *any necessary* ~~the~~ instrument, the signatures ~~of the parties~~ or *their* legal equivalent *of any transacting parties* ~~thereof, and~~ the signature and seal of a civil-law notary*, and such other information* ~~as~~ prescribed by the ~~Florida~~ Secretary of State.

(b) "Civil-law notary" means a person who is a member in good standing of The Florida Bar, who has practiced law for at least 5 years, and who is appointed by the Secretary of State as a civil-law notary.

(c) "Protocol" means a registry maintained by a civil-law notary in which the acts of the civil-law notary are archived.

(3) A civil-law notary is authorized to issue authentic acts and *thereby may authenticate or certify any document, transaction, event, condition, or occurrence. The contents of an authentic act and matters incorporated therein shall be presumed correct. A civil-law notary* may *also* administer an oath and make a certificate thereof when it is necessary for execution of any writing or document to be attested, protested, or published under the seal of a notary public. A civil-law notary may also take acknowledgements of deeds and other instruments of writing for record, and solemnize the rites of matrimony, as fully as other officers of this state. A civil-law notary is not authorized to issue authentic acts for use in a jurisdiction if the United States Department of State has determined that the jurisdiction does not have diplomatic relations with the United States or is a terrorist country, or if trade with the jurisdiction is prohibited under the Trading With the Enemy Act of 1917, as amended, 50 U.S.C. ss. 1, et seq.

(5) The Secretary of State may adopt rules prescribing:

(a) The form and content of *authentic acts, oaths, acknowledgements, solemnizations, and* signatures and seals or their legal equivalents ~~for authentic acts~~;

(b) Procedures for the permanent archiving of authentic acts, maintaining records of acknowledgments, oaths and solemnizations, and procedures for the administration of oaths and taking of acknowledgments;

(c) The charging of reasonable fees to be retained by the Secretary of State for the purpose of administering this *chapter* ~~section~~;

(d) Educational requirements and procedures for testing applicants' knowledge of *all matters relevant to the appointment, authority, duties or legal or ethical responsibilities of a civil-law notary* ~~the effects and consequences associated with authentic acts~~;

(e) Procedures for the disciplining of civil-law notaries, including, *but not limited to,* the suspension and revocation of appointments *for failure to comply with the requirements of chapter 118 or the rules of the Department of State, or* for misrepresentation or fraud regarding the civil-law notary's authority, the effect of the civil-law notary's authentic acts, or the identities or acts of the parties to a transaction; ~~and~~

(f) Bonding or errors and omissions insurance requirements, or both, for civil-law notaries; and

(g)~~(f)~~ Other matters necessary for administering this section.

(6) The Secretary of State shall not regulate, discipline, or attempt to discipline~~, or establish any educational requirements for~~ any civil-law notary for, or with regard to, any action or conduct that would constitute the practice of law in this state, except by agreement with The Florida Bar. The Secretary of State shall not establish as a prerequisite to the appointment of a civil-law notary any test containing any question that inquires of the applicant's knowledge regarding the practice of law in the United States, *unless such test is offered in conjunction with an educational program approved by The Florida Bar for continuing legal education credit* ~~except by agreement with The Florida Bar~~.

Section 38. Section 118.12, Florida Statutes, is created to read:

118.12 Certification of civil-law notary's authority; apostilles.—If certification of a civil-law notary's authority is necessary for a particular document or transaction, it must be obtained from the Secretary of State. Upon the receipt of a written request from a civil-law notary and the fee prescribed by the Secretary of State, the Secretary of State shall issue a certification of the civil-law notary's authority, in a form prescribed by the Secretary of State, which shall include a statement explaining the legal qualifications and authority of a civil-law notary in this state. The fee prescribed for the issuance of the certification under this section or an apostille under s. 15.16 may not exceed $10 per document. The Department of State may adopt rules to implement this section.

(Redesignate subsequent sections.)

House Amendment 9 to House Amendment 1 (240737)(with title amendment)—On page 168, between lines 26 and 27, of the bill insert:

Section 71. *Sections 282.74 and 282.745, Florida Statutes, and section 117.20, Florida Statutes, 1998 Supplement, are repealed.*

(Redesignate subsequent section.)

And the title is amended as follows:

On page 181, line 31, after the semicolon, insert: repealing ss. 282.74, 282.745 and 117.20, Florida Statutes;

House Amendment 10 to House Amendment 1 (625475)—Beginning on page 73, line 15, through page 77, line 11, remove from the amendment: all of said lines and insert in lieu thereof:

(18) Take, hold and improve property including real property.

Section 26. Subsections (2), (3), (6), and (11) of section 288.99, Florida Statutes, 1998 Supplement, are amended to read:

288.99 Certified Capital Company Act.—

(2) PURPOSE.—The primary purpose of this act is to stimulate a substantial increase in venture capital investments in this state by providing an incentive for insurance companies to invest in certified capital companies in this state which, in turn, will make investments in new businesses or in expanding businesses, *including minority-owned or minority-operated businesses and businesses located in a designated Front Porch community, enterprise zone, urban high-crime area, rural job tax credit county, or nationally recognized historic district*. The increase in investment capital flowing into new or expanding businesses is intended to contribute to employment growth, create jobs which exceed the average wage for the county in which the jobs are created, and expand or diversify the economic base of this state.

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

(a) "Affiliate of an insurance company" means:

1. Any person directly or indirectly beneficially owning, whether through rights, options, convertible interests, or otherwise, controlling, or holding power to vote 10 percent or more of the outstanding voting securities or other ownership interests of the insurance company;

2. Any person 10 percent or more of whose outstanding voting securities or other ownership interest is directly or indirectly beneficially owned, whether through rights, options, convertible interests, or otherwise, controlled, or held with power to vote by the insurance company;

3. Any person directly or indirectly controlling, controlled by, or under common control with the insurance company;

4. A partnership in which the insurance company is a general partner; or

5. Any person who is a principal, director, employee, or agent of the insurance company or an immediate family member of the principal, director, employee, or agent.

(b) "Certified capital" means an investment of cash by a certified investor in a certified capital company which fully funds the purchase price of either or both its equity interest in the certified capital company or a qualified debt instrument issued by the certified capital company.

(c) "Certified capital company" means a corporation, partnership, or limited liability company which:

1. Is certified by the department in accordance with this act.

2. Receives investments of certified capital.

3. Makes qualified investments as its primary activity.

(d) "Certified investor" means any insurance company subject to premium tax liability pursuant to s. 624.509 that contributes certified capital.

(e) "Department" means the Department of Banking and Finance.

(f) "Director" means the director of the Office of Tourism, Trade, and Economic Development.

(g) "Early stage technology business" means a qualified business that is involved, at the time of the certified capital company's initial investment in such business, in activities related to developing initial product or service offerings, such as prototype development or the establishment of initial production or service processes. The term includes a qualified business that is less than 2 years old and has, together with its affiliates, less than $3 million in annual revenues for the fiscal year immediately preceding the initial investment by the certified capital company on a consolidated basis, as determined in accordance with generally accepted accounting principles. *The term also includes the Florida Black Business Investment Board, any entity majority owned by the Florida Black Business Investment Board, or any entity in which the Florida Black Business Investment Board holds a majority voting interest on the board of directors.*

(h) "Office" means the Office of Tourism, Trade, and Economic Development.

(i) "Premium tax liability" means any liability incurred by an insurance company under the provisions of s. 624.509.

(j) "Principal" means an executive officer of a corporation, partner of a partnership, manager of a limited liability company, or any other person with equivalent executive functions.

(k) "Qualified business" means a business that meets the following conditions:

1. The business is headquartered in this state and its principal business operations are located in this state.

2. At the time a certified capital company makes an initial investment in a business, the business is a small business concern as defined in 13 C.F.R. s. 121.201, "Size Standards Used to Define Small Business Concerns" of the United States Small Business Administration which is involved in manufacturing, processing or assembling products, conducting research and development, or providing services.

3. At the time a certified capital company makes an initial investment in a business, the business certifies in an affidavit that:

a. The business is unable to obtain conventional financing, which means that the business has failed in an attempt to obtain funding for a loan from a bank or other commercial lender or that the business cannot reasonably be expected to qualify for such financing under the standards of commercial lending;

b. The business plan for the business projects that the business is reasonably expected to achieve in excess of $25 million in sales revenue within 5 years after the initial investment, *or the business is located in a designated Front Porch community, enterprise zone, urban high crime area, rural job tax credit county, or nationally recognized historic district*;

c. The business will maintain its headquarters in this state for the next 10 years and any new manufacturing facility financed by a qualified investment will remain in this state for the next 10 years, *or the business is located in a designated Front Porch community, enterprise zone, urban high crime area, rural job tax credit county, or nationally recognized historic district*; and

d. The business has fewer than 200 employees and at least 75 percent of the employees are employed in this state. *For purposes of this subsection, the term "Qualified Business" also includes the Florida Black Business Investment Board, any entity majority owned by the Florida Black Business Investment Board, or any entity in which the Florida black Business Investment Board holds a majority voting interest on the board of directors.*

A business predominantly engaged in retail sales, real estate development, insurance, banking, lending, oil and gas exploration, or engaged in professional services provided by accountants, lawyers, or physicians does not constitute a qualified business.

Senator Kirkpatrick moved the following amendments which were adopted:

Senate Amendment 1 (184194) to House Amendment 7 to House Amendment 1—On page 12, delete lines 23-30 and insert:

288.125 Definitions.—For the purposes of sections 288.1251 through 288.1258, the term "entertainment industry" means those persons or entities engaged in the operation of motion picture or television studios or recording studios; those persons or entities engaged in the preproduction, production, or postproduction of motion pictures, made-for-TV motion pictures, television series, commercial advertising, music videos, or sound recordings; and those persons or entities providing products or services directly related to the preproduction, production, or postproduction of motion pictures, made-for-TV motion pictures, television series, commercial advertising, music videos, or sound recordings, including, but not limited to, the broadcast industry.

Senate Amendment 2 (290554)(with title amendment) to House Amendment 7 to House Amendment 1—On page 38, between lines 4 and 5, insert:

(12) Shall establish a statewide advisory committee of the commission to assist the commission with implementation of a plan to protect and promote all of the natural, coastal, historical, and cultural tourism assets of this state. The duties of the committee shall include, but are not limited to, helping to develop and review nature–based tourism and heritage tourism policies, coordinate governmental and private–sector interests in nature–based tourism and heritage tourism, and integrate federal, state, regional, and local nature–based tourism and heritage tourism marketing strategies. The chairman of the commission shall appoint members of the advisory committee based upon recommendations from the commission. Members shall include:

(a) A representative of each of the following state governmental organizations: the Department of Agriculture, the Department of Environmental Protection, the Department of Community Affairs, the Department of Transportation, the Department of State, the Florida Greenways Coordinating Council, and the Florida Fish and Wildlife Conservation Commission.

(b) A representative of Enterprise Florida, Inc.

(c) Representatives of regional nature–based tourism or heritage tourism committees or associations that are established by local tourism organizations throughout the state.

(d) Representatives of the private sector with experience in environmental, historical, cultural, recreational, or other tourism–related activities.

(e) Representatives of two not–for–profit environmental organizations with expertise in environmental resource protection and land management.

(f) A representative from a local economic development organization serving a rural community.

(g) A representative from a local economic development organization serving a nonrural community.

(h) Representatives from any other organizations that the chairman of the commission, based upon recommendations from the commission, deems appropriate.

(13) Shall incorporate nature–based tourism and heritage tourism components into its comprehensive tourism marketing plan for the state, including, but not limited to:

(a) Promoting travel experiences that combine visits to commercial destinations in the state with visits to nature–based or heritage–based sites in the state;

(b) Promoting travel experiences that combine visits to multiple nature–based or heritage–based sites within a region or within two or more regions in the state;

(c) Assisting local and regional tourism organizations in incorporating nature–based tourism and heritage tourism components into local marketing plans and in establishing cooperative local or regional advisory committees on nature–based tourism and heritage tourism;

(d) Working with local and regional tourism organizations to identify nature–based tourism and heritage tourism sites, including identifying private–sector businesses engaged in activities supporting or related to nature–based tourism and heritage tourism; and

(e) Providing guidance to local and regional economic development organizations on the identification, enhancement, and promotion of nature–based tourism and heritage tourism assets as a component of the overall job–creating efforts of such organizations.

The marketing plan shall include specific provisions for directing tourism promotion resources toward promotion and development of nature–based tourism and heritage tourism. The marketing plan shall also include provisions specifically addressing promotion and development of nature–based tourism and heritage tourism in rural communities in the state.

And the title is amended as follows:

On page 44, line 3, after the semicolon (;) insert: requiring the creation of an advisory committee on nature-based tourism and heritage tourism; prescribing the membership and duties of the committee; requiring the incorporation of nature-based tourism and heritage tourism into the tourism marketing plan;

Senate Amendment 3 (381406) to House Amendment 7 to House Amendment 1—On page 35, line 13, after "amended" insert: , and subsections (12) and (13) are added to that section,

Senator Kirkpatrick moved the following amendment:

Senate Amendment 1 (410118)(with title amendment) to House Amendment 1—On page 40, between lines 27 and 28, insert:

Section 7. Section 288.90151, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 288.90151, F.S., for present text.)

288.90151 Return on Investment from Activities of Enterprise Florida, Inc.—

(1) The public funds appropriated each year for the operation of Enterprise Florida, Inc., are invested in this public-private partnership to enhance international trade and economic development, to spur job-creating investments, to create new employment opportunities for Floridians, and to prepare Floridians for those jobs. This policy will be the Legislature's priority consideration when reviewing the return-on-investment for Enterprise Florida, Inc.

(2) It is also the intent of the Legislature that Enterprise Florida, Inc., coordinate its operations with local economic-development organizations to maximize the state and local return-on-investment to create jobs for Floridians.

(3) It is further the intent of the Legislature to maximize private-sector support in operating Enterprise Florida, Inc., as an endorsement of its value and as an enhancement of its efforts.

(4)(a) The state's operating investment in Enterprise Florida, Inc., is the budget contracted by the Office of Tourism, Trade, and Economic Development to Enterprise Florida, Inc., less funding that is directed by the Legislature to be subcontracted to a specific recipient.

(b) The board of directors of Enterprise Florida, Inc., shall adopt for each upcoming fiscal year an operating budget for the organization that specifies the intended uses of the state's operating investment and a plan for securing private sector support to Enterprise Florida, Inc. Each fiscal year private sector support to Enterprise Florida, Inc., shall equal no less than 100 percent of the state's operating investment, including at least $600,000 in cash as defined in subsection (5)(a), and an additional $600,000 in cash as defined in subsection (5)(a), (b), and (c).

(5) Private-sector support in operating Enterprise Florida, Inc., includes:

(a) Cash given directly to Enterprise Florida, Inc., for its operating budget;

(b) Cash jointly raised by Enterprise Florida, Inc., and a local economic development organization, a group of such organizations or a statewide business organization that supports collaborative projects;

(c) Cash generated by products or services of Enterprise Florida, Inc.; and

(d) In–kind contributions directly to Enterprise Florida, Inc., including: business expenditures; business services provided; business support; or other business contributions that augment the operations, program, activities, or assets of Enterprise Florida, Inc., including, but not limited to: an individual's time and expertise; sponsored publications; private-sector staff services; payment for advertising placements; sponsorship of events; sponsored or joint research; discounts on leases or purchases; mission or program sponsorship; and co-payments, stock, warrants, royalties, or other private resources dedicated to Enterprise Florida, Inc.

(6) Enterprise Florida, Inc., shall fully comply with the performance measures, standards, and sanctions in its contracts with the Office of Tourism, Trade, and Economic Development under ss. 14.2015(2)(h) and 14.2015(7). The Office of Tourism, Trade, and Economic Development shall ensure, to the maximum extent possible, that the contract performance measures are consistent with performance measures that the office is required to develop and track under performance-based program budgeting.

(7) As part of the annual report required under s. 288.906, Enterprise Florida, Inc., shall provide the Legislature with information quantifying the public's return-on-investment as described in this section for fiscal year 1997-1998 and each subsequent fiscal year. The annual report shall also include the results of a customer-satisfaction survey of businesses served, as well as the lead economic development staff person of each local economic development organization that employs a full-time or part-time staff person.

(8) Enterprise Florida, Inc., in consultation with the Office of Program Policy Analysis and Government Accountability, shall hire a private accounting firm to develop the methodology for establishing and reporting return-on-investment and in–kind contributions as described in this section and to develop, analyze, and report on the results of the customer-satisfaction survey. The Office of Program Policy Analysis and Government Accountability shall review and offer feedback on the methodology before it is implemented. The private accounting firm shall certify whether the applicable statements in the annual report comply with this subsection.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 171, line 1, after the semicolon (;) insert: amending s. 288.90151, F.S.; expressing legislative intent on the return–on–investment of public funds in Enterprise Florida, Inc.; specifying private–sector support for Enterprise Florida, Inc.; prescribing the state's operating investment in Enterprise Florida, Inc.; requiring compliance with performance measures; requiring a report on the results of a customer satisfaction survey; requiring development of a methodology for establishing and reporting on return–on–investment;

Senator Klein moved the following substitute amendment which was adopted:

Senate Amendment 2 (680664)(with title amendment) to House Amendment 1—On page 40, between lines 27 and 28, insert:

Section 7. Section 288.90151, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 288.90151, F.S., for present text.)

288.90151 Return on Investment from Activities of Enterprise Florida, Inc.—

(1) The public funds appropriated each year for the operation of Enterprise Florida, Inc., are invested in this public-private partnership to enhance international trade and economic development, to spur job-creating investments, to create new employment opportunities for Floridians, and to prepare Floridians for those jobs. This policy will be the Legislature's priority consideration when reviewing the return-on-investment for Enterprise Florida, Inc.

(2) It is also the intent of the Legislature that Enterprise Florida, Inc., coordinate its operations with local economic-development organizations to maximize the state and local return-on-investment to create jobs for Floridians.

(3) It is further the intent of the Legislature to maximize private-sector support in operating Enterprise Florida, Inc., as an endorsement of its value and as an enhancement of its efforts.

(4)(a) The state's operating investment in Enterprise Florida, Inc., is the budget contracted by the Office of Tourism, Trade, and Economic Development to Enterprise Florida, Inc., less funding that is directed by the Legislature to be subcontracted to a specific recipient.

(b) The board of directors of Enterprise Florida, Inc., shall adopt for each upcoming fiscal year an operating budget for the organization that specifies the intended uses of the state's operating investment and a plan for securing private sector support to Enterprise Florida, Inc. Each fiscal year private sector support to Enterprise Florida, Inc., shall equal no less than 100 percent of the state's operating investment, including at least $1 million in cash as defined in subsection (5)(a), and an additional $400,000 in cash as defined in subsection (5)(a), (b), and (c).

(5) Private-sector support in operating Enterprise Florida, Inc., includes:

(a) Cash given directly to Enterprise Florida, Inc., for its operating budget;

(b) Cash jointly raised by Enterprise Florida, Inc., and a local economic development organization, a group of such organizations or a statewide business organization that supports collaborative projects;

(c) Cash generated by products or services of Enterprise Florida, Inc.; and

(d) In–kind contributions directly to Enterprise Florida, Inc., including: business expenditures; business services provided; business support; or other business contributions that augment the operations, program, activities, or assets of Enterprise Florida, Inc., including, but not limited to: an individual's time and expertise; sponsored publications; private-sector staff services; payment for advertising placements; sponsorship of events; sponsored or joint research; discounts on leases or purchases; mission or program sponsorship; and co-payments, stock, warrants, royalties, or other private resources dedicated to Enterprise Florida, Inc.

(6) Enterprise Florida, Inc., shall fully comply with the performance measures, standards, and sanctions in its contracts with the Office of Tourism, Trade, and Economic Development under ss. 14.2015(2)(h) and 14.2015(7). The Office of Tourism, Trade, and Economic Development shall ensure, to the maximum extent possible, that the contract performance measures are consistent with performance measures that the office is required to develop and track under performance-based program budgeting.

(7) As part of the annual report required under s. 288.906, Enterprise Florida, Inc., shall provide the Legislature with information quantifying the public's return-on-investment as described in this section for fiscal year 1997-1998 and each subsequent fiscal year. The annual report shall also include the results of a customer-satisfaction survey of businesses served, as well as the lead economic development staff person of each local economic development organization that employs a full-time or part-time staff person.

(8) Enterprise Florida, Inc., in consultation with the Office of Program Policy Analysis and Government Accountability, shall hire a private accounting firm to develop the methodology for establishing and reporting return-on-investment and in–kind contributions as described in this section and to develop, analyze, and report on the results of the customer-satisfaction survey. The Office of Program Policy Analysis and Government Accountability shall review and offer feedback on the methodology before it is implemented. The private accounting firm shall certify whether the applicable statements in the annual report comply with this subsection.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 171, line 1, after the semicolon (;) insert: amending s. 288.90151, F.S.; expressing legislative intent on the return–on–investment of public funds in Enterprise Florida, Inc.; specifying private–sector support for Enterprise Florida, Inc.; prescribing the state's operating investment in Enterprise Florida, Inc.; requiring compliance with performance measures; requiring a report on the results of a customer satisfaction survey; requiring development of a methodology for establishing and reporting on return–on–investment;

Senator Kirkpatrick moved the following amendments which were adopted:

Senate Amendment 3 (694794)(with title amendment) to House Amendment 1—On page 168, between lines 26 and 27, insert:

Section 71. *(1) The Department of Labor and Employment Security may offer, subject to the provisions of this section, active employees with 30 or more years of creditable service in a state-administered retirement system, or who are at least 62 years of age and are eligible for retirement in a state-administered retirement system, a one-time voluntary reduction-in-force payment during the 1999-2000 fiscal year. Such payment shall represent a payment of insurance costs and shall be paid as an annuity to be purchased by the department within funds appropriated for salary and benefits in the General Appropriations Act for fiscal year 1999-2000, which shall include funds derived from eliminating vacated positions. There shall be no annualization costs associated with this plan. The Secretary of Labor and Employment Security shall be deemed to be the public employer for purposes of negotiating the terms and conditions related to the reduction-in-force payments authorized by this section. All persons retiring under this program shall do so no later than January 1, 2000.*

(2) The department, in consultation with the Department of Management Services, shall prepare a plan to implement the reduction-in-force payment authority for approval by the Office of Planning and Budgeting. Such plan must meet all applicable federal requirements regarding the expenditure of federal funds; all applicable federal tax laws; and all other federal and state laws regarding special compensation to employees, including the Age Discrimination in Employment Act and the Older Workers' Benefit Protection Act. The plan must specify the savings created through the payment mechanism and the reduction-in-force, specify the source of funding of the payments, and delineate a timetable for implementation.

(3) If approved by the Office of Planning and Budgeting, such plan shall be submitted to the Legislature subject to the notice, review, and objection process authorized in section 216.177, Florida Statutes.

(4) This section shall take effect upon becoming a law.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 181, line 31, after the semicolon (;) insert: authorizing the Department of Labor and Employment Security to offer voluntary reduction–in–force payment to certain employees; requiring a plan to meet specified criteria; requiring legislative review;

Senate Amendment 4 (700790)(with title amendment) to House Amendment 1—On page 168, between lines 26 and 27, insert:

Section 71. Subsections (3), (4), (5), and (9) of section 548.002, Florida Statutes, are amended, present subsections (5) through (15) are renumbered as subsections (6) through (16), respectively, and new subsections (5) and (17) are added to that section, to read:

548.002 Definitions.—As used in this act, the term:

(3) "Commission" means the *Florida* State *Boxing* ~~Athletic~~ Commission.

(4) "Contest" means a boxing *or,* kickboxing~~, or martial arts~~ engagement in which the participants strive earnestly to win.

(5) "Department" means the Department of Business and Professional Regulation.

(6)~~(5)~~ "Exhibition" means a boxing *or,* kickboxing~~, or martial arts~~ engagement in which the participants show or display their skill without necessarily striving to win.

(10)~~(9)~~ "Manager" means any person who, directly or indirectly, controls or administers the boxing *or,* kickboxing~~, or martial arts~~ affairs of any participant.

(17) "Secretary" means the Secretary of Business and Professional Regulation.

Section 72. Section 548.003, Florida Statutes, 1998 Supplement, is amended to read:

548.003 *Florida* State *Boxing* ~~Athletic~~ Commission*; organization; meetings; accountability of commission members; compensation and travel expenses; association membership and participation.*—

(1) The *Florida* State *Boxing* ~~Athletic~~ Commission is created *and is assigned to* ~~under~~ the Department of Business and Professional Regulation *for administrative and fiscal accountability purposes only*. The *Florida* State *Boxing* ~~Athletic~~ Commission shall consist of five members appointed by the Governor, subject to confirmation by the Senate. Upon the expiration of the term of a commissioner, the Governor shall appoint a successor to serve for a 4-year term. *A commissioner whose term has expired shall continue to serve on the commission until such time as a replacement is appointed. If a vacancy on the commission occurs prior to the expiration of the term, it shall be filled for the unexpired portion of the term in the same manner as the original appointment.*

(2) The *Florida* State *Boxing* ~~Athletic~~ Commission, as created by subsection (1), shall administer the provisions of this chapter. The commission has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter *and to implement each of the duties and responsibilities conferred upon the commission, including, but not limited to: development of an ethical code of conduct for commissioners, commission staff, and commission officials; procedures for hearings and resolution of disputes; qualifications for appointment of referees and judges; and setting fee and reimbursement schedules for officials appointed by the commission.*

(3) The commission shall maintain an office in Tallahassee ~~and any necessary branch offices~~. At the first meeting of the commission after June 1 of each year, the commission shall select a chair *and a vice chair* from among its membership. Three members shall constitute a quorum and the concurrence of at least three members is necessary for official commission action.

(4) Three consecutive unexcused absences or absences constituting 50 percent or more of the commission's meetings within any 12-month period shall cause the commission membership of the member in question to become void, and the position shall be considered vacant. The commission shall, by rule, define unexcused absences.

(5) Each commission member shall be accountable to the Governor for the proper performance of duties as a member of the commission. The Governor shall cause to be investigated any complaint or unfavorable report received by the Governor or the department concerning an action of the commission or any member and shall take appropriate action thereon. The Governor may remove from office any member for malfeasance, unethical conduct, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, or pleading guilty or nolo contendere to or being found guilty of a felony.

(6)~~(4)~~ Each member of the commission shall be compensated at the rate of *$50* ~~$25~~ for each day she or he attends a commission meeting and shall be reimbursed for other expenses as provided in s. 112.061.

(7) The commission shall be authorized to join and participate in the activities of the Association of Boxing Commissions (ABC).

(8) The department shall provide all legal and investigative services necessary to implement this chapter. The department may adopt rules as provided in ss. 120.54 and 120.536(1) to carry out its duties under this chapter.

Section 73. Section 548.004, Florida Statutes, is amended to read:

548.004 Executive *director* ~~secretary; deputies~~; duties, compensation*, administrative support*.—

(1) The *department* ~~commission~~ shall employ an executive *director with the approval of the commission. The executive director shall serve*

at the pleasure of the secretary ~~who shall receive a salary to be fixed by the commission with the approval of the Governor~~. The executive secretary shall keep a record of all proceedings of the commission; shall preserve all books, papers, and documents pertaining to the business of the commission; shall prepare any notices and papers required; *shall appoint judges, referees, and other officials as delegated by the commission and pursuant to this chapter and rules of the commission;* and shall perform such other duties as the *department or* commission directs. The executive *director* ~~secretary~~ may issue ~~witness~~ subpoenas and administer oaths.

(2) The commission shall require electronic recording of all scheduled proceedings of the commission.

(3) The department shall provide assistance in budget development and budget submission for state funding requests. The department shall submit an annual balanced legislative budget for the commission which is based upon anticipated revenue. The department shall provide technical assistance and administrative support, if requested or determined needed, to the commission and its executive director on issues relating to personnel, contracting, property management, or other issues identified as important to performing the duties of this chapter and to protecting the interests of the state.

~~(2) The commission may appoint any deputies that are necessary, whose compensation shall be the same as that of the commissioners. A deputy shall, on the order of the commission, represent the commission at a boxing match.~~

Section 74. Section 548.005, Florida Statutes, is created to read:

548.005 Oversight of the commission; long-range policy planning; plans, reports, and recommendations.—

(1) The department shall exercise oversight of the activities of the commission to the extent necessary to facilitate the requirements of this section.

(2) To facilitate efficient and cost-effective regulation, the commission and the department, where appropriate, shall develop and implement a long-range policy planning and monitoring process to include recommendations specific to the commission. Included in the plan shall be specific recommendations regarding performance standards and measurable outcomes for the commission. Such process shall include estimates of revenues, expenditures, cash balances, and performance statistics for the commission. The period covered shall not be less than 5 years. The commission, with assistance from the department, shall develop the long-range plan which must be approved by the Governor. The department shall monitor compliance with the approved long-range plan and shall assist the commission in annually updating the plan for approval by the Governor. The department shall provide concise management reports to the commission and the Governor quarterly. As part of the review process, the department shall evaluate:

(a) Whether the commission is operating efficiently and effectively and if there is need for assistance to help the commission in ensuring cost-effective regulation.

(b) How and why pugilistic exhibitions and contests are regulated.

(c) Whether there is a need to continue regulation, and to what degree.

(d) Whether or not licensee and consumer protection is adequate, and how it can be improved.

(e) Whether unlicensed activity is adequately enforced.

Such plans should include conclusions and recommendations on these and other issues as appropriate. Such plans shall be provided to the Governor and the Legislature by November 1 of each year.

Section 75. Section 548.006, Florida Statutes, is amended to read:

548.006 Power of commission to control pugilistic contests and exhibitions.—The commission has exclusive jurisdiction over every match held within the state which involves a professional. Matches shall be held ~~only~~ in accordance with this chapter *and the rules adopted by the commission*.

Section 76. Section 548.007, Florida Statutes, is amended to read:

548.007 Applicability of act to amateur matches and certain other matches or events.—*With the exception of s. 548.008,* sections 548.001-548.079 do not apply to:

(1) Any match in which the participants are amateurs;

(2) Any match conducted or sponsored by a university, college, or secondary school if all the participants are students regularly enrolled in the institution;

(3) Any match conducted or sponsored by a nationally chartered veterans' organization registered with the state;

(4) Any match conducted or sponsored by any company or detachment of the Florida National Guard; or

(5) Any official Olympic event.

Section 77. Section 548.008, Florida Statutes, is amended to read:

548.008 Toughman and badman competition prohibited.—

(1) No *professional or amateur* toughman or badman match, as described in this section, may be held in this state. Such competition includes any contest or exhibition where participants compete by using a combination of fighting skills. Such skills may include, but are not limited to, boxing, wrestling, kicking, or martial arts skills. Notwithstanding the above, this section shall not preclude kickboxing as regulated by this chapter.

(2) Any person participating in or promoting a *professional or amateur* toughman or badman match is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 78. Section 548.014, Florida Statutes, is amended to read:

548.014 Promoters and foreign copromoters; bonds or other security.—

(1)(a) Before any license is issued or renewed to a *promoter or* foreign copromoter and before any permit is issued to a *promoter or* foreign copromoter, she or he must file a surety bond with the commission in such reasonable amount, but not less than *$15,000* ~~$3,000~~, as the commission determines.

(b) All bonds *must* ~~shall~~ be upon forms approved ~~by the Department of Legal Affairs~~ and supplied by the commission.

(c) The sufficiency of any surety is subject to approval of the commission ~~and the Department of Legal Affairs~~.

(d) The surety bond *must* ~~shall~~ be conditioned upon the faithful performance by the promoter or foreign copromoter of her or his obligations under this chapter and upon the fulfillment of her or his contracts with any other licensees under this chapter. However, the aggregate annual liability of the surety for all obligations and fees *may* ~~shall~~ not exceed the amount of the bond.

(2) In lieu of a surety bond, the promoter or foreign copromoter may deposit with the commission cash *or*~~,~~ a certified check, ~~or direct obligations of the United States or this state which are acceptable to the commission~~ in an equivalent amount and subject to the same conditions as the bond. ~~No~~ Such security may *not* be returned to the promoter until 1 year after the date on which it was deposited with the commission unless a surety bond is substituted for it. If no claim against the deposit is outstanding, it shall be returned to the depositor 1 year *after* ~~from~~ the date it was deposited.

~~(3) A filing fee of $10 shall accompany each bond, cash, or security deposited under this section.~~

(3)~~(4)~~ Recovery may be made against any bond, cash, or other security in the same manner as penalties are recoverable at law.

Section 79. Section 548.025, Florida Statutes, is amended to read:

548.025 License fees.—

~~(1)~~ The commission shall set license fees as follows:

(1)~~(a)~~ Promoter, matchmaker—not to exceed $500.

(2)~~(b)~~ Any other license—not to exceed $100.

~~(2) The commission may issue licenses, without charge, to referees and physicians authorizing them to officiate only at matches involving amateurs.~~

Section 80. Section 548.041, Florida Statutes, is amended to read:

548.041 Age of boxers.—A person under 18 years of age may not participate in any match~~, except that an amateur who is 16 or 17 years of age may participate in matches with other amateurs who are 16 or 17 years of age under rules adopted by the commission~~.

Section 81. Section 548.042, Florida Statutes, is amended to read:

548.042 Participation under fictitious name.—A person may not participate under a fictitious or assumed name in any match ~~involving an amateur~~ unless she or he has registered the name with the commission.

Section 82. Subsections (2) and (3) of section 548.043, Florida Statutes, are amended to read:

548.043 Weights and classes, limitations; gloves.—

(2) *The commission shall establish by rule the acceptable* ~~No boxing match shall be held in which the~~ difference in weight *between* ~~of the~~ participants*; however, the maximum difference in weight shall not exceed 12* ~~exceeds 10~~ pounds, except matches in the *cruiserweight* ~~light-heavyweight~~ and heavyweight classes and exhibitions held solely for training purposes.

(3) *The commission shall establish by rule the appropriate weight of boxing gloves to be used in each boxing match; however,* all participants in boxing matches shall wear boxing gloves weighing not less than *8* ~~6~~ ounces each. Participants ~~in all other types of matches~~ shall wear such protective devices as the commission deems necessary.

Section 83. Subsections (1), (2), and (3) of section 548.045, Florida Statutes, are amended to read:

548.045 Medical advisory council; qualifications, compensation, powers and duties.—

(1) A medical advisory council, which shall consist of five members appointed by the Governor, is created. Each member must be licensed to practice medicine in this state, *must maintain an unencumbered license in good standing,* and must, at the time of her or his appointment, have practiced medicine at least 5 years.

(2) ~~Initially, two of the members shall be appointed for terms of 1 year, one member shall be appointed for a term of 2 years, one member shall be appointed for a term of 3 years, and one member shall be appointed for a term of 4 years.~~ The term of each member ~~thereafter~~ appointed, except to fill a vacancy, shall be *2* **4** years.

(3) The Governor shall designate one of the members of the council as its chair.

Section 84. Subsection (2) of section 548.046, Florida Statutes, is amended to read:

548.046 Physician's attendance at match; examinations; cancellation of match.—

(2) In addition to any other required examination, each participant shall be examined by the attending physician *at the time of weigh-in* ~~within 12 hours before she or he enters the ring~~. If the physician determines that a participant is physically or mentally unfit to proceed, the physician shall notify any commissioner or the *commission representative* ~~deputy in charge~~ who shall immediately cancel the match. The examination shall conform to rules adopted by the commission based on the advice of the medical advisory council. The result of the examination shall be reported in a writing signed by the physician and filed with the commission *prior to completion of the weigh-in* ~~within 72 hours after the match~~.

Section 85. Subsections (3) and (4) of section 548.05, Florida Statutes, are amended to read:

548.05 Control of contracts.—

(3) The commission may require that each contract contain language authorizing the *Florida* State *Boxing* ~~Athletic~~ Commission to withhold any or all of any manager's share of a purse in the event of a contractual dispute as to entitlement to any portion of a purse. The commission may establish rules governing the manner of resolution of such dispute. In addition, if the commission deems it appropriate, the commission is hereby authorized to implead interested parties over any disputed funds into the appropriate circuit court for resolution of the dispute prior to release of all or any part of the funds.

(4) Each contract subject to this section shall contain the following clause: "This agreement is subject to the provisions of chapter 548, Florida Statutes, and to the rules of the *Florida* State *Boxing* ~~Athletic~~ Commission and to any future amendments of either."

Section 86. Section 548.053, Florida Statutes, is amended to read:

548.053 Distribution of purses to participants; statements.—

(1) Unless otherwise directed by a representative of the commission, all purses shall be distributed by the promoter no later than 24 hours after the match. A written statement showing the distribution of the purse, including each item of receipt and each expenditure or deduction, shall be furnished to the participant and her or his manager, together with the participant's share of the purse. The promoter shall *retain* ~~file~~ a copy of the statement, certified by her or him to be correct, with receipted vouchers for all expenditures and deductions, *for a period to be designated by the commission, which copy shall be provided to the commission upon demand* ~~with the commission no later than 72 hours after the match~~.

(2) Unless otherwise directed by a representative of the commission, a manager shall furnish to the participant she or he manages a statement of distribution, together with the participant's share of the purse, no later than 24 hours after the manager receives the purse and statement from the promoter. The manager shall *retain* ~~file~~ a copy of the statement, certified by her or him to be correct, with receipted vouchers for all expenditures and deductions, *for a period to be designated by the commission, which copy shall be provided to the commission upon demand* ~~with the commission no later than 72 hours after the manager receives the distribution from the promoter~~.

Section 87. Subsection (1) of section 548.054, Florida Statutes, is amended to read:

548.054 Withholding of purses; hearing; disposition of withheld purse forfeiture.—

(1) A member of the commission, *the commission representative* ~~the deputy in charge~~, or the referee may order a promoter to *surrender to the commission* ~~withhold~~ any purse or other funds payable to a participant, or to withhold the share of any manager, if it appears that:

(a) The participant is not competing honestly, or is intentionally not competing to the best of her or his ability and skill, in a match represented to be a contest; or

(b) The participant, her or his manager, or any of the participant's seconds has violated this chapter.

Section 88. Subsections (2) and (3) of section 548.057, Florida Statutes, are amended to read:

548.057 Attendance of referee and judges at match; scoring; seconds.—

(2) At each boxing contest, at the expense of the promoters, three judges *appointed by the executive director as delegated by the commission* shall attend and shall render their individual decisions in writing on scorecards supplied by the commission ~~at the end of each contest which continues for the scheduled number of rounds~~. Each judge shall have one vote, and a majority of the votes cast shall determine the winner.

(3) The commission *shall ensure that all referees, judges, and other officials are Florida-licensed officials qualified pursuant to rules of the*

commission and that no sanctioning organization or promoter has been permitted to influence the appointment of any officials, and shall prescribe the methods of scoring.

Section 89. Subsection (12) of section 548.071, Florida Statutes, is amended to read:

548.071 Suspension or revocation of license or permit by commission.—The commission may suspend or revoke a license or permit if the commission finds that the licensee or permittee:

(12) Has been disciplined by the *Florida* State *Boxing* ~~Athletic~~ Commission or similar agency or body of any jurisdiction.

Section 90. Section 548.077, Florida Statutes, is amended to read:

548.077 *Florida* State *Boxing* ~~Athletic~~ Commission; collection and disposition of moneys.—All fees, fines, forfeitures, and other moneys collected under the provisions of this chapter shall be paid by the commission to the State Treasurer who, after the expenses of the commission are paid, shall deposit them in the Professional Regulation Trust Fund to be used for the administration and operation of the commission and to enforce the laws and rules under its jurisdiction. In the event the unexpended balance of such moneys collected under the provisions of this chapter exceeds $250,000, any excess of that amount shall be deposited in the General Revenue Fund.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 181, line 31, after the semicolon (;) insert: amending s. 548.002, F.S.; providing definitions; amending s. 548.003, F.S.; changing the name of the commission to the Florida State Boxing Commission; assigning the commission to the Department of Business and Professional Regulation for administrative and fiscal accountability purposes only; providing procedures for filling vacancies on commission; expanding scope of rules; eliminating branch offices; requiring selection of vice chair; providing for removal of commission members for specified absences; providing accountability for commission members; increasing compensation rate for attendance of meetings; authorizing membership and participation by the commission in specified associations; providing rulemaking authority; amending s. 548.004, F.S.; providing for an executive director employed by the department; providing additional duties of the executive director; eliminating the appointment of deputies; requiring electronic recording of commission proceedings; requiring the department to provide assistance to the commission under certain circumstances; creating s. 548.005, F.S.; requiring the department to oversee the activities of the commission; providing for long-range policy planning, and preparation of plans, reports, and recommendations; requiring submission to the Governor and Legislature; amending s. 548.006, F.S.; providing that matches shall be held in accordance with commission rules; amending s. 548.007, F.S.; providing for applicability of the act to toughman and badman competitions; amending s. 548.008, F.S.; prohibiting professional or amateur toughman and badman competitions; providing a penalty; amending s. 548.014, F.S.; requiring surety bond to apply to promoters or foreign copromoters; increasing the minimum amount for surety bond; revising options to surety bond; eliminating a filing fee; amending ss. 548.025, 548.041, and 548.042, F.S.; removing provisions relating to amateurs and amateur matches; amending s. 548.043, F.S.; revising provisions regulating weights, classes, and gloves; amending s. 548.045, F.S.; revising provisions relating to the medical advisory council; revising terms of council members; amending s. 548.046, F.S.; revising the time for examination of participants by physician and filing of physician report; amending s. 548.053, F.S.; revising provisions relating to distribution of purses to participants; requiring promoters and managers to retain certain information for a designated time; amending s. 548.054, F.S.; designating those persons authorized to order the surrender of a purse or the withholding of a manager's share; amending s. 548.057, F.S.; providing for appointment of judges at a boxing match; requiring certain qualifications for referees, judges, and officials; removing the requirement that scorecards be turned in at the end of each contest; amending ss. 548.05, 548.071, and 548.077, F.S., to conform;

Senators Kirkpatrick, Silver and Gutman offered the following amendment which was moved by Senator Kirkpatrick and adopted:

Senate Amendment 5 (304708)(with title amendment) to House Amendment 1—On page 168, between lines 26 and 27, insert:

Section 71. Subsection (5) is added to section 218.503, Florida Statutes, to read:

218.503 Determination of financial emergency.—

(5)(a) The governing authority of any municipality with a resident population of 300,000 or more on April 1, 1999, and which has been declared in a state of financial emergency pursuant to this section within the previous 2 fiscal years may impose a discretionary per-vehicle surcharge of up to 20 percent on the gross revenues of the sale, lease, or rental of space at parking facilities within the municipality that are open for use to the general public.

(b) A municipal governing authority that imposes the surcharge authorized by this subsection may use the proceeds of such surcharge for the following purposes only:

1. No less than 60 percent and no more than 80 percent of the surcharge proceeds shall be used by the governing authority to reduce its ad valorem tax millage rate or to reduce or eliminate non-ad valorem assessments.

2. A portion of the balance of the surcharge proceeds shall be used by the governing authority to increase its budget reserves; however, the governing authority shall not reduce the amount it allocates for budget reserves from other sources below the amount allocated for reserves in the fiscal year prior to the year in which the surcharge is initially imposed. When a 15 percent budget reserve is achieved, based on the average gross revenue for the most recent 3 prior fiscal years, the remaining proceeds from this subparagraph shall be used for the payment of annual debt service related to outstanding obligations backed or secured by a covenant to budget and appropriate from non-ad valorem revenues.

(c) This subsection is repealed on June 30, 2006.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 181, line 31, after the semicolon (;) insert: amending s. 218.503, F.S.; authorizing certain municipalities to impose a discretionary per-vehicle surcharge on the gross revenues of the sale, lease, or rental of space at parking facilities within the municipality that are open for use to the public; providing for use of surcharge proceeds;

Senator Kirkpatrick moved the following amendments which were adopted:

Senate Amendment 6 (090412)(with title amendment) to House Amendment 1—On page 154, line 28 through page 155, line 13, delete those lines and insert: *the state for a period of more than 10 years.*

(6)~~(5)~~ The director may award nonfederal matching funds specifically appropriated for construction, maintenance, and analysis of a Florida defense workforce database. Such funds will be used to create a registry of worker skills that can be used to match the worker needs of companies that are relocating to this state or to assist workers in relocating to other areas within this state where similar or related employment is available.

(7) Payment of administrative expenses shall be limited to no more than 10 percent of any grants issued pursuant to this section.

(8)~~(6)~~ The Office of Tourism, Trade, and Economic Development shall establish guidelines to implement and carry out the purpose and intent of this section.

Section 65. *There is appropriated from the General Revenue Fund to the Office of Tourism, Trade, and Economic Development the sum of $800,000 to implement the programs described in section 288.980, Florida Statutes. The funding provided pursuant to this section is critical in assisting with the improvement or upgrade of infrastructure (roads, water supply, power grids, communication nets, etc.) around the state's military bases which will be measured in the next round of military base closures. It is the specific intent of the Legislature that a portion of this appropriation be expended to employ a consultant to evaluate the infrastructure needs of Florida military bases in order to provide a baseline and order of priority for the disbursement of funds. This appropriation is in addition to any funds currently available for grants to help local communities.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 180, line 31, after the semicolon (;) insert: providing an appropriation for certain military base retention programs;

Senate Amendment 7 (610698)(with title amendment) to House Amendment 1—On page 80, between lines 5 and 6, insert:

Section 27. *Sections 288.9950, 288.9951, 288.9952, 288.9953, 288.9954, 288.9955, 288.9956, 288.9957, 288.9958, and 288.9959, Florida Statutes, are designated as part XI of chapter 288, Florida Statutes, and the Division of Statutory Revision is requested to designate that part "Workforce Development."*

Section 28. Section 446.601, Florida Statutes, is transferred, renumbered as section 288.9950, Florida Statutes, and amended to read:

288.9950 ~~446.601~~ *Workforce Florida Act of 1996* ~~Short title; legislative intent.—~~

(1) This section may be cited as the "Workforce Florida Act of 1996."

(2) The goal of this section is to utilize the workforce development system to upgrade dramatically Floridians' workplace skills, economically benefiting the workforce, employers, and the state.

(3) These principles should guide the state's efforts:

(a) Floridians must upgrade their skills to succeed in today's workplace.

(b) In business, workforce skills are the key competitive advantage.

(c) Workforce skills will be Florida's key job-creating incentive for business.

(d) Budget cuts, efficiency, effectiveness, and accountability mandate the consolidation of program services and the elimination of unwarranted duplication.

(e) Streamlined state and local partnerships must focus on outcomes, not process.

(f) Locally designed, customer-focused, market-driven service delivery works best.

(g) Job training curricula must be developed in concert with the input and needs of existing employers and businesses, and must consider the anticipated demand for targeted job opportunities, as specified by the Occupational Forecasting Conference under s. 216.136.

(h) Job placement, job retention, and return-on-investment should control workforce development expenditures and be a part of the measure for success and failure.

(i) Success will be rewarded and failure will have consequences.

(j) Job placement success will be publicly measured and reported to the Legislature.

(k) Apprenticeship programs, pursuant to s. 446.011, which provide a valuable opportunity for preparing citizens for productive employment, will be encouraged.

(l) Self-employment and small business ownership will be options that each worker can pursue.

(4) The workforce development strategy shall be designed by the *Workforce Development Board* ~~Enterprise Florida Jobs and Education Partnership~~ pursuant to *s. 288.9952* ~~s. 288.0475~~, and shall be centered around the *strategies* ~~four integrated strategic components~~ of *First Jobs/First Wages* ~~One-Stop Career Centers, School-to-Work, Welfare-to-Work,~~ and High Skills/High *Wages* ~~Wage Jobs~~.

(a) First Jobs/First Wages is the state's strategy to promote successful entry into the workforce through education and workplace experience that lead to self-sufficency and career advancement. The components of the strategy include efforts that enlist business, education, and community support for students to achieve long-term career goals, ensuring that young people have the academic and occupational skills required to succeed in the workplace. The strategy also includes the Work and Gain Economic Self-sufficency (WAGES) effort that is the state's welfare-to-work program designed and developed by the WAGES Program State Board of Directors.

~~(a) One-Stop Career Centers are the state's initial customer-service contact strategy for offering every Floridian access, through service sites, telephone, or computer networks, to the following services:~~

~~1. Job search, referral, and placement assistance.~~

~~2. Career counseling and educational planning.~~

~~3. Consumer reports on service providers.~~

~~4. Recruitment and eligibility determination.~~

~~5. Support services, including child care and transportation.~~

~~6. Employability skills training.~~

~~7. Adult education and basic skills training.~~

~~8. Technical training leading to a certification and degree.~~

~~9. Claim filing for unemployment compensation services.~~

~~10. Temporary income, health, nutritional, and housing assistance.~~

~~11. Child care and transportation assistance to gain employment.~~

~~12. Other appropriate and available workforce development services.~~

~~(b) School-to-Work is the state's youth and adult workforce education strategy for coordinating business, education, and the community to support students in achieving long-term career goals, and for ensuring the workforce is prepared with the academic and occupational skills required for success.~~

~~(c) Welfare-to-Work is the state's strategy for encouraging self-sufficiency and minimizing dependence upon public assistance by emphasizing job placement and transition support services for welfare recipients.~~

(b)~~(d)~~ High Skills/High *Wages* ~~Wage~~ is the state's strategy for aligning education and training programs with *high-paying, high-demand occupations that advance individuals' careers, build a more skilled workforce, and enhance Florida's efforts to attract and expand job-creating business* ~~the Occupational Forecasting Conference under s. 216.136, for meeting the job demands of the state's existing businesses, and for providing a ready workforce which is integral to the state's economic development goal of attracting new and expanding businesses~~.

(5) The workforce development system shall utilize a charter process approach aimed at encouraging local design and control of service delivery and targeted activities. The *Workforce Development Board* ~~Enterprise Florida Jobs and Education Partnership~~ shall be responsible for granting charters to *regional workforce development boards that* ~~Regional Workforce Development Boards which~~ have a membership consistent with the requirements of federal and state law and *that* ~~which~~ have developed a plan consistent with the state's workforce development strategy ~~and with the strategic components of One-Stop Career Centers, School-to-Work, Welfare-to-Work, and High Skills/High Wage~~. The plan shall specify methods for allocating the resources and programs in a manner that eliminates unwarranted duplication, minimizes administrative costs, meets the existing job market demands and the job market demands resulting from successful economic development activities, ensures access to quality workforce development services for all Floridians, and maximizes successful outcomes. As part of the charter process, the *Workforce Development Board* ~~Enterprise Florida Jobs and Education Partnership~~ shall establish incentives for effective coordination of federal and state programs, outline rewards for successful job placements, and institute collaborative approaches among local service providers. Local decisionmaking and control shall be important components for inclusion in this charter application.

Section 29. Section 446.604, Florida Statutes, is transferred, renumbered as section 288.9951, Florida Statutes, and amended to read:

288.9951 ~~446.604~~ One-Stop Career Centers.—

(1) One-Stop Career Centers comprise the state's initial customer-service delivery system for offering every Floridian access, through service sites or telephone or computer networks, to the following services:

(a) Job search, referral, and placement assistance.

(b) Career counseling and educational planning.

(c) Consumer reports on service providers.

(d) Recruitment and eligibility determination.

(e) Support services, including child care and transportation assistance to gain employment.

(f) Employability skills training.

(g) Adult education and basic skills training.

(h) Technical training leading to a certification and degree.

(i) Claim filing for unemployment compensation services.

(j) Temporary income, health, nutritional, and housing assistance.

(k) Other appropriate and available workforce development services.

(2) In addition to the mandatory partners identified in Pub. L. No. 105-220, Food Stamp Employment and Training, Food Stamp work programs, and WAGES/TANF programs shall, upon approval by the Governor of a transition plan prepared by the Workforce Development Board in collaboration with the WAGES Program State Board of Directors, participate as partners in each One–Stop Career Center. Based on this plan, each partner is prohibited from operating independently from a One–Stop Career Center unless approved by the regional workforce development board. Services provided by partners who are not physically located in a One-Stop Career Center must be approved by the regional workforce development board.

(3) Subject to a process designed by the Workforce Development Board, and in compliance with Pub. L. No. 105–220, regional workforce development boards shall designate One–Stop Career Center operators. A regional workforce development board may retain its current One–Stop Career Center operator without further procurement action where the board has established a One–Stop Career Center that has complied with federal and state law.

(4) Notwithstanding any other provision of law, effective July 1, 1999, regional workforce development boards shall enter into a memorandum of understanding with the Department of Labor and Employment Security for the delivery of employment services authorized by Wagner-Peyser. For fiscal year 1999-2000, the memorandum of understanding with the Department of Labor and Employment Security must be performance-based, dedicating 15 percent of the funds to performance payments. Performance payments shall be based on performance measures developed by the Workforce Development Board.

(a) Unless otherwise required by federal law, at least 90 percent of the Wagner-Peyser funding must go into direct customer service costs.

(b) Employment services must be provided through One-Stop Career Centers, under the guidance of One–Stop Career Center operators.

(5) One–Stop Career Center partners identified in subsection (2) shall enter into a memorandum of understanding pursuant to Pub. L. No. 105-220, Title I, s. 121, with the regional workforce development board. Failure of a local partner to participate cannot unilaterally block the majority of partners from moving forward with their One–Stop Career Centers, and the Workforce Development Board, pursuant to s. 288.9952(4)(d), may make notification of a local partner that fails to participate.

(6) To the extent possible, core services, as defined by Pub. L. No. 105–220, shall be provided electronically, utilizing existing systems and public libraries. To expand electronic capabilities, the Workforce Development Board, working with regional workforce development boards, shall develop a centralized help center to assist regional workforce development boards in fulfilling core services, minimizing the need for fixed–site One–Stop Career Centers.

(7) Intensive services and training provided pursuant to Pub. L. No. 105–220, shall be provided to individuals through Intensive Service Accounts and Individual Training Accounts. The Workforce Development Board shall develop, by July 1, 1999, an implementation plan, including identification of initially eligible training providers, transition guidelines, and criteria for use of these accounts. Individual Training Accounts must be compatible with Individual Development Accounts for education allowed in federal and state welfare reform statutes.

(8)(a) Individual Training Accounts must be expended on programs that prepare people to enter high–wage occupations identified by the Occupational Forecasting Conference created by s. 216.136, and on other programs as approved by the Workforce Development Board.

(b) For each approved training program, regional workforce development boards, in consultation with training providers, shall establish a fair-market purchase price to be paid through an Individual Training Account. The purchase price must be based on prevailing costs and reflect local economic factors, program complexity, and program benefits, including time to beginning of training and time to completion. The price shall ensure the fair participation of public and nonpublic postsecondary educational institutions as authorized service providers and shall prohibit the use of unlawful remuneration to the student in return for attending an institution. Unlawful remuneration does not include student financial assistance programs.

(c) The Workforce Development Board shall review Individual Training Account pricing schedules developed by regional workforce development boards and present findings and recommendations for process improvement to the President of the Senate and the Speaker of the House of Representatives by January 1, 2000.

(d) To the maximum extent possible, training providers shall use funding sources other than the funding provided under Pub. L. No. 105-220. A performance outcome related to alternative financing obtained by the training provider shall be established by the Workforce Development Board and used for performance evaluation purposes. The performance evaluation must take into consideration the number of alternative funding sources.

(e) Training services provided through Individual Training Accounts must be performance–based, with successful job placement triggering full payment.

(f) The accountability measures to be used in documenting competencies acquired by the participant during training shall be literacy completion points and occupational completion points. Literacy completion points refers to the academic or workforce readiness competencies that qualify a person for further basic education, vocational education, or for employment. Occupational completion points refers to the vocational competencies that qualify a person to enter an occupation that is linked to a vocational program.

(9)(a)~~(1)~~ The Department of Management Services, *working with the Workforce Development Board,* shall coordinate among the agencies a plan for a One-Stop Career Center Electronic Network made up of One-Stop Career Centers that are operated by ~~the Department of Labor and Employment Security, the Department of Health and Rehabilitative Services, the Department of Education, and other~~ authorized public or private for-profit or not-for-profit agents. The plan shall identify resources within existing revenues to establish and support *this* ~~such~~ electronic network for service delivery that includes the Florida Communities Network.

(b)~~(2)~~ The network shall assure that a uniform method is used to determine eligibility for and management of services provided by agencies that conduct workforce development activities. The Department of Management Services shall develop strategies to allow access to the databases and information management systems of the following systems in order to link information in those databases with the One-Stop Career Centers:

1.~~(a)~~ The Unemployment Compensation System of the Department of Labor and Employment Security.

2.~~(b)~~ The Job Service System of the Department of Labor and Employment Security.

3.~~(c)~~ The FLORIDA System and the components related to *WAGES* ~~Aid to Families with Dependent Children~~, food stamps, and Medicaid eligibility.

4.~~(d)~~ The Workers' Compensation System of the Department of Labor and Employment Security.

5.~~(e)~~ The Student Financial Assistance System of the Department of Education.

6.~~(f)~~ Enrollment in the public postsecondary education system.

The systems shall be fully coordinated at both the state and local levels by *January 1, 2000* ~~July 1, 1999~~.

Section 30. Section 288.9620, Florida Statutes, is transferred, renumbered as section 288.9952, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 288.9620, F.S., for present text.)

288.9952 Workforce Development Board.—

(1) There is created within the not–for–profit corporate structure of Enterprise Florida, Inc., a not–for–profit public–private Workforce Development Board. The purpose of the Workforce Development Board is to design and implement strategies that help Floridians enter, remain in, and advance in the workplace, becoming more highly skilled and successful, benefiting these Floridians, Florida businesses, and the entire state.

(2)(a) The Workforce Development Board shall be governed by a 25-voting-member board of directors whose membership and appointment must be consistent with Pub. L. No. 105–220, Title I, s. 111(b), and contain three representatives of organized labor. Notwithstanding s. 114.05(f), the Governor may appoint members of the current board to serve on the reconstituted board as required by this section. By June 1, 1999, the Workforce Development Board will provide to the Governor a transition plan to incorporate the changes required by this act and Pub. L. No. 105–220, specifying the timeframe and manner of changes to the board. This plan shall govern the transition, unless otherwise notified by the Governor. The importance of minority and gender representation shall be considered when making appointments to the board. Additional members may be appointed when necessary to conform to the requirements of Pub. L. No. 105–220.

(b) The board of directors of the Workforce Development Board shall be chaired by a board member designated by the Governor pursuant to Pub. L. No. 105–220.

(c) Private–sector members appointed by the Governor must be appointed for four–year, staggered terms. Public–sector members appointed by the Governor must be appointed to 4–year terms. Members appointed by the Governor serve at the pleasure of the Governor.

(d) The Governor shall appoint members to the board of directors of the Workforce Development Board within 30 days after the receipt of nominations.

(e) A member of the board of directors of the Workforce Development Board may be removed by the Governor for cause. Absence from three consecutive meetings results in automatic removal. The chair of the Workforce Development Board shall notify the Governor of such absences.

(3)(a) The president of the Workforce Development Board shall be hired by the president of Enterprise Florida, Inc., and shall serve in the capacity of an executive director and secretary of the Workforce Development Board.

(b) The board of directors of the Workforce Development Board shall meet at least quarterly and at other times upon call of its chair.

(c) A majority of the total current membership of the board of directors of the Workforce Development Board comprises a quorum of the board.

(d) A majority of those voting is required to organize and conduct the business of the Workforce Development Board, except that a majority of the entire board of directors of the Workforce Development Board is required to adopt or amend the operational plan.

(e) Except as delegated or authorized by the board of directors of the Workforce Development Board, individual members have no authority to control or direct the operations of the Workforce Development Board or the actions of its officers and employees, including the president.

(f) The board of directors of the Workforce Development Board may delegate to its president those powers and responsibilities it deems appropriate.

(g) Members of the board of directors of the Workforce Development Board and its committees shall serve without compensation, but these members, the president, and all employees of the Workforce Development Board may be reimbursed for all reasonable, necessary, and actual expenses, as determined by the board of directors of Enterprise Florida, Inc.

(h) The board of directors of the Workforce Development Board may establish an executive committee consisting of the chair and at least two additional board members selected by the board of directors. The executive committee shall have such authority as the board of directors of the Workforce Development Board delegates to it, except that the board of directors may not delegate to the executive committee authority to take action that requires approval by a majority of the entire board of directors.

(i) The board of directors of the Workforce Development Board may appoint committees to fulfill its responsibilities, to comply with federal requirements, or to obtain technical assistance, and must incorporate members of regional workforce development boards into its structure.

(j) Each member of the board of directors of the Workforce Development Board who is not otherwise required to file a financial disclosure pursuant to s. 8, Art. II of the State Constitution or s. 112.3144 must file disclosure of financial interests pursuant to s. 112.3145.

(4) The Workforce Development Board shall have all the powers and authority, not explicitly prohibited by statute, necessary or convenient to carry out and effectuate the purposes as determined by statute, Pub. L. No. 105–220, and the Governor, as well as its functions, duties, and responsibilities, including, but not limited to, the following:

(a) Serving as the state's Workforce Investment Board pursuant to Pub. L. No. 105–220. Unless otherwise required by federal law, at least 90 percent of the workforce development funding must go into direct customer service costs. Of the allowable administrative overhead, appropriate amounts shall be expended to procure independent job-placement evaluations.

(b) Contracting with public and private entities as necessary to further the directives of this section, except that any contract made with an organization represented on the board of directors of Enterprise Florida, Inc., or on the board of directors of the Workforce Development Board must be approved by a two–thirds vote of the entire board of directors of the Workforce Development Board, and, if applicable, the board member representing such organization shall abstain from voting. No more than 65 percent of the dollar value of all contracts or other agreements entered into in any fiscal year, exclusive of grant programs, shall be made with an organization represented on the board of directors of Enterprise Florida, Inc., or the board of directors of the Workforce Development Board. An organization represented on the board of directors of the Workforce Development Board or on the board of directors of Enterprise Florida, Inc., may not enter into a contract to receive a state–funded economic development incentive or similar grant unless such incentive award is specifically endorsed by a two–thirds vote of the entire board of directors of the Workforce Development Board. The member of the board of directors of the Workforce Development Board representing such organization, if applicable, shall abstain from voting and refrain from discussing the issue with other members of the board. No more than 50 percent of the dollar value of grants issued by the board in any fiscal year may go to businesses associated with members of the board of directors of the Workforce Development Board.

(c) Providing an annual report to the board of directors of Enterprise Florida, Inc., by November 1 that includes a copy of an annual financial and compliance audit of its accounts and records conducted by an independent certified public accountant and performed in accordance with rules adopted by the Auditor General.

(d) Notifying the Governor, the President of the Senate, and the Speaker of the House of Representatives of noncompliance by agencies or obstruction of the board's efforts by agencies. Upon such notification, the

Executive Office of the Governor shall assist agencies to bring them into compliance with board objectives.

(e) Ensuring that the state does not waste valuable training resources. Thus, the board shall direct that all resources, including equipment purchased for training Workforce Investment Act clients, be available for use at all times by eligible populations as first priority users. At times when eligible populations are not available, such resources shall be used for any other state authorized education and training purpose.

(5) Notwithstanding s. 216.351, to allow time for documenting program performance, funds allocated for the incentives in s. 239.249 must be carried forward to the next fiscal year and must be awarded for the current year's performance, unless federal law requires the funds to revert at the year's end.

(6) The Workforce Development Board may take action that it deems necessary to achieve the purposes of this section and consistent with the policies of the board of directors of Enterprise Florida, Inc., in partnership with private enterprises, public agencies, and other organizations. The Workforce Development Board shall advise and make recommendations to the board of directors of Enterprise Florida, Inc., and through that board of directors to the State Board of Education and the Legislature concerning action needed to bring about the following benefits to the state's social and economic resources:

(a) A state employment, education, and training policy that ensures that programs to prepare workers are responsive to present and future business and industry needs and complement the initiatives of Enterprise Florida, Inc.

(b) A funding system that provides incentives to improve the outcomes of vocational education programs, and of registered apprenticeship and work–based learning programs, and that focuses resources on occupations related to new or emerging industries that add greatly to the value of the state's economy.

(c) A comprehensive approach to the education and training of target populations such as those who have disabilities, are economically disadvantaged, receive public assistance, are not proficient in English, or are dislocated workers. This approach should ensure the effective use of federal, state, local, and private resources in reducing the need for public assistance.

(d) The designation of Institutes of Applied Technology composed of public and private postsecondary institutions working together with business and industry to ensure that technical and vocational education programs use the most advanced technology and instructional methods available and respond to the changing needs of business and industry. Of the funds reserved for activities of the Workforce Investment Act at the state level, $500,000 shall be reserved for an institute of applied technology in construction excellence, which shall be a demonstration project on the development of such institutes. The institute, once established, shall contract with the Workforce Development Board to provide a coordinated approach to workforce development in this industry.

(e) A system to project and evaluate labor market supply and demand using the results of the Occupational Forecasting Conference created in s. 216.136 and the career education performance standards identified under s. 239.233.

(f) A review of the performance of public programs that are responsible for economic development, education, employment, and training. The review must include an analysis of the return on investment of these programs.

(7) By December 1 of each year, Enterprise Florida, Inc., shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader a complete and detailed report by the Workforce Development Board setting forth:

(a) The audit in subsection (8), if conducted.

(b) The operations and accomplishments of the partnership including the programs or entities listed in subsection (6).

(8) The Auditor General may, pursuant to his or her own authority or at the direction of the Legislative Auditing Committee, conduct an audit of the Workforce Development Board or the programs or entities created by the Workforce Development Board.

(9) The Workforce Development Board, in collaboration with the regional workforce development boards and appropriate state agencies and local public and private service providers, and in consultation with the Office of Program Policy Analysis and Government Accountability, shall establish uniform measures and standards to gauge the performance of the workforce development strategy. These measures and standards must be organized into three outcome tiers.

(a) The first tier of measures must be organized to provide benchmarks for system–wide outcomes. The Workforce Development Board must, in collaboration with the Office of Program Policy Analysis and Government Accountability, establish goals for the tier-one outcomes. System–wide outcomes may include employment in occupations demonstrating continued growth in wages; continued employment after 3, 6, 12, and 24 months; reduction in and elimination of public assistance reliance; job placement; employer satisfaction; and positive return on investment of public resources.

(b) The second tier of measures must be organized to provide a set of benchmark outcomes for One–Stop Career Centers and each of the strategic components of the workforce development strategy. A set of standards and measures must be developed for One–Stop Career Centers, youth employment activities, WAGES, and High Skills/High Wages, targeting the specific goals of each particular strategic component. Cost per entered employment, earnings at placement, retention in employment, job placement, and entered employment rate must be included among the performance outcome measures.

1. Appropriate measures for One–Stop Career Centers may include direct job placements at minimum wage, at a wage level established by the Occupational Forecasting Conference, and at a wage level above the level established by the Occupational Forecasting Conference.

2. Appropriate measures for youth employment activities may include the number of students enrolling in and completing work–based programs, including apprenticeship programs; job placement rate; job retention rate; wage at placement; and wage growth.

3. WAGES measures may include job placement rate, job retention rate, wage at placement, wage growth, reduction and elimination of reliance on public assistance, and savings resulting from reduced reliance on public assistance.

4. High Skills/High Wages measures may include job placement rate, job retention rate, wage at placement, and wage growth.

(c) The third tier of measures must be the operational output measures to be used by the agency implementing programs, and it may be specific to federal requirements. The tier-three measures must be developed by the agencies implementing programs, and the Workforce Development Board may be consulted in this effort. Such measures must be reported to the Workforce Development Board by the appropriate implementing agency.

(d) Regional differences must be reflected in the establishment of performance goals and may include job availability, unemployment rates, average worker wage, and available employable population. All performance goals must be derived from the goals, principles, and strategies established in the Workforce Florida Act of 1996.

(e) Job placement must be reported pursuant to s. 229.8075. Positive outcomes for providers of education and training must be consistent with ss. 239.233 and 239.245.

(f) The uniform measures of success that are adopted by the Workforce Development Board or the regional workforce development boards must be developed in a manner that provides for an equitable comparison of the relative success or failure of any service provider in terms of positive outcomes.

(g) By October 15 of each year, the Workforce Development Board shall provide the Legislature with a report detailing the performance of Florida's workforce development system, as reflected in the three–tier measurement system. Additionally, this report must benchmark Florida outcomes, at all tiers, against other states that collect data similarly.

Section 31. Section 446.602, Florida Statutes, is transferred, renumbered as section 288.9953, Florida Statutes, and amended to read:

288.9953 ~~446.602~~ Regional Workforce Development Boards.—

(1) One *regional workforce development board* ~~Regional Workforce Development Board~~ shall be appointed in each designated service delivery area *and shall serve as the local workforce investment board pursuant to Pub. L. No. 105-220*. The membership ~~and responsibilities~~ of the board shall be consistent with Pub. L. No. *105-220, Title I, s. 117(b), and contain three representatives of organized labor. A member of a regional workforce development board may not vote on a matter under consideration by the board regarding the provision of services by such member, or by an entity that such member represents; vote on a matter that would provide direct financial benefit to such member or the immediate family of such member; or engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the state plan.* ~~97-300, as amended. The board shall be appointed by the chief elected official or his or her designee of the local county or city governing bodies or consortiums of county and/or city governmental units that exist through interlocal agreements and shall include:~~

~~(a) At least 51 percent of the members of each board being from the private sector and being chief executives, chief operating officers, owners of business concerns, or other private sector executives with substantial management or policy responsibility.~~

~~(b) Representatives of organized labor and community-based organizations, who shall constitute not less than 15 percent of the board members.~~

~~(c) Representatives of educational agencies, including presidents of local community colleges, superintendents of local school districts, licensed private postsecondary educational institutions participating in vocational education and job training in the state and conducting programs on the Occupational Forecasting Conference list or a list validated by the Regional Workforce Development Board; vocational rehabilitation agencies; economic development agencies; public assistance agencies; and public employment service. One of the representatives from licensed private postsecondary educational institutions shall be from a degree-granting institution, and one from an institution offering certificate or diploma programs. One of these members shall be a nonprofit, community-based organization which provides direct job training and placement services to hard-to-serve individuals including the target population of people with disabilities.~~

~~The current Private Industry Council may be restructured, by local agreement, to meet the criteria for a Regional Workforce Development Board.~~

(2) The Workforce Development Board will determine the timeframe and manner of changes to the regional workforce development boards as required by this act and Pub. L. No. 105–220.

(3) The Workforce Development Board shall assign staff to meet with each regional workforce development board annually to review the board's performance and to certify that the board is in compliance with applicable state and federal law.

(4)~~(2)~~ In addition to the duties and functions specified by the *Workforce Development Board* ~~Enterprise Florida Jobs and Education Partnership~~ and by the interlocal agreement approved by the local county or city governing bodies, the *regional workforce development board* ~~Regional Workforce Development Board~~ shall have the following responsibilities:

(a) *Develop, submit, ratify, or amend* ~~Review, approve, and ratify~~ the local ~~Job Training Partnership Act~~ plan *pursuant to Pub. L. No. 105-220, Title I, s. 118* ~~which also must be signed by the chief elected officials~~.

(b) Conclude agreements necessary to designate the fiscal agent and administrative entity.

(c) Complete assurances required for the *Workforce Development Board* ~~Enterprise Florida Jobs and Education Partnership~~ charter process and provide ongoing oversight related to administrative costs, duplicated services, career counseling, economic development, equal access, compliance and accountability, and performance outcomes.

(d) Oversee One-Stop Career Centers in its local area.

(5)~~(3)~~ The *Workforce Development Board* ~~Enterprise Florida Jobs and Education Partnership~~ shall~~, by January 1, 1997, design and~~ implement a training program for the *regional workforce development boards* ~~Regional Workforce Development Boards~~ to familiarize board members with the state's workforce development goals and strategies.

The *regional workforce development board* ~~Regional Workforce Development Board~~ shall designate all local service providers and shall not transfer this authority to a third party. In order to exercise independent oversight, the *regional workforce development board* ~~Regional Workforce Development Board~~ shall not be a direct provider of intake, assessment, eligibility determinations, or other direct provider services.

(6) Regional workforce development boards may appoint local committees to obtain technical assistance on issues of importance, including those issues affecting older workers.

(7) Each regional workforce development board shall establish a high skills/high wages committee consisting of five private-sector business representatives, including the regional workforce development board chair; the presidents of all community colleges within the board's region; those district school superintendents with authority for conducting postsecondary educational programs within the region; and a representative from a nonpublic postsecondary educational institution that is an authorized individual training account provider within the region. The business representatives other than the board chair need not be members of the regional workforce development board.

(a) During fiscal year 1999-2000, each high skills/high wages committee shall submit, quarterly, recommendations to the Workforce Development Board related to:

1. Policies to enhance the responsiveness of high skills/high wages programs in its region to business and economic development opportunities.

2. Integrated use of state education and federal workforce development funds to enhance the training and placement of designated population individuals with local businesses and industries.

(b) After fiscal year 1999-2000, the Workforce Development Board has the discretion to decrease the frequency of reporting by the high skills/high wages committees, but the committees shall meet and submit any recommendations at least annually.

(c) Annually, the Workforce Development Board shall compile all the recommendations of the high skills/high wages committees, research their feasibility, and make recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 32. Section 446.607, Florida Statutes, is transferred, renumbered as section 288.9954, Florida Statutes, and amended to read:

288.9954 ~~446.607~~ Consultation, consolidation, and coordination.—The *Workforce Development Board* ~~Enterprise Florida Jobs and Education Partnership~~ and *the WAGES Program State Board of Directors* ~~any state public assistance policy board established pursuant to law~~ shall consult with each other in developing each of their statewide implementation plans and strategies. The *regional workforce development boards* ~~Regional Workforce Development Boards~~ and *local WAGES coalitions* ~~any local public assistance policy boards established pursuant to law~~ may elect to consolidate into one board provided that the consolidated board membership complies with the requirements of Pub. L. No. *105-220, Title I, s. 117(b)* ~~97-300, as amended~~, and with any other law delineating the membership requirements for either of the separate boards. The *regional workforce development boards* ~~Regional Workforce Development Boards~~ and *local WAGES coalitions* ~~any respective local public assistance policy board established pursuant to law~~ shall collaboratively coordinate, to the maximum extent possible, the local services and activities provided by and through each of these boards *and coalitions* and their designated local service providers.

Section 33. Section 446.603, Florida Statutes, is transferred, renumbered as section 288.9955, Florida Statutes, and amended to read:

288.9955 ~~446.603~~ Untried Worker Placement and Employment Incentive Act.—

(1) This section may be cited as the "Untried Worker Placement and Employment Incentive Act."

(2) For purposes of this section, the term "untried worker" means a person who is a hard-to-place participant in the *Work and Gain Economic Self-sufficiency Program (WAGES)* ~~welfare-to-work programs of the Department of Labor and Employment Security or the Department of Health and Rehabilitative Services~~ because *he or she has* ~~they have~~ limitations associated with the long-term receipt of welfare and difficulty in sustaining employment, *particularly because of physical or mental disabilities*.

~~(3) The Department of Labor and Employment Security and the Department of Health and Rehabilitative Services, working with the Enterprise Florida Jobs and Education Partnership, shall develop five Untried Worker Placement and Employment Incentive pilot projects in at least five different counties.~~

(3)~~(4)~~ *Incentive* ~~In these pilots, incentive~~ payments *may* ~~will~~ be made to for-profit or not-for-profit agents selected by *local WAGES coalitions* ~~the Regional Workforce Development Boards~~ who successfully place untried workers in full-time employment for 6 months with an employer after the employee successfully completes a probationary placement of no more than 6 months with that employer. Full-time employment that includes health care benefits will receive an additional incentive payment.

(4)~~(5)~~ The for-profit and not-for-profit agents shall contract to provide services for no more than 1 year. Contracts may be renewed upon successful review by the contracting agent.

(5)~~(6)~~ *Incentives must be paid according to the* ~~The Department of Labor and Employment Security and the Department of Health and Rehabilitative Services, working with the Enterprise Florida Jobs and Education Partnership, shall develop an~~ incentive schedule *developed by the Department of Labor and Employment Security and the Department of Children and Family Services which* ~~that~~ costs the state less per placement than the state's 12-month expenditure on a welfare recipient.

(6)~~(7)~~ During an untried worker's probationary placement, the for-profit or not-for-profit agent shall be the employer of record of that untried worker, and shall provide workers' compensation and unemployment compensation coverage as provided by law. The business employing the untried worker through the agent may be eligible to apply for any tax credits, wage supplementation, wage subsidy, or employer payment for that employee that are authorized in law or by agreement with the employer. After satisfactory completion of such a probationary period, an untried worker shall not be considered an untried worker.

(7)~~(8)~~ This section shall not be used for the purpose of displacing or replacing an employer's regular employees, and shall not interfere with executed collective bargaining agreements. Untried workers shall be paid by the employer at the same rate as similarly situated and assessed workers in the same place of employment.

(8)~~(9)~~ An employer that demonstrates a pattern of unsuccessful placements shall be disqualified from participation in these pilots because of poor return on the public's investment.

(9)~~(10) The Department of Labor and Employment Security and the Department of Health and Rehabilitative Services, working with the Enterprise Florida Jobs and Education Partnership, may offer to~~ Any employer that chooses to employ untried workers *is eligible to receive* such incentives and benefits that are available and provided in law, as long as the long-term, cost savings can be quantified with each such additional inducement.

~~(11) Unless otherwise reenacted, this section shall be repealed on July 1, 1999.~~

Section 34. Section 288.9956, Florida Statutes, is created to read:

288.9956 Implementation of the federal Workforce Investment Act of 1998.—

(1) WORKFORCE INVESTMENT ACT PRINCIPLES.—The state's approach to implementing the federal Workforce Investment Act of 1998, Pub. L. No. 105–220, should have six elements:

(a) Streamlining Services—Florida's employment and training programs must be coordinated and consolidated at locally managed One–Stop Career Centers.

(b) Empowering Individuals—Eligible participants will make informed decisions, choosing the qualified training program that best meets their needs.

(c) Universal Access—Through One–Stop Career Centers, every Floridian will have access to employment services.

(d) Increased Accountability—The state, localities, and training providers will be held accountable for their performance.

(e) Local Board and Private Sector Leadership—Local boards will focus on strategic planning, policy development, and oversight of the local system, choosing local managers to direct the operational details of their One–Stop Career Centers.

(f) Local Flexibility and Integration—Localities will have exceptional flexibility to build on existing reforms. Unified planning will free local groups from conflicting micro–management, while waivers and Work-Flex will allow local innovations.

(2) FIVE-YEAR PLAN.—The Workforce Development Board shall prepare and submit a 5–year plan, which includes secondary vocational education, to fulfill the early implementation requirements of Pub. L. No. 105–220 and applicable state statutes. Mandatory federal partners and optional federal partners, including the WAGES Program State Board of Directors, shall be fully involved in designing the plan's One–Stop Career Center system strategy. The plan shall detail a process to clearly define each program's statewide duties and role relating to the system. Any optional federal partner may immediately choose to fully integrate its program's plan with this plan, which shall, notwithstanding any other state provisions, fulfill all their state planning and reporting requirements as they relate to One–Stop Career Centers. The plan shall detail a process that would fully integrate all federally mandated and optional partners by the second year of the plan. All optional federal program partners in the planning process shall be mandatory participants in the second year of the plan.

(3) FUNDING.—

(a) Title I, Workforce Investment Act of 1998 funds; Wagner–Peyser funds; and NAFTA/Trade Act funds will be expended based on the Workforce Development Board's 5–year plan. The plan shall outline and direct the method used to administer and coordinate various funds and programs that are operated by various agencies. The following provisions shall also apply to these funds:

1. At least 50 percent of the Title I funds for Adults and Dislocated Workers that are passed through to regional workforce development boards shall be allocated to Individual Training Accounts unless a regional workforce development board obtains a waiver from the Workforce Development Board. Tuition, fees, and performance–based incentive awards paid in compliance with Florida's Performance–Based Incentive Fund Program qualify as an Individual Training Account expenditure, as do other programs developed by regional workforce development boards in compliance with the Workforce Development Board's policies.

2. Fifteen percent of Title I funding shall be retained at the state level and shall be dedicated to state administration and used to design, develop, induce, and fund innovative Individual Training Account pilots, demonstrations, and programs. Eligible state administration costs include the costs of: funding of the Workforce Development Board and Workforce Development Board's staff; operating fiscal, compliance, and management accountability systems through the Workforce Development Board; conducting evaluation and research on workforce development activities; and providing technical and capacity building assistance to regions at the direction of the Workforce Development Board. Notwithstanding s. 288.9952, such administrative costs shall not exceed 25 percent of these funds. Seventy percent of these funds shall be allocated to Individual Training Accounts for: the Minority Teacher Education Scholars program, the Certified Teacher–Aide program, the Self–Employment Institute, and other Individual Training Accounts designed and tailored by the Workforce Development Board, including, but not limited to, programs for incumbent workers, displaced homemakers, nontraditional employment, empowerment zones, and enterprise zones.

The Workforce Development Board shall design, adopt, and fund Individual Training Accounts for distressed urban and rural communities. The remaining 5 percent shall be reserved for the Incumbent Worker Training Program.

3. The Incumbent Worker Training Program is created for the purpose of providing grant funding for continuing education and training of incumbent employees at existing Florida businesses. The program will provide reimbursement grants to businesses that pay for preapproved, direct, training-related costs.

a. The Incumbent Worker Training Program will be administered by a private business organization, known as the grant administrator, under contract with the Workforce Development Board.

b. To be eligible for the program's grant funding, a business must have been in operation in Florida for a minimum of 1 year prior to the application for grant funding; have at least one full-time employee; demonstrate financial viability; and be current on all state tax obligations. Priority for funding shall be given to businesses with 25 employees or fewer, businesses in rural areas, businesses in distressed inner-city areas, or businesses whose grant proposals represent a significant upgrade in employee skills.

c. All costs reimbursed by the program must be preapproved by the grant administrator. The program will not reimburse businesses for trainee wages, the purchase of capital equipment, or the purchase of any item or service that may possibly be used outside the training project. A business approved for a grant may be reimbursed for preapproved, direct, training-related costs including tuition and fees; books and classroom materials; and administrative costs not to exceed 5 percent of the grant amount.

d. A business that is selected to receive grant funding must provide a matching contribution to the training project, including but not limited to, wages paid to trainees or the purchase of capital equipment used in the training project; must sign an agreement with the grant administrator to complete the training project as proposed in the application; must keep accurate records of the project's implementation process; and must submit monthly or quarterly reimbursement requests with required documentation.

e. All Incumbent Worker Training Program grant projects shall be performance-based with specific measurable performance outcomes, including completion of the training project and job retention. The grant administrator shall withhold the final payment to the grantee until a final grant report is submitted and all performance criteria specified in the grant contract have been achieved.

f. The Workforce Development Board is authorized to establish guidelines necessary to implement the Incumbent Worker Training Program.

g. No more than 10 percent of the Incumbent Worker Training Program's appropriation may be used for administrative purposes.

h. The grant administrator is required to submit a report to the Workforce Development Board and the Legislature on the financial and general operations of the Incumbent Worker Training Program. Such report will be due before December 1 of any fiscal year for which the program is funded by the Legislature.

4. At least 50 percent of Rapid Response funding shall be dedicated to Intensive Services Accounts and Individual Training Accounts for dislocated workers and incumbent workers who are at risk of dislocation. The Workforce Development Board shall also maintain an Emergency Preparedness Fund from Rapid Response funds which will immediately issue Intensive Service Accounts and Individual Training Accounts as well as other federally authorized assistance to eligible victims of natural or other disasters. At the direction of the Governor, for events that qualify under federal law, these Rapid Response funds shall be released to regional workforce development boards for immediate use. Funding shall also be dedicated to maintain a unit at the state level to respond to Rapid Response emergencies around the state, to work with state emergency management officials, and to work with regional workforce development boards. All Rapid Response funds must be expended based on a plan developed by the Workforce Development Board and approved by the Governor.

(b) The administrative entity for Title I, Workforce Investment Act of 1998 funds, and Rapid Response activities, will be determined by the Workforce Development Board, except that the administrative entity for Rapid Response for fiscal year 1999–2000 must be the Department of Labor and Employment Security. The administrative entity will provide services through a contractual agreement with the Workforce Development Board. The terms and conditions of the agreement may include, but are not limited to, the following:

1. All policy direction to regional workforce development boards regarding Title I programs and Rapid Response activities shall emanate from the Workforce Development Board.

2. Any policies by a state agency acting as an administrative entity which may materially impact local workforce boards, local governments, or educational institutions must be promulgated under chapter 120.

3. The administrative entity will operate under a procedures manual, approved by the Workforce Development Board, addressing: financial services including cash management, accounting, and auditing; procurement; management information system services; and federal and state compliance monitoring, including quality control.

4. State Career Service employees in the Department of Labor and Employment Security may be leased or assigned to the administrative entity to provide administrative and professional functions.

(4) FEDERAL REQUIREMENTS, EXCEPTIONS AND REQUIRED MODIFICATIONS.—

(a) The Workforce Development Board may provide indemnification from audit liabilities to regional workforce development boards that act in full compliance with state law and the board's policies.

(b) The Workforce Development Board may negotiate and settle all outstanding issues with the U.S. Department of Labor relating to decisions made by the Workforce Development Board and the Legislature with regard to the Job Training Partnership Act, making settlements and closing out all JTPA program year grants before the repeal of the act June 30, 2000.

(c) The Workforce Development Board may make modifications to the state's plan, policies, and procedures to comply with federally mandated requirements that in its judgment must be complied with to maintain funding provided pursuant to Pub. L. No. 105–220. The board shall notify in writing the Governor, the President of the Senate, and the Speaker of the House of Representatives within 30 days of any such changes or modifications.

(5) The Department of Labor and Employment Security shall phase-down JTPA duties before the federal program is abolished July 1, 2000. Outstanding accounts and issues shall be promptly closed out after this date.

(6) LONG-TERM CONSOLIDATION OF WORKFORCE DEVELOPMENT.—

(a) The Workforce Development Board may recommend workforce-related divisions, bureaus, units, programs, duties, commissions, boards, and councils that can be eliminated, consolidated, or privatized.

(b) By December 31, 1999, the Office of Program Policy Analysis and Government Accountability shall review the workforce development system, identifying divisions, bureaus, units, programs, duties, commissions, boards, and councils that could be eliminated, consolidated, or privatized. The office shall submit preliminary findings by December 31, 1999, and its final report and recommendations by January 31, 2000, to the President of the Senate and the Speaker of the House of Representatives. As part of the report, the Office of Program Policy Analysis and Government Accountability shall specifically identify, by funding stream, indirect, administrative, management information system, and overhead costs of the Department of Labor and Employment Security.

(7) TERMINATION OF SET–ASIDE.—For those state and federal set–asides terminated by the federal Workforce Investment Act of 1998, the Department of Education, the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor, and the Department of Elder Affairs shall keep all unexpended JTPA 123 (Education Coordination), JTPA III (Dislocated Workers), or JTPA IIA (Services for Older Adults) funds to closeout their education and coordination

activities. The Workforce Development Board shall develop guidelines under which the departments may negotiate with the regional workforce development boards to provide continuation of activities and services currently conducted with the JTPA Section 123 or JTPA IIA funds.

Section 35. Section 288.9957, Florida Statutes, is created to read:

288.9957 Florida Youth Workforce Council.—

(1) The chairman of the Workforce Development Board shall designate the Florida Youth Workforce Council from representatives of distressed inner-city and rural communities who have demonstrated experience working with at–risk youth, and representatives of public and private groups, including, but not limited to, School–to–Work Advisory Councils, the National Guard, Childrens' Services Councils, Juvenile Welfare Boards, the Apprenticeship Council, Juvenile Justice District Boards, and other federal and state programs that target youth, to advise the board on youth programs and to implement Workforce Development Board strategies for young people.

(2) The Florida Youth Workforce Council shall oversee the development of regional youth workforce councils, as a subgroup of each regional workforce development board, which will be responsible for developing required local plans relating to youth, recommending providers of youth activities to be awarded grants by the regional workforce development board, conducting oversight of these providers, and coordinating youth activities in the region.

(3) Resources awarded to regions for youth activities shall fund community activities including the Minority Teacher Education Scholars program, the Certified Teacher–Aide program, and the "About Face" program of the Department of Military Affairs, as well as other programs designed and tailored by the regional youth workforce council and regional workforce development board.

(4) Regional youth workforce councils must leverage other program funds in order to enlist youth workforce program stakeholders in their community in upgrading each stakeholder's effectiveness through collaborative planning, implementation, and funding.

(5) The Florida Youth Workforce Council shall report annually by December 1 to the Workforce Development Board the total aggregate funding impact of this effort, including the inventory of collaborative funding partners in each region and their contributions.

(6) Ten percent of youth funds allocated under Pub. L. No. 105–220 to the regional workforce development boards shall be used to leverage public schools' dropout-prevention funds through performance payments for outcomes specified by the Workforce Development Board.

Section 36. Section 288.9958, Florida Statutes, is created to read:

288.9958 Employment, Occupation, and Performance Information Coordinating Committee.—

(1) By July 15, 1999, the chairman of the Workforce Development Board shall appoint an Employment, Occupation, and Performance Information Coordinating Committee, which shall assemble all employment, occupational, and performance information from workforce development partners into a single integrated informational system. The committee shall include representatives from the Bureau of Labor Market and Performance Information, Florida Education and Training Placement Information Program, and the State Occupational Forecasting Conference, as well as other public or private members with information expertise.

(2) The committee shall initially focus on the timely provision of data necessary for planning, consumer reports, and performance accountability reports necessary for the selection of training service providers, as well as state and local board program assessment, completing these tasks no later than October 1, 1999.

(3) By December 1, 1999, the committee shall establish outcome measures that enable an assessment of the Workforce Development Board's coordinating and oversight responsibilities.

(4) By June 30, 2000, the committee shall develop an integrated and comprehensive accountability system that can be used to evaluate and report on the effectiveness of Florida's workforce development system as required by state law.

(5) To ensure the fulfillment of these requirements, the Workforce Development Board may direct the Department of Labor and Employment Security, the Department of Education, and the Department of Children and Family Services to provide such services and assign such staff to this committee as it deems necessary until June 30, 2000.

Section 37. Section 288.9959, Florida Statutes, is created to read:

288.9959 Operational Design and Technology Procurement Committee.—

(1) The chairman of the Workforce Development Board shall appoint an Operational Design and Technology Procurement Committee, which shall assemble representatives from the regional workforce development boards, board staff, and the staff of the WAGES State Board of Directors to design and develop a model operational design and technology procurement strategy for One–Stop Career Centers to ensure that services from region to region are consistent for customers, that customer service technology is compatible, and that procurement expenditures, where possible, are aggregated to obtain economies and efficiencies.

(2) The committee shall initially focus on designing a uniform intake procedure for all One–Stop Career Centers; on the design and delivery of customer reports on eligible training providers; on the design of Intensive Services Accounts, Individual Training Accounts, and Individual Development Accounts; on enhancing availability of electronic One–Stop Career Center core services; and on the development of One–Stop Career Center model operating procedures.

(3) To ensure the fulfillment of these requirements, the Workforce Development Board may direct the Department of Labor and Employment Security, the Department of Education, and the Department of Children and Family Services to provide such services and assign such staff to this committee as it deems necessary until June 30, 2000.

Section 38. Paragraph (a) of subsection (2) of section 414.026, Florida Statutes, 1998 Supplement, is amended to read:

414.026 WAGES Program State Board of Directors.—

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

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

2. The Secretary of Children and Family Services.

3. The Secretary of Health.

4. The Secretary of Labor and Employment Security.

5. The Secretary of Community Affairs.

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

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

8. The president of the Enterprise Florida workforce development board, established under *s. 288.9952* ~~s. 288.9620~~.

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

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

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

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

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

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

Section 39. *Sections 446.20, 446.205, 446.605, and 446.606, Florida Statutes, are repealed effective June 30, 2000.*

Section 40. *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.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 173, line 28, after the first semicolon (;) insert: directing the Division of Statutory Revision to designate certain sections of the Florida Statutes as part XI, relating to Workforce Development; transferring, renumbering, and amending s. 446.601, F.S.; conforming cross-references; deleting provisions governing services of One–Stop Career Centers; revising components of the state's workforce development strategy; transferring, renumbering, and amending s. 446.604, F.S.; providing for the state's One-Stop Career Center customer service delivery strategy; specifying partners; providing for oversight and operation of centers by regional workforce development boards and center operators; providing for memorandums of understanding; directing funds for direct customer service costs; providing for notification; providing for electronic service delivery; authorizing Intensive Service Accounts and Individual Training Accounts and providing specifications; transferring, renumbering, and amending s. 288.9620, F.S.; providing for membership of the Workforce Development Board pursuant to federal law; providing for committees; requiring financial disclosure; authorizing the board as the Workforce Investment Board; specifying functions, duties, and responsibilities; providing for noncompliance notification; providing for carryover of funds; requiring a performance measurement system and reporting of such; transferring, renumbering, and amending s. 446.602, F.S.; providing for membership of regional workforce development boards pursuant to federal law; prohibiting certain activities that create a conflict of interest; providing for transition; providing for performance and compliance review; correcting organizational name references; requiring a local plan; providing for oversight of One-Stop Career Centers; authorizing local committees; establishing high skills/high wages committees; transferring, renumbering, and amending s. 446.607, F.S.; conforming cross-references; providing for consolidated board membership requirements; transferring, renumbering, and amending s. 446.603, F.S.; conforming cross-references; expanding the scope of the Untried Worker Placement and Employment Incentive Act; abrogating scheduled repeal of program; creating s. 288.9956, F.S.; providing principles for implementing the federal Workforce Investment Act of 1998; providing for a 5-year plan; specifying funding distribution; creating the Incumbent Worker Training Program; providing program requirements; requiring a report; authorizing the Workforce Development Board to contract for administrative services related to federal funding; specifying contractual agreements; providing for indemnification; providing for settlement authority; providing for compliance with federal law; providing for workforce development review; providing for termination of setaside; creating s. 288.9957, F.S.; requiring designation of the Florida Youth Workforce Council; providing for membership and duties; providing for allocation of funds; creating s. 288.9958, F.S.; requiring appointment of the Employment, Occupation, and Performance Information Coordinating Committee; providing for membership and duties; providing for services and staff; creating s. 288.9959, F.S.; requiring appointment of the Operational Design and Technology Procurement Committee; providing for membership and duties; providing for services and staff; amending s. 414.026, F.S.; conforming a cross-reference; repealing s. 446.20, F.S., which provides for administration of responsibilities under the federal Job Training Partnership Act; repealing s. 446.205, F.S., which provides for a Job Training Partnership Act family drop–out prevention program; repealing s. 446.605, F.S., which provides for applicability of the Workforce Florida Act of 1996; repealing s. 446.606, F.S., which provides for designation of primary service providers; providing for severability;

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

Senate Amendment 8 (130160)(with title amendment) to House Amendment 1—On page 168, between lines 26 and 27, insert:

Section 71. Subsections (3) and (4) of section 11.62, Florida Statutes, are amended to read:

11.62 Legislative review of proposed regulation of unregulated functions.—

(3) In determining whether to regulate a profession or occupation, the Legislature shall consider the following factors:

(a) Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote;

(b) Whether the practice of the profession or occupation requires specialized skill or training, and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;

(c) Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment;

(d)~~(c)~~ Whether the public is or can be effectively protected by other means; and

(e)~~(d)~~ Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

(4) The proponents of legislation that provides for the regulation of a profession or occupation not already expressly subject to state regulation shall provide, upon request, the following information in writing to the state agency that is proposed to have jurisdiction over the regulation and to the legislative committees to which the legislation is referred:

(a) The number of individuals or businesses that would be subject to the regulation;

(b) The name of each association that represents members of the profession or occupation, together with a copy of its codes of ethics or conduct;

(c) Documentation of the nature and extent of the harm to the public caused by the unregulated practice of the profession or occupation, including a description of any complaints that have been lodged against persons who have practiced the profession or occupation in this state during the preceding 3 years;

(d) A list of states that regulate the profession or occupation, and the dates of enactment of each law providing for such regulation and a copy of each law;

(e) A list and description of state and federal laws that have been enacted to protect the public with respect to the profession or occupation and a statement of the reasons why these laws have not proven adequate to protect the public;

(f) A description of the voluntary efforts made by members of the profession or occupation to protect the public and a statement of the reasons why these efforts are not adequate to protect the public;

(g) A copy of any federal legislation mandating regulation;

(h) An explanation of the reasons why other types of less restrictive regulation would not effectively protect the public;

(i) The cost, availability, and appropriateness of training and examination requirements;

(j)~~(i)~~ The cost of regulation, including the indirect cost to consumers, and the method proposed to finance the regulation;

(k) The cost imposed on applicants or practitioners or on employers of applicants or practitioners as a result of the regulation;

(l)~~(j)~~ The details of any previous efforts in this state to implement regulation of the profession or occupation; and

(m)~~(k)~~ Any other information the agency or the committee considers relevant to the analysis of the proposed legislation.

Section 72. Subsection (4) of section 455.201, Florida Statutes, is amended to read:

455.201 Professions and occupations regulated by department; legislative intent; requirements.—

(4)*(a) Neither the department nor any board may* ~~No board, nor the department, shall~~ create unreasonably restrictive and extraordinary standards that deter qualified persons from entering the various professions. *Neither the department nor any board may* ~~No board, nor the department, shall~~ take any action *that* ~~which~~ tends to create or maintain an economic condition that unreasonably restricts competition, except as specifically provided by law.

(b) Neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention in the state or that places unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment.

(c) The Legislature shall evaluate proposals to increase regulation of already regulated professions or occupations to determine their effect on job creation or retention and employment opportunities.

Section 73. Subsection (4) of section 455.517, Florida Statutes, is amended to read:

455.517 Professions and occupations regulated by department; legislative intent; requirements.—

(4)*(a) Neither the department nor any board may* ~~No board, nor the department, shall~~ create unreasonably restrictive and extraordinary standards that deter qualified persons from entering the various professions. *Neither the department nor any board may* ~~No board, nor the department, shall~~ take any action *that* ~~which~~ tends to create or maintain an economic condition that unreasonably restricts competition, except as specifically provided by law.

(b) Neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention in the state or that places unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a profession or occupation to find employment.

(c) The Legislature shall evaluate proposals to increase the regulation of regulated professions or occupations to determine the effect of increased regulation on job creation or retention and employment opportunities.

Section 74. Section 455.2035, Florida Statutes, is created to read:

455.2035 Rulemaking authority for professions not under a board.—The department may adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the regulatory requirements of any profession within the department's jurisdiction which does not have a statutorily authorized regulatory board.

Section 75. Section 455.2123, Florida Statutes, is created to read:

455.2123 Continuing education.—A board, or the department when there is no board, may provide by rule that distance learning may be used to satisfy continuing education requirements.

Section 76. Section 455.2124, Florida Statutes, is created to read:

455.2124 Proration of continuing education.—A board, or the department when there is no board, may:

(1) Prorate continuing education for new licensees by requiring half of the required continuing education for any applicant who becomes licensed with more than half the renewal period remaining and no continuing education for any applicant who becomes licensed with half or less than half of the renewal period remaining; or

(2) Require no continuing education until the first full renewal cycle of the licensee.

These options shall also apply when continuing education is first required or the number of hours required is increased by law or the board, or the department when there is no board.

Section 77. Subsection (10) is added to section 455.213, Florida Statutes, 1998 Supplement, to read:

455.213 General licensing provisions.—

(10) For any profession requiring fingerprints as part of the registration, certification, or licensure process or for any profession requiring a criminal history record check to determine good moral character, a fingerprint card containing the fingerprints of the applicant must accompany all applications for registration, certification, or licensure. The fingerprint card shall be forwarded to the Division of Criminal Justice Information Systems within the Department of Law Enforcement for purposes of processing the fingerprint card to determine if the applicant has a criminal history record. The fingerprint card shall also be forwarded to the Federal Bureau of Investigation for purposes of processing the fingerprint card to determine if the applicant has a criminal history record. The information obtained by the processing of the fingerprint card by the Florida Department of Law Enforcement and the Federal Bureau of Investigation shall be sent to the department for the purpose of determining if the applicant is statutorily qualified for registration, certification, or licensure.

Section 78. Paragraph (e) of subsection (2) of section 468.453, Florida Statutes, 1998 Supplement, is amended to read:

468.453 Licensure required; qualifications; examination; bond.—

(2) A person shall be licensed as an athlete agent if the applicant:

(e) Has ~~provided sufficient information which must be~~ submitted *to* ~~by~~ the department *a fingerprint card* for a criminal *history* records check ~~through the Federal Bureau of Investigation~~. *The fingerprint card shall be forwarded to the Division of Criminal Justice Information Systems within the Department of Law Enforcement for purposes of processing the fingerprint card to determine if the applicant has a criminal history record. The fingerprint card shall also be forwarded to the Federal Bureau of Investigation for purposes of processing the fingerprint card to determine if the applicant has a criminal history record. The information obtained by the processing of the fingerprint card by the Florida Department of Law Enforcement and the Federal Bureau of Investigation shall be sent to the department for the purpose of determining if the applicant is statutorily qualified for licensure.*

Section 79. Paragraph (a) of subsection (1) of section 475.175, Florida Statutes, is amended to read:

475.175 Examinations.—

(1) A person shall be entitled to take the license examination to practice in this state if the person:

(a) Submits to the department the appropriate notarized application and fee, two photographs of herself or himself taken within the preceding year, and *a fingerprint card. The fingerprint card shall be forwarded to the Division of Criminal Justice Information Systems within the Department of Law Enforcement for purposes of processing the fingerprint card to determine if the applicant has a criminal history record. The fingerprint card shall also be forwarded to the Federal Bureau of Investigation for purposes of processing the fingerprint card to determine if the applicant has a criminal history record. The information obtained by the processing of the fingerprint card by the Florida Department of Law Enforcement and the Federal Bureau of Investigation shall be sent to the*

department for the purpose of determining if the applicant is statutorily qualified for examination. ~~fingerprints for processing through appropriate law enforcement agencies; and~~

Section 80. Subsection (3) of section 475.615, Florida Statutes, 1998 Supplement, is amended to read:

475.615 Qualifications for registration, licensure, or certification.—

(3) Appropriate fees, as set forth in the rules of the board pursuant to s. 475.6147, and *a fingerprint card* ~~fingerprints for processing through appropriate law enforcement agencies~~ must accompany all applications for registration, ~~licensure, and~~ certification*, or licensure. The fingerprint card shall be forwarded to the Division of Criminal Justice Information Systems within the Department of Law Enforcement for purposes of processing the fingerprint card to determine if the applicant has a criminal history record. The fingerprint card shall also be forwarded to the Federal Bureau of Investigation for purposes of processing the fingerprint card to determine if the applicant has a criminal history record. The information obtained by the processing of the fingerprint card by the Florida Department of Law Enforcement and the Federal Bureau of Investigation shall be sent to the department for the purpose of determining if the applicant is statutorily qualified for registration, certification, or licensure.*

Section 81. Section 455.2255, Florida Statutes, is created to read:

455.2255 Classification of disciplinary actions.—

(1) A licensee may petition the department to review a disciplinary incident to determine whether the specific violation meets the standard of a minor violation as set forth in s. 455.225(3). If the circumstances of the violation meet that standard and 2 years have passed since the issuance of a final order imposing discipline, the department shall reclassify that violation as inactive if the licensee has not been disciplined for any subsequent minor violation of the same nature. After the department has reclassified the violation as inactive, it is no longer considered to be part of the licensee's disciplinary record, and the licensee may lawfully deny or fail to acknowledge the incident as a disciplinary action.

(2) The department may establish a schedule classifying violations according to the severity of the violation. After the expiration of set periods of time, the department may provide for such disciplinary records to become inactive, according to their classification. After the disciplinary record has become inactive, the department may clear the violation from the disciplinary record and the subject person or business may lawfully deny or fail to acknowledge such disciplinary actions. The department may adopt rules to implement this subsection.

(3) Notwithstanding s. 455.017, this section applies to the disciplinary records of all persons or businesses licensed by the department.

Section 82. Subsection (3) of section 455.227, Florida Statutes, is amended to read:

455.227 Grounds for discipline; penalties; enforcement.—

(3)*(a)* In addition to any other discipline imposed pursuant to this section or discipline imposed for a violation of any practice act, the board, or the department when there is no board, may assess costs related to the investigation and prosecution of the case excluding costs associated with an attorney's time.

(b) In any case where the board or the department imposes a fine or assessment and the fine or assessment is not paid within a reasonable time, such reasonable time to be prescribed in the rules of the board, or the department when there is no board, or in the order assessing such fines or costs, the department or the Department of Legal Affairs may contract for the collection of, or bring a civil action to recover, the fine or assessment.

(c) The department shall not issue or renew a license to any person against whom or business against which the board has assessed a fine, interest, or costs associated with investigation and prosecution until the person or business has paid in full such fine, interest, or costs associated with investigation and prosecution or until the person or business complies with or satisfies all terms and conditions of the final order.

Section 83. Subsection (6) of section 455.564, Florida Statutes, 1998 Supplement, is amended to read:

455.564 Department; general licensing provisions.—

(6) As a condition of renewal of a license, the Board of Medicine, the Board of Osteopathic Medicine, the Board of Chiropractic Medicine, and the Board of Podiatric Medicine shall each require licensees which they respectively regulate to periodically demonstrate their professional competency by completing at least 40 hours of continuing education every 2 years~~, which may include up to 1 hour of risk management or cost containment and up to 2 hours of other topics related to the applicable medical specialty, if required by board rule~~*. The boards may require by rule that up to 1 hour of the required 40 or more hours be in the area of risk management or cost containment. This provision shall not be construed to limit the number of hours that a licensee may obtain in risk management or cost containment to be credited toward satisfying the 40 or more required hours. This provision shall not be construed to require the boards to impose any requirement on licensees except for the completion of at least 40 hours of continuing education every 2 years.* Each of such boards shall determine whether any specific *continuing education* ~~course~~ requirements not otherwise mandated by law shall be mandated and shall approve criteria for, and the content of, any *continuing education* ~~course~~ mandated by such board. Notwithstanding any other provision of law, the board, or the department when there is no board, may approve by rule alternative methods of obtaining continuing education credits in risk management. The alternative methods may include attending a board meeting at which *another* ~~a~~ licensee is disciplined, serving as a volunteer expert witness for the department in a disciplinary case, or serving as a member of a probable cause panel following the expiration of a board member's term. *Other boards within the Division of Medical Quality Assurance, or the department if there is no board, may adopt rules granting continuing education hours in risk management for attending a board meeting at which another licensee is disciplined, for serving as a volunteer expert witness for the department in a disciplinary case, or for serving as a member of a probable cause panel following the expiration of a board member's term.*

Section 84. Subsections (4) and (6) of section 477.013, Florida Statutes, 1998 Supplement, are amended, and subsections (12) and (13) are added to that section, to read:

477.013 Definitions.—As used in this chapter:

(4) "Cosmetology" means the mechanical or chemical treatment of the head, face, and scalp for aesthetic rather than medical purposes, including, but not limited to, hair shampooing, hair cutting, hair arranging, hair coloring, permanent waving, *and* hair relaxing~~, hair removing pedicuring, and manicuring,~~ for compensation. *This term also includes performing hair removal, including wax treatments, manicures, pedicures, and skin-care services.*

(6) "Specialty" means the practice of one or more of the following:

(a) Manicuring, or the cutting, polishing, tinting, coloring, cleansing, adding, or extending of the nails, and massaging of the hands. This term includes any procedure or process for the affixing of artificial nails, except those nails which may be applied solely by use of a simple adhesive.

(b) Pedicuring, or the shaping, polishing, tinting, or cleansing of the nails of the feet, and massaging or beautifying of the feet.

(c) Facials, or the massaging or treating of the face or scalp with oils, creams, lotions, or other preparations, *and skin care services.*

(12) "Body wrapping" means a treatment program that uses herbal wraps for the purposes of weight loss and of cleansing and beautifying the skin of the body, but does not include:

(a) The application of oils, lotions, or other fluids to the body, except fluids contained in presoaked materials used in the wraps; or

(b) Manipulation of the body's superficial tissue, other than that arising from compression emanating from the wrap materials.

(13) "Skin care services" means the treatment of the skin of the body, other than the head, face, and scalp, by the use of a sponge, brush, cloth, or similar device to apply or remove a chemical preparation or other substance, except that chemical peels may be removed by peeling an applied preparation from the skin by hand. Skin care services must be performed by a licensed cosmetologist or facial specialist within a licensed cosmetology or specialty salon, and such services may not involve

massage, as defined in s. 480.033(3), through manipulation of the superficial tissue.

Section 85. Section 477.0132, Florida Statutes, 1998 Supplement, is amended to read:

477.0132 Hair braiding, ~~and~~ hair wrapping, *and body wrapping* registration.—

(1)(a) Persons whose occupation or practice is confined solely to hair braiding must register with the department, pay the applicable registration fee, and take a two-day 16-hour course. The course shall be board approved and consist of 5 hours of HIV/AIDS and other communicable diseases, 5 hours of sanitation and sterilization, 4 hours of disorders and diseases of the scalp, and 2 hours of studies regarding laws affecting hair braiding.

(b) Persons whose occupation or practice is confined solely to hair wrapping must register with the department, pay the applicable registration fee, and take a one-day 6-hour course. The course shall be board approved and consist of education in HIV/AIDS and other communicable diseases, sanitation and sterilization, disorders and diseases of the scalp, and studies regarding laws affecting hair wrapping.

(c) Unless otherwise licensed or exempted from licensure under this chapter, any person whose occupation or practice is body wrapping must register with the department, pay the applicable registration fee, and take a two-day 12-hour course. The course shall be board approved and consist of education in HIV/AIDS and other communicable diseases, sanitation and sterilization, disorders and diseases of the skin, and studies regarding laws affecting body wrapping.

(2) Hair braiding, ~~and~~ hair wrapping, *and body wrapping* are not required to be practiced in a cosmetology salon or specialty salon. When hair braiding, ~~or~~ hair wrapping, *or body wrapping* is practiced outside a cosmetology salon or specialty salon, disposable implements must be used or all implements must be sanitized in a disinfectant approved for hospital use or approved by the federal Environmental Protection Agency.

(3) Pending issuance of registration, a person is eligible to practice hair braiding, ~~or~~ hair wrapping, *or body wrapping* upon submission of a registration application that includes proof of successful completion of the education requirements and payment of the applicable fees required by this chapter.

Section 86. Paragraph (f) of subsection (1) of section 477.026, Florida Statutes, 1998 Supplement, is amended to read:

477.026 Fees; disposition.—

(1) The board shall set fees according to the following schedule:

(f) For hair braiders, ~~and~~ hair wrappers, *and body wrappers,* fees for registration shall not exceed $25.

Section 87. Paragraph (g) is added to subsection (1) of section 477.0265, Florida Statutes, to read:

477.0265 Prohibited acts.—

(1) It is unlawful for any person to:

(g) Advertise or imply that skin care services or body wrapping, as performed under this chapter, have any relationship to the practice of massage therapy as defined in s. 480.033(3), except those practices or activities defined in s. 477.013.

Section 88. Paragraph (a) of subsection (1) of section 477.029, Florida Statutes, 1998 Supplement, is amended to read:

477.029 Penalty.—

(1) It is unlawful for any person to:

(a) Hold himself or herself out as a cosmetologist, specialist, hair wrapper, ~~or~~ hair braider, *or body wrapper* unless duly licensed or registered, or otherwise authorized, as provided in this chapter.

Section 89. Subsection (2) of section 455.209, Florida Statutes, 1998 Supplement, is amended to read:

455.209 Accountability and liability of board members.—

(2) Each board member and each former board member serving on a probable cause panel shall be exempt from civil liability for any act or omission when acting in the member's official capacity, and the department~~, or the Department of Legal Affairs~~ shall defend any such member in any action against any board or member of a board arising from any such act or omission. In addition, the department ~~or the Department of Legal Affairs~~ may defend the member's company or business in any action against the company or business if the department ~~or the Department of Legal Affairs~~ determines that the actions from which the suit arises are actions taken by the member in the member's official capacity and were not beyond the member's statutory authority. In providing such defense, the department ~~or the Department of Legal Affairs~~ may employ or utilize the legal services of *the Department of Legal Affairs or* outside counsel *retained pursuant to s. 287.059. Fees and costs of providing legal services provided under this subsection shall be paid from the Professional Regulation Trust Fund, subject to the provisions of ss. 455.219 and 215.37.*

Section 90. Subsection (1) of section 455.221, Florida Statutes, is amended to read:

455.221 Legal and investigative services.—

(1) *The department shall provide board counsel for boards within the department by contracting with the Department of Legal Affairs, by retaining private counsel pursuant to s. 287.059, or by providing department staff counsel* ~~A board shall retain, through the department's contract procedures, board counsel from the Department of Legal Affairs.~~ The ~~Department of Legal Affairs shall provide legal services to each board within the Department of Business and Professional Regulation, but the~~ primary responsibility of *board counsel* ~~the Department of Legal Affairs~~ shall be to represent the interests of the citizens of the state ~~by vigorously counseling the boards with respect to their obligations under the laws of the state~~. A board shall provide for the periodic review and evaluation of the services provided by its board counsel. ~~Subject to the prior approval of the Attorney General, any board may retain, through the department's contract procedures, independent legal counsel to provide legal advice to the board on a specific matter.~~ Fees and costs of such counsel ~~by the Department of Legal Affairs or independent legal counsel approved by the Attorney General~~ shall be paid from the Professional Regulation Trust Fund, *subject to the provisions of ss. 455.219 and 215.37.* All contracts for independent counsel shall provide for periodic review and evaluation by the board and the department of services provided.

Section 91. Subsection (2) of section 455.541, Florida Statutes, is amended to read:

455.541 Accountability and liability of board members.—

(2) Each board member and each former board member serving on a probable cause panel shall be exempt from civil liability for any act or omission when acting in the member's official capacity, and the department ~~or the Department of Legal Affairs~~ shall defend any such member in any action against any board or member of a board arising from any such act or omission. In addition, the department ~~or the Department of Legal Affairs~~ may defend the member's company or business in any action against the company or business if the department ~~or the Department of Legal Affairs~~ determines that the actions from which the suit arises are actions taken by the member in the member's official capacity and were not beyond the member's statutory authority. In providing such defense, the department ~~or the Department of Legal Affairs~~ may employ or utilize the legal services of *the Department of Legal Affairs or* outside counsel *retained pursuant to s. 287.059. Fees and costs of providing legal services provided under this subsection shall be paid from a trust fund used by the department to implement this part, subject to the provisions of s. 455.587.*

Section 92. Subsection (1) of section 455.594, Florida Statutes, is amended to read:

455.594 Legal and investigative services.—

(1) *The department shall provide board counsel for boards within the department by contracting with the Department of Legal Affairs, by retaining private counsel pursuant to s. 287.059, or by providing department staff counsel* ~~A board shall retain, through the department's contract procedures, board counsel from the Department of Legal Affairs~~. The ~~Department of Legal Affairs shall provide legal services to each board within the Department of Health, but the~~ primary responsibility of *board counsel* ~~the Department of Legal Affairs~~ shall be to represent the interests of the citizens of the state ~~by vigorously counseling the boards with respect to their obligations under the laws of the state~~. A board shall provide for the periodic review and evaluation of the services provided by its board counsel. ~~Subject to the prior approval of the Attorney General, any board may retain, through the department's contract procedures, independent legal counsel to provide legal advice to the board on a specific matter.~~ Fees and costs of such counsel ~~by the Department of Legal Affairs or independent legal counsel approved by the Attorney General~~ shall be paid from a trust fund used by the department to implement this part, *subject to the provisions of s. 455.587.* All contracts for independent counsel shall provide for periodic review and evaluation by the board and the department of services provided.

Section 93. Subsection (16) of section 458.347, Florida Statutes, 1998 Supplement, is amended to read:

458.347 Physician assistants.—

(16) LEGAL SERVICES.—~~The Department of Legal Affairs shall provide~~ Legal services *shall be provided* to the council *pursuant to* ~~as authorized in~~ s. 455.594(1).

Section 94. Subsection (16) of section 459.022, Florida Statutes, 1998 Supplement, is amended to read:

459.022 Physician assistants.—

(16) LEGAL SERVICES.—~~The Department of Legal Affairs shall provide~~ Legal services *shall be provided* to the council *pursuant to* ~~as authorized in~~ s. 455.594(1).

Section 95. Section 455.2177, Florida Statutes, is created to read:

455.2177 Monitoring of compliance with continuing education requirements.—

(1) The department shall establish a system to monitor licensee compliance with applicable continuing education requirements and to determine each licensee's continuing education status. The department is authorized to provide for a phase-in of the compliance monitoring system, but the system must provide for monitoring of compliance with applicable continuing education requirements by all professions regulated by the department no later than July 1, 2002. The compliance monitoring system may use staff of the department or may be privatized. As used in this section, the term "monitor" means the act of determining, for each licensee, whether the licensee was in full compliance with applicable continuing education requirements as of the time of the licensee's license renewal.

(2) If the compliance monitoring system required under this section is privatized, the following provisions apply:

(a) The department may contract pursuant to s. 287.057 with a vendor or vendors for the monitoring of compliance with applicable continuing education requirements by all licensees within one or more professions regulated by the department. The contract shall include, but need not be limited to, the following terms and conditions:

1.a. The vendor shall create a computer database, in the form required by the department, that includes the continuing education status of each licensee and shall provide a report to the department within 90 days after the vendor receives the list of licensees to be monitored as provided in sub-subparagraph b. The report shall be in a format determined by the department and shall include each licensee's continuing education status by license number, hours of continuing education credit per cycle, and such other information the department deems necessary.

b. No later than 30 days after the end of each renewal period, the department shall provide to the vendor a list that includes all licensees of a particular profession whose licenses were renewed during a particular renewal period. In order to account for late renewals, the department shall provide the vendor with such updates to the list as are mutually determined to be necessary.

2.a. Before the vendor informs the department of the status of any licensee the vendor has determined is not in compliance with continuing education requirements, the vendor, acting on behalf of the department, shall provide the licensee with a notice stating that the vendor has determined that the licensee is not in compliance with applicable continuing education requirements. The notice shall also include the licensee's continuing education record for the renewal period, as shown in the records of the vendor, and a description of the process for correcting the vendor's record under sub-subparagraph b.

b. The vendor shall give the licensee 45 days to correct the vendor's information. The vendor shall correct a record only on the basis of evidence of compliance supplied to the vendor by a continuing education provider.

3.a. The vendor must provide the department, with the report required under subparagraph 1., a list, in a form determined by the department, identifying each licensee who the vendor has determined is not in compliance with applicable continuing education requirements.

b. The vendor shall provide the department with access to such information and services as the department deems necessary to ensure that the actions of the vendor conform to the contract and to the duties of the department and the vendor under this subsection.

4. The department shall ensure the vendor access to such information from continuing education providers as is necessary to determine the continuing education record of each licensee. The vendor shall inform the department of any provider that fails to provide such information to the vendor.

5. If the vendor fails to comply with a provision of the contract, the vendor is obligated to pay the department liquidated damages in the amounts specified in the contract.

6. The department's payments to the vendor must be based on the number of licensees monitored. The department may allocate from the unlicensed activity account of any profession under s. 455.2281 up to $2 per licensee for the monitoring of that profession's licensees under this subsection, which allocations are the exclusive source of funding for contracts under this subsection.

7. A continuing education provider is not eligible to be a vendor under this subsection.

(b) When it receives notice from a vendor that a licensee is not in compliance with continuing education requirements, the department shall send the licensee written notice that disciplinary actions will be taken, together with a description of the remedies available to the licensee under the dispute resolution process created under paragraph (c). If a licensee does not prevail in the dispute resolution process, the department:

1. May impose an administrative fine in the amount of $500 against the licensee; however, the department may reduce the amount of the fine to $250 if the licensee comes into compliance with the applicable continuing education requirements within 90 days after imposition of the original fine. All proceeds of fines under this subparagraph shall be deposited in the appropriate unlicensed activity account under s. 455.2281.

2. May refuse any further renewal of the licensee's license unless the licensee has paid the fine and satisfied the applicable continuing education requirements.

(c) The department is authorized to adopt by rule a process for the resolution of disputes between a vendor and a continuing education provider, between a vendor and a licensee, and between a licensee and a continuing education provider. The process shall ensure all parties a fair opportunity to correct any erroneous information. If the parties are unable to reach an agreement, the department shall determine the resolution of the dispute.

(d) Upon the failure of a vendor to meet its obligations under a contract as provided in paragraph (a), the department may suspend the contract and enter into an emergency contract under s. 287.057(3).

(3) Notwithstanding any other provision of law to the contrary and regardless of whether the compliance monitoring system is privatized, neither the department nor a board may impose any sanction other than the sanctions specified in paragraph (2)(b) for the failure of a licensee to meet continuing education requirements. This subsection does not apply to actions under chapter 473.

(4) The department shall waive the continuing education monitoring requirements of this section for any profession that demonstrates to the department that it has a program in place which measures compliance with continuing education requirements through statistical sampling techniques or other methods and can indicate that at least 95 percent of its licensees are in compliance.

(5) The department is authorized to adopt rules to implement this section.

Section 96. Section 455.2178, Florida Statutes, is created to read:

455.2178 Continuing education providers.—If the monitoring of compliance with continuing education requirements is privatized pursuant to s. 455.2177:

(1)(a) The department shall notify each approved continuing education provider of the name and address of all vendors that monitor compliance of licensees under s. 455.2177. If the department contracts with more than one vendor under s. 455.2177, the notice shall specify the professions to be monitored by each vendor.

(b) Each continuing education provider shall provide to the appropriate vendor such information regarding the continuing education status of licensees as the department determines is necessary for the vendor to carry out its duties under s. 455.2177(2), in a form determined by the department. The information must be submitted to the vendor electronically no later than 5 business days after a licensee's completion of a course. Upon the request of a licensee, the provider must also furnish to a vendor information regarding courses completed by the licensee.

(2) Each continuing education provider shall retain all records relating to a licensee's completion of continuing education courses for at least 4 years after completion of a course.

(3) A continuing education provider may not be approved, and the approval may not be renewed, unless the provider agrees in writing to provide such cooperation with vendors under s. 455.2177 as the department deems necessary or appropriate.

(4) The department may immediately revoke approval of any continuing education provider that fails to comply with its duties under this section.

(5) For the purpose of determining which persons or entities must meet the reporting, recordkeeping, and access provisions of this section, the board of any profession subject to this section, or the department if there is no board, shall, by rule, adopt a definition of the term "continuing education provider" applicable to the profession's continuing education requirements. The intent of the rule shall be to ensure that all records and information necessary to carry out the requirements of this section and s. 455.2177 are maintained and transmitted accordingly and to minimize disputes as to what person or entity is responsible for maintaining and reporting such records and information.

(6) The department has the authority to adopt rules to implement this section.

Section 97. Section 455.2179, Florida Statutes, is created to read:

455.2179 Continuing education provider approval; cease and desist orders.—

(1) If a board, or the department if there is no board, requires approval of a continuing education provider, the approval must be for a specified period of time, not to exceed 4 years. An approval that does not include such a time limitation may remain in effect only until July 1, 2001, unless earlier replaced by an approval that includes such a time limitation.

(2) The department, on its own motion or at the request of a board, shall issue an order requiring a person or entity to cease and desist from offering any continuing education programs for licensees, and revoking any approval of the provider previously granted by the department or a board, if the department or a board determines that the person or entity failed to provide appropriate continuing education services that conform to approved course material.

Section 98. Section 455.2281, Florida Statutes, is amended to read:

455.2281 Unlicensed activities; fees; disposition.—In order to protect the public and to ensure a consumer-oriented department, it is the intent of the Legislature that vigorous enforcement of regulation for all professional activities is a state priority. All enforcement costs should be covered by professions regulated by the department. Therefore, the department shall impose, upon initial licensure and each renewal thereof, a special fee of $5 per licensee. Such fee shall be in addition to all other fees collected from each licensee and shall fund efforts to combat unlicensed activity. The board with concurrence of the department, or the department when there is no board, may earmark $5 of the current licensure fee for this purpose, if such board, or profession regulated by the department, is not in a deficit and has a reasonable cash balance. The department shall make direct charges to this fund by profession and shall not allocate indirect overhead. The department shall seek board advice regarding enforcement methods and strategies prior to expenditure of funds*; however, the department may, without board advice, allocate funds to cover the costs of continuing education compliance monitoring under s. 455.2177.* The department shall directly credit, by profession, revenues received from the department's efforts to enforce licensure provisions, *including revenues received from fines collected under s. 455.2177.* The department shall include all financial and statistical data resulting from unlicensed activity enforcement *and from continuing education compliance monitoring* as ~~a~~ separate *categories* ~~category~~ in the quarterly management report provided for in s. 455.219. The department shall not charge the account of any profession for the costs incurred on behalf of any other profession. For an unlicensed activity account, a balance which remains at the end of a renewal cycle may, with concurrence of the applicable board and the department, be transferred to the operating fund account of that profession.

Section 99. Subsection (1) of section 455.224, Florida Statutes, is amended to read:

455.224 Authority to issue citations.—

(1) Notwithstanding s. 455.225, the board~~,~~ or the department ~~when there is no board,~~ shall adopt rules to permit the issuance of citations. The citation shall be issued to the subject and shall contain the subject's name and address, the subject's license number if applicable, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the subject may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the subject disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the subject does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. The penalty shall be a fine or other conditions as established by rule.

Section 100. Subsection (2) of section 468.4315, Florida Statutes, 1998 Supplement, is amended to read:

468.4315 Regulatory Council of Community Association Managers.—

(2) The council may adopt rules relating to the licensure examination, continuing education requirements, *continuing education providers,* fees, and professional practice standards to assist the department in carrying out the duties and authorities conferred upon the department by this part.

Section 101. Subsection (7) of section 477.019, Florida Statutes, 1998 Supplement, is amended to read:

477.019 Cosmetologists; qualifications; licensure; supervised practice; license renewal; endorsement; continuing education.—

(7)(a) The board shall prescribe by rule continuing education requirements intended to ensure protection of the public through updated training of licensees and registered specialists, not to exceed 16 hours biennially, as a condition for renewal of a license or registration as a

specialist under this chapter. Continuing education courses shall include, but not be limited to, the following subjects as they relate to the practice of cosmetology: human immunodeficiency virus and acquired immune deficiency syndrome; Occupational Safety and Health Administration regulations; workers' compensation issues; state and federal laws and rules as they pertain to cosmetologists, cosmetology, salons, specialists, specialty salons, and booth renters; chemical makeup as it pertains to hair, skin, and nails; and environmental issues. Courses given at cosmetology conferences may be counted toward the number of continuing education hours required if approved by the board.

~~(b) The department may privatize provider and course approval and the monitoring of continuing education requirements under a contract which ensures that the services will be without cost to the department or board, including the cost of appropriate oversight by the department. The department may contract with one or more private entities for the provision of such services, including the collection of fees for the services rendered. The department and board shall retain final authority for licensure decisions, rulemaking related to continuing education system requirements, noncompliance noticing, and overall implementation of any privatization project under this subsection.~~

(b)~~(c)~~ Any person whose occupation or practice is confined solely to hair braiding, ~~or~~ hair wrapping, *or body wrapping* is exempt from the continuing education requirements of this subsection.

(c)~~(d) Notwithstanding any provision of law to the contrary, enforcement of mandatory continuing education requirements pursuant to this chapter shall be accomplished only as a secondary action when a person is investigated for another violation. However,~~ The board may, by rule, require any licensee in violation of a continuing education requirement to take a refresher course or refresher course and examination in addition to any other penalty. The number of hours for the refresher course may not exceed 48 hours.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 169, delete line 7 and insert: An act relating to commerce; amending s. 11.62, F.S.; providing criteria for evaluating proposals for new regulation of a profession or occupation based on the effect of such regulation on job creation or retention; requiring proponents of legislation to regulate a profession or occupation not already regulated to provide additional cost information; amending ss. 455.201, 455.517, F.S.; prohibiting the Department of Business and Professional Regulation and the Department of Health and their regulatory boards from creating any regulation that has an unreasonable effect on job creation or retention or on employment opportunities; providing for evaluation of proposals to increase the regulation of already regulated professions to determine the effect of such regulation on job creation or retention and employment opportunities; creating s. 455.2035, F.S.; providing rulemaking authority to the Department of Business and Professional Regulation for the regulation of any profession under its jurisdiction which does not have a regulatory board; creating s. 455.2123, F.S.; authorizing the use of distance learning to satisfy continuing education requirements; creating s. 455.2124, F.S.; authorizing proration of continuing education requirements; amending s. 455.213, F.S.; requiring fingerprint cards with applications for registration, certification, or licensure in certain professions; providing for use of such cards for criminal history record checks of applicants; amending s. 468.453, F.S.; applying such fingerprint card requirements to applicants for licensure as an athlete agent; amending s. 475.175, F.S.; applying such fingerprint card requirements to persons applying to take the examination for licensure as a real estate broker or salesperson; amending s. 475.615, F.S.; applying such fingerprint card requirements to applicants for registration, certification, or licensure as a real estate appraiser; creating s. 455.2255, F.S.; providing for the department to classify disciplinary actions according to severity; providing for the periodic clearing of certain violations from the disciplinary record; amending s. 455.227, F.S.; providing for denial or renewal of a license under certain circumstances; amending s. 455.564, F.S.; clarifying continuing education requirements; amending s. 477.013, F.S.; redefining the terms "cosmetology" and "specialty" and defining the terms "body wrapping" and "skin care services"; amending s. 477.0132, F.S.; requiring registration of persons whose occupation or practice is body wrapping; requiring a registration fee and certain education; amending s. 477.026, F.S.; providing for the registration fee; amending s. 477.0265, F.S.; prohibiting advertising or implying that skin care services or body wrapping have any relationship to the practice of massage therapy; providing penalties; amending s. 477.029, F.S.; prohibiting holding oneself out as a body wrapper unless licensed, registered, or otherwise authorized under chapter 477, F.S.; providing penalties; providing rulemaking authority; amending ss. 455.209, 455.221, 455.541, and 455.594, F.S.; revising provisions relating to the provision of legal services for regulatory boards under the Department of Business and Professional Regulation and the Department of Health; providing for the funding of such services; amending ss. 458.347 and 459.022, F.S., relating to physician assistants, to conform; creating s. 455.2177, F.S.; requiring the department to establish a system to monitor licensee compliance with applicable continuing education requirements; authorizing the department to contract with one or more vendors for the monitoring of compliance with applicable continuing education requirements by all licensees within one or more professions regulated by the department; providing contract terms and conditions; providing for funding of contracts; providing sanctions for failure to comply and requiring notice thereof; providing for disposition of fine revenues; providing for exclusivity of sanctions over certain other disciplinary provisions; providing for a dispute resolution process; providing for suspension of a contract for failure of a vendor to meet its contract obligations; providing for waiver under specified circumstances; providing rulemaking authority; creating s. 455.2178, F.S.; providing requirements of continuing education providers with respect to cooperating with such vendors; providing conditions on approval of continuing education providers; providing for revocation of provider approval for failure to comply; providing rulemaking authority; creating s. 455.2179, F.S.; providing limits on continuing education provider approval; providing for cease and desist orders and revocation of provider approval thereunder; amending s. 455.2281, F.S.; providing for allocation of certain funds to cover the costs of continuing education compliance monitoring; providing for crediting, by profession, fines collected under the compliance monitoring system; providing for inclusion of financial and statistical data resulting from compliance monitoring as a separate category in the department's quarterly management report to each board; amending s. 455.224, F.S.; providing for adoption by the department of rules to permit the issuance of citations, whether or not there is a board; amending s. 468.4315, F.S.; authorizing the Regulatory Council of Community Association Managers to adopt rules relating to continuing education providers; amending s. 477.019, F.S.; revising provisions relating to continuing education requirements of cosmetologists;

Senator Grant moved the following amendment which was adopted:

Senate Amendment 9 (750906)(with title amendment) to House Amendment 1—On page 168, between lines 26 and 27, insert:

Section 71. Paragraph (d) is added to subsection (1) of section 626.022, Florida Statutes, 1998 Supplement, to read:

626.022 Scope of part.—

(1) This part applies as to insurance agents, solicitors, service representatives, adjusters, and insurance agencies; as to any and all kinds of insurance; and as to stock insurers, mutual insurers, reciprocal insurers, and all other types of insurers, except that:

(d) This part does not apply to a certified public accountant licensed under chapter 473 who is acting within the scope of the practice of public accounting, as defined in s. 473.302, provided that the activities of the certified public accountant are limited to advising a client of the necessity of obtaining insurance, the amount of insurance needed, or the line of coverage needed, and provided that the certified public accountant does not directly or indirectly receive or share in any commission, referral fee, or solicitor's fee.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 181, line 31, following the semicolon (;) insert: amending s. 626.022, F.S.; providing an exception from certain insurance licensing requirements for certified public accountants acting within the scope of their profession;

On motion by Senator Kirkpatrick, the Senate concurred in **House Amendments 1, 2, 3, 5, 6, 8, 9** and **10 to House Amendment 1**; concurred in **House Amendment 7 to House Amendment 1** as amended and **House Amendment 1** as amended and requested the House to concur in the Senate amendments to the House amendments.

CS for CS for SB 1566 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

MOTION

On motion by Senator McKay, by two-thirds vote debate on **HB 775** was limited to 45 minutes per side.

SENATOR MCKAY PRESIDING

THE PRESIDENT PRESIDING

SENATOR ROSSIN PRESIDING

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has accepted the Conference Committee Report as an entirety and passed HB 775, as amended by the Conference Committee Report.

John B. Phelps, Clerk

CONFERENCE COMMITTEE REPORT ON HB 775

The Honorable John Thrasher April 27, 1999
Speaker, House of Representatives

The Honorable Toni Jennings
President of the Senate

Dear Speaker Thrasher and President Jennings:

Your Conference Committee on the disagreeing votes of the two Houses on House Bill 775, same being:

HB 775—A bill to be entitled An act relating to civil actions; creating s. 40.50, F.S.; providing for instructions to juries after the jury is sworn in; providing for the taking of notes under certain circumstances; providing for written questions; providing for final instructions; amending s. 44.102, F.S.; requiring that the court require mediation in certain actions for monetary damages; amending s. 44.104, F.S.; providing for voluntary trial resolution upon the agreement of parties to a civil dispute; providing for the appointment and compensation of a trial resolution judge; providing guidelines for conducting a voluntary trial resolution; providing for enforcement and appeal; amending s. 57.105, F.S.; revising conditions for award of attorney's fees for presenting unsupported claims or defenses; authorizing damage awards against a party for unreasonable delay of litigation; authorizing the court to impose additional sanctions; amending s. 768.79, F.S.; providing for the applicability of offers of judgment and demand of judgment in cases involving multiple plaintiffs; providing that subsequent offers shall void previous offers; providing that prior to awarding costs and fees the court shall determine whether the offer was reasonable under the circumstances known at the time the offer was made; amending s. 57.071, F.S.; providing criteria under which expert witness fees may be awarded as taxable costs; providing for expedited trials; amending s. 768.77, F.S.; deleting a requirement to itemize future damages on verdict forms; amending s. 768.78, F.S.; providing for discussion of structured settlements; conforming provisions relating to alternative methods of payment of damage awards to changes made by the act; correcting a cross reference; amending s. 95.031, F.S.; imposing a 12-year statute of repose on actions founded upon violations of chapter 517; imposing a 12-year statute of repose on actions brought to recover for harm caused by products with a specified expected useful life; exempting certain categories of products from the statute of repose; imposing variable repose periods based on specific warranties by the manufacturer; providing an exception for certain injuries; providing for tolling under particular circumstances; specifying the date by which certain actions must be brought or be otherwise barred by the statute of repose; amending s. 90.407, F.S.; providing limitations on the admissibility of subsequent remedial measures; providing exceptions; creating s.768.044, F.S.; requiring the finder of fact, in certain product defect actions, to consider circumstances that existed at the time of manufacture; amending s. 95.11, F.S.; deleting a 5 year limit on commencing actions founded on chapter 517; creating s. 768.1256, F.S.; providing a government rules defense with respect to certain products liability actions; providing for a rebuttable presumption; creating s. 768.0705, F.S.; providing limitations on premises liability for a person or organization owning or controlling an interest in a business premises; providing an exception; providing for a presumption against liability for convenience businesses under specified circumstances; amending s. 768.075, F.S.; delineating the duty owed to trespassers by a person or organization owning or controlling an interest in real property; providing definitions; providing for the avoidance of liability to discovered and undiscovered trespassers under described circumstances; providing immunity from certain liability arising out of the attempt to commit or the commission of a felony; creating s. 768.725, F.S.; providing for evidentiary standards for an award of punitive damages; amending s. 768.72, F.S.; revising provisions with respect to claims for punitive damages in civil actions; requiring clear and convincing evidence of gross negligence or intentional misconduct to support the recovery of such damages; providing definitions; providing criteria for the imposition of punitive damages with respect to employers, principals, corporations, or other legal entities for the conduct of an employee or agent; providing for the application of the section; amending s. 768.73, F.S.; revising provisions with respect to limitations on punitive damages; providing monetary limitations; providing an exception with respect to intentional misconduct; providing for the effect of certain previous punitive damages awards; providing for the application of the section; creating s. 768.736, F.S.; providing that ss. 768.725 and 768.73, F.S., relating to punitive damages, do not apply to intoxicated defendants; amending s. 768.81, F.S.; providing for the apportionment of damages on the basis of joint and several liability when a party's fault exceeds a certain percentage; limiting the applicability of joint and several liability based on the amount of damages; providing for the allocation of fault to a nonparty; requiring that such fault must be proved by a preponderance of the evidence; amending s. 324.021, F.S.; providing the lessor of a motor vehicle under certain rental agreements shall be deemed the owner of the vehicle for the purpose of determining liability for the operation of the vehicle within certain limits; providing for the liability of the owner of a motor vehicle who loans the vehicle to certain users; limiting the liability of employers in a joint employment relationship under specific circumstances; providing exceptions and limitations; creating s. 768.735, F.S.; providing that ss. 768.72(2)-(5), 768.725, and 768.73, F.S., relating to punitive damages, are inapplicable to specified causes of action; limiting the amount of punitive damages that may be awarded to a claimant in certain civil actions involving abuse or arising under ch. 400, F.S.; amending s. 400.023(1), F.S., limiting the recovery of attorney fees; providing that an attorney may receive additional fees from his or her client; providing for severability; creating s. 768.737, F.S., providing for application of punitive damages statutes to arbitration; requiring the Office of Program Policy Analysis and Governmental Accountability to contract with an actuarial firm to conduct an actuarial analysis of expected reductions in judgments and related costs resulting from litigation reforms; specifying the basis and due date for the actuarial report; providing an effective date.

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

1. That the House adopt the Conference Committee amendment.

2. That the Senate adopt the Conference Committee amendment.

s/Tom Feeney	*s/Jack Latvala*
Chairman	Chairman
s/David I. Bitner	*s/John A. Grant, Jr.*
s/Johnnie B. Byrd, Jr.	*s/John Laurent*
s/D. Lee Constantine	*s/Tom Lee*
s/O.R. "Rick" Minton, Jr.	*s/Ronald A. Silver*
Managers on the part of the House of Representatives	Managers on the part of the Senate

Conference Committee Amendment (720147)(with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

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

40.50 Jury duty and instructions in civil cases.—

(1) In any civil action immediately after the jury is sworn, the court shall instruct the jury concerning its duties, its conduct, the order of proceedings, the procedure for submitting written questions of witnesses, and the legal issues involved in the proceeding.

(2) In any civil action which the court determines is likely to exceed 5 days, the court shall instruct that the jurors may take notes regarding the evidence and keep the notes to refresh their memory and to use during recesses and deliberations. The court may provide materials suitable for this purpose. The court should emphasize the confidentiality of the notes. After the jury has rendered its verdict, any notes shall be collected by the bailiff or clerk who shall promptly destroy them.

(3) The court shall permit jurors to submit to the court written questions directed to witnesses or to the court. The court shall give counsel an opportunity to object to such questions outside the presence of the jury. The court may, as appropriate, limit the submission of questions to witnesses.

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

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

Section 2. Subsection (2) of section 44.102, Florida Statutes, is amended to read:

44.102 Court-ordered mediation.—

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

(a) Must, upon request of one party, refer to mediation any filed civil action for monetary damages, provided the requesting party is willing and able to pay the costs of the mediation or the costs can be equitably divided between the parties, unless:

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

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

3. The action is a claim of medical malpractice.

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

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

6. The parties have agreed to binding arbitration.

7. The parties have agreed to an expedited trial pursuant to section 6 of this act.

8. The parties have agreed to voluntary trial resolution pursuant to s. 44.104.

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

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

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

Section 3. Section 44.104, Florida Statutes, is amended to read:

44.104 Voluntary binding arbitration *and voluntary trial resolution.*—

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

(2) If the parties have entered into an agreement which provides *in voluntary binding arbitration* for a method for *appointing* ~~the appointment~~ of one or more arbitrators, *or which provides in voluntary trial resolution a method for appointing a member of The Florida Bar in good standing for more than 5 years to act as trial resolution judge,* the court shall proceed with the appointment as prescribed~~, except that~~. *However, in voluntary binding arbitration* at least one of the arbitrators, who shall serve as the chief arbitrator, shall meet the qualifications and training requirements adopted pursuant to s. 44.106. In the absence of an agreement, or if the agreement method fails or for any reason cannot be followed, the court, on application of a party, shall appoint one or more qualified arbitrators, *or the trial resolution judge, as the case requires.*

(3) The arbitrators *or trial resolution judge* shall be compensated by the parties according to their agreement~~, but not at an amount less than $75 per day~~.

(4) Within 10 days *after* ~~of~~ the submission of the request for binding arbitration, *or voluntary trial resolution,* the court shall provide for the appointment of the arbitrator or arbitrators, *or trial resolution judge, as the case requires.* Once appointed, the arbitrators *or trial resolution judge* shall notify the parties of the time and place for the hearing.

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

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

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

(8) *A voluntary binding arbitration* ~~The~~ hearing shall be conducted by all of the arbitrators, but a majority may determine any question and render a final decision. *A trial resolution judge shall conduct a voluntary trial resolution hearing. The trial resolution judge may determine any question and render a final decision.*

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

(10) An appeal *of a voluntary binding arbitration decision* shall be taken to the circuit court and shall be limited to review on the record and not de novo, of:

(a) Any alleged failure of the arbitrators to comply with the applicable rules of procedure or evidence.

(b) Any alleged partiality or misconduct by an arbitrator prejudicing the rights of any party.

(c) Whether the decision reaches a result contrary to the Constitution of the United States or of the State of Florida.

(11) Any party may enforce a final decision rendered in a voluntary trial by filing a petition for final judgment in the circuit court in the circuit in which the voluntary trial took place. Upon entry of final judgment by the circuit court, any party may appeal to the appropriate appellate court. Factual findings determined in the voluntary trial are not subject to appeal.

(12) The harmless error doctrine shall apply in all appeals. No further review shall be permitted unless a constitutional issue is raised.

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

(14)~~(12)~~ This section shall not apply to any dispute involving child custody, visitation, or child support, or to any dispute which involves the rights of a third party not a party to the arbitration *or voluntary trial resolution when the third party would be an indispensable party if the dispute were resolved in court or when the third party notifies the chief arbitrator or the trial resolution judge that the third party would be a proper party if the dispute were resolved in court, that the third party intends to intervene in the action in court, and that the third party does not agree to proceed under this section.*

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

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

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

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

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

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

(2) Paragraph (1)(b) does not apply if the court determines that the claim or defense was initially presented to the court as a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law, as it applied to the material facts, with a reasonable expectation of success.

(3) At any time in any civil proceeding or action in which the moving party proves by a preponderance of the evidence that any action taken by the opposing party, including, but not limited to, the filing of any pleading or part thereof, the assertion of or response to any discovery demand, the assertion of any claim or defense, or the response to any request by any other party, was taken primarily for the purpose of unreasonable delay, the court shall award damages to the moving party for its reasonable expenses incurred in obtaining the order, which may include attorney's fees, and other loss resulting from the improper delay.

(4) The provisions of this section are supplemental to other sanctions or remedies available under law or under court rules.

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

Section 5. Section 57.071, Florida Statutes, is amended to read:

57.071 Costs; what taxable.—

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

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

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

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

(2) Expert witness fees may not be awarded as taxable costs unless the party retaining the expert witness furnishes each opposing party with a written report signed by the expert witness which summarizes the expert witness's opinions and the factual basis of the opinions, including documentary evidence and the authorities relied upon in reaching the opinions. Such report shall be filed at least 5 days prior to the deposition of the expert or at least 20 days prior to discovery cutoff, whichever is sooner, or as otherwise determined by the court. This subsection does not apply to any action proceeding under the Florida Family Law Rules of Procedure.

Section 6. *Expedited trials.—Upon the joint stipulation of the parties to any civil case, the court may conduct an expedited trial as provided in this section. Where two or more plaintiffs or defendants have a unity of interest, such as a husband and wife, they shall be considered one party for the purpose of this section. Unless otherwise ordered by the court or agreed to by the parties with approval of the court, an expedited trial shall be conducted as follows:*

(1) All discovery shall be completed within 60 days after the court enters an order adopting the joint expedited trial stipulation.

(2) All interrogatories and requests for production must be served within 10 days after the court enters the order adopting the joint expedited trial stipulation, and all responses must be served within 20 days after receipt.

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

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

(5) The case may be tried within 30 days after the 60-day discovery cutoff, if such schedule would not impose an undue burden on the court calendar.

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

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

(8) The plaintiff will have no more than 3 hours to present its case, including the opening, all testimony and evidence, and the closing.

(9) The defendant will have no more than 3 hours to present its case, including the opening, all testimony and evidence, and the closing.

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

(11) The parties may introduce a verified written report of any expert and an affidavit of the expert's curriculum vitae instead of calling the expert to testify at trial.

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

(13) Except as otherwise provided in this section, the Florida Evidence Code and the Florida Rules of Civil Procedure apply.

(14) The court may refuse to grant continuances of the trial absent extraordinary circumstances.

Section 7. Section 768.77, Florida Statutes, is amended to read:

768.77 Itemized verdict.—

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

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

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

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

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

Section 8. Paragraph (a) of subsection (1) of section 768.78, Florida Statutes, is amended to read:

768.78 Alternative methods of payment of damage awards.—

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

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

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

Section 9. Section 47.025, Florida Statutes, is created to read:

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

Section 10. *Through the state's uniform case reporting system, the clerk of court shall report to the Office of the State Courts Administrator, beginning in 2003, information from each settlement or jury verdict and final judgment in negligence cases as defined in section 768.81(4), Florida Statutes, as the President of the Senate and the Speaker of the House of Representatives deem necessary from time to time. The information shall include, but need not be limited to: the name of each plaintiff and defendant; the verdict; the percentage of fault of each; the amount of economic damages and noneconomic damages awarded to each plaintiff, identifying those damages that are to be paid jointly and severally and by which defendants; and the amount of any punitive damages to be paid by each defendant.*

Section 11. Effective July 1, 1999, subsection (2) of section 95.031, Florida Statutes, is amended to read:

95.031 Computation of time.—Except as provided in subsection (2) and in s. 95.051 and elsewhere in these statutes, the time within which an action shall be begun under any statute of limitations runs from the time the cause of action accrues.

(2)*(a) An action* ~~Actions~~ for ~~products liability and~~ fraud under s. 95.11(3) must be begun within the period prescribed in this chapter, with the period running from the time the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence, instead of running from any date prescribed elsewhere in s. 95.11(3), but in any event an action for fraud under s. 95.11(3) must be begun within 12 years after the date of the commission of the alleged fraud, regardless of the date the fraud was or should have been discovered.

(b) An action for products liability under s. 95.11(3) must be begun within the period prescribed in this chapter, with the period running from the date that the facts giving rise to the cause of action were discovered, or should have been discovered with the exercise of due diligence, rather than running from any other date prescribed elsewhere in s. 95.11(3), except as provided within this subsection. Under no circumstances may a claimant commence an action for products liability, including a wrongful death action or any other claim arising from personal injury or property damage caused by a product, to recover for harm allegedly caused by a product with an expected useful life of 10 years or less, if the harm was caused by exposure to or use of the product more than 12 years after delivery of the product to its first purchaser or lessee who was not engaged in the business of selling or leasing the product or of using the product as a component in the manufacture of another product. All products, except those included within subparagraph 1. or subparagraph 2., are conclusively presumed to have an expected useful life of 10 years or less.

1. Aircraft used in commercial or contract carrying of passengers or freight, vessels of more than 100 gross tons, railroad equipment used in commercial or contract carrying of passengers or freight, and improvements to real property, including elevators and escalators, are not subject to the statute of repose provided within this subsection.

2. Any product not listed in subparagraph 1., which the manufacturer specifically warranted, through express representation or labeling, as having an expected useful life exceeding 10 years, has an expected useful life commensurate with the time period indicated by the warranty or label. Under such circumstances, no action for products liability may be brought after the expected useful life of the product, or more than 12 years after delivery of the product to its first purchaser or lessee who was not engaged in the business of selling or leasing the product or of using the product as a component in the manufacture of another product, whichever is later.

3. With regard to those products listed in subparagraph 1., except for escalators, elevators, and improvements to real property, no action for products liability may be brought more than 20 years after delivery of the product to its first purchaser or lessor who was not engaged in the business of selling or leasing the product or of using the product as a component in the manufacture of another product. However, if the manufacturer specifically warranted, through express representation or labeling, that the product has an expected useful life exceeding 20 years, the repose period shall be the time period warranted in representations or label.

(c) The repose period prescribed in paragraph (b) does not apply if the claimant was exposed to or used the product within the repose period, but

an injury caused by such exposure or use did not manifest itself until after expiration of the repose period.

(d) The repose period prescribed within paragraph (b) is tolled for any period during which the manufacturer through its officers, directors, partners, or managing agents had actual knowledge that the product was defective in the manner alleged by the claimant and took affirmative steps to conceal the defect. Any claim of concealment under this section shall be made with specificity and must be based upon substantial factual and legal support. Maintaining the confidentiality of trade secrets does not constitute concealment under this section.

Section 12. (1) *The amendments to section 95.031(2), Florida Statutes, made by this act shall apply to any action commenced on or after the effective date of that section, regardless of when the cause of action accrued, except that any action for products liability which would not have been barred under section 95.031(2), Florida Statutes, prior to the amendments to that section made by this act may be commenced before July 1, 2003, and, if it is not commenced by that date and is barred by the amendments to section 95.031(2), Florida Statutes, made by this act, it shall be barred.*

(2) This section shall take effect July 1, 1999.

Section 13. Section 90.407, Florida Statutes, is amended to read:

90.407 Subsequent remedial measures.—Evidence of measures taken after an *injury or harm caused by an* event, which measures if taken before *the event* ~~it occurred~~ would have made *injury or harm* ~~the event~~ less likely to occur, is not admissible to prove negligence, *the existence of a product defect,* or culpable conduct in connection with the event. *This rule does not require the exclusion of evidence of subsequent remedial measures when offered for another purpose, such as proving ownership, control, or the feasibility of precautionary measures, if controverted, or impeachment.*

Section 14. Section 768.1257, Florida Statutes, is created to read:

768.1257 State-of-the-art defense for products liability.—In an action based upon defective design, brought against the manufacturer of a product, the finder of fact shall consider the state of the art of scientific and technical knowledge and other circumstances that existed at the time of manufacture, not at the time of loss or injury.

Section 15. Section 768.1256, Florida Statutes, is created to read:

768.1256 Government rules defense.—

(1) In a product liability action brought against a manufacturer or seller for harm allegedly caused by a product, there is a rebuttable presumption that the product is not defective or unreasonably dangerous and the manufacturer or seller is not liable if, at the time the specific unit of the product was sold or delivered to the initial purchaser or user, the aspect of the product that allegedly caused the harm:

(a) Complied with federal or state codes, statutes, rules, regulations, or standards relevant to the event causing the death or injury;

(b) The codes, statutes, rules, regulations, or standards are designed to prevent the type of harm that allegedly occurred; and

(c) Compliance with the codes, statutes, rules, regulations, or standards is required as a condition for selling or distributing the product.

(2) In a product liability action as described in subsection (1), there is a rebuttable presumption that the product is defective or unreasonably dangerous and the manufacturer or seller is liable if the manufacturer or seller did not comply with the federal or state codes, statutes, rules, regulations, or standards which:

(a) Were relevant to the event causing the death or injury;

(b) Are designed to prevent the type of harm that allegedly occurred; and

(c) Require compliance as a condition for selling or distributing the product.

(3) This section does not apply to an action brought for harm allegedly caused by a drug that is ordered off the market or seized by the Federal Food and Drug Administration.

Section 16. Section 768.096, Florida Statutes, is created to read:

768.096 Employer presumption against negligent hiring.—

(1) In a civil action for the death of, or injury or damage to, a third person caused by the intentional tort of an employee, such employee's employer is presumed not to have been negligent in hiring such employee if, before hiring the employee, the employer conducted a background investigation of the prospective employee and the investigation did not reveal any information that reasonably demonstrated the unsuitability of the prospective employee for the particular work to be performed or for the employment in general. A background investigation under this section must include:

(a) Obtaining a criminal background investigation on the prospective employee under subsection (2);

(b) Making a reasonable effort to contact references and former employers of the prospective employee concerning the suitability of the prospective employee for employment;

(c) Requiring the prospective employee to complete a job application form that includes questions concerning whether he or she has ever been convicted of a crime, including details concerning the type of crime, the date of conviction and the penalty imposed, and whether the prospective employee has ever been a defendant in a civil action for intentional tort, including the nature of the intentional tort and the disposition of the action;

(d) Obtaining, with written authorization from the prospective employee, a check of the driver's license record of the prospective employee if such a check is relevant to the work the employee will be performing and if the record can reasonably be obtained; or

(e) Interviewing the prospective employee.

(2) To satisfy the criminal-background-investigation requirement of this section, an employer must request and obtain from the Department of Law Enforcement a check of the information as reported and reflected in the Florida Crime Information Center system as of the date of the request.

(3) The election by an employer not to conduct the investigation specified in subsection (1) does not raise any presumption that the employer failed to use reasonable care in hiring an employee.

Section 17. Section 768.095, Florida Statutes, is amended to read:

768.095 Employer immunity from liability; disclosure of information regarding former *or current* employees.—An employer who discloses information about a former *or current employee* ~~employee's job performance~~ to a prospective employer of the former *or current* employee upon request of the prospective employer or of the former *or current* employee is ~~presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, is~~ immune from civil liability for such disclosure or its consequences *unless it is shown by clear and convincing evidence*~~. For purposes of this section, the presumption of good faith is rebutted upon a showing~~ that the information disclosed by the former *or current* employer was knowingly false ~~or deliberately misleading, was rendered with malicious purpose,~~ or violated any civil right of the former *or current* employee protected under chapter 760.

Section 18. Section 768.0705, Florida Statutes, is created to read:

768.0705 Limitation on premises liability.—The owner or operator of a convenience business that substantially implements the applicable security measures listed in ss. 812.173 and 812.174 shall gain a presumption against liability in connection with criminal acts that occur on the premises and that are committed by third parties who are not employees or agents of the owner or operator of the convenience business.

Section 19. Section 768.075, Florida Statutes, is amended to read:

768.075 Immunity from liability for injury to trespassers on real property.—

(1) A person or organization owning or controlling an interest in real property, or an agent of such person or organization, shall not be held liable for any civil damages for death of or injury or damage to a trespasser upon the property ~~resulting from or arising by reason of the~~

~~trespasser's commission of the offense of trespass as described in s. 810.08 or s. 810.09,~~ when such trespasser was under the influence of alcoholic beverages with a blood-alcohol level of *0.08* ~~0.10~~ percent or higher, when such trespasser was under the influence of any chemical substance set forth in s. 877.111, when such trespasser was illegally under the influence of any substance controlled under chapter 893, or if the trespasser is affected by any of the aforesaid substances to the extent that her or his normal faculties are impaired. ~~For the purposes of this section, voluntary intoxication or impediment of faculties by use of alcohol or any of the aforementioned substances shall not excuse a party bringing an action or on whose behalf an action is brought from proving the elements of trespass.~~ However, the person or organization owning or controlling the interest in real property shall not be immune from liability if gross negligence or *intentional* ~~willful and wanton~~ misconduct on the part of such person or organization or agent thereof is a proximate cause of the death of or injury or damage to the trespasser.

(2) A person or organization owning or controlling an interest in real property, or an agent of such person or organization, is not liable for any civil damages for the death of or injury or damage to any discovered or undiscovered trespasser, except as provided in paragraphs (3)(a), (b), and (c), and regardless of whether the trespasser was intoxicated or otherwise impaired.

(3)(a) As used in this subsection, the term:

1. "Invitation" means that the visitor entering the premises has an objectively reasonable belief that he or she has been invited or is otherwise welcome on that portion of the real property where injury occurs.

2. "Discovered trespasser" means a person who enters real property without invitation, either express or implied, and whose actual physical presence was detected, within 24 hours preceding the accident, by the person or organization owning or controlling an interest in real property or to whose actual physical presence the person or organization owning or controlling an interest in real property was alerted by a reliable source within 24 hours preceding the accident. The status of a person who enters real property shall not be elevated to that of an invitee, unless the person or organization owning or controlling an interest in real property has issued an express invitation to enter the property or has manifested a clear intent to hold the property open to use by persons pursuing purposes such as those pursued by the person whose status is at issue.

3. "Undiscovered trespasser" means a person who enters property without invitation, either express or implied, and whose actual physical presence was not detected, within 24 hours preceding the accident, by the person or organization owning or controlling an interest in real property.

(b) To avoid liability to undiscovered trespassers, a person or organization owning or controlling an interest in real property must refrain from intentional misconduct that proximately causes injury to the undiscovered trespasser, but has no duty to warn of dangerous conditions. To avoid liability to discovered trespassers, a person or organization owning or controlling an interest in real property must refrain from gross negligence or intentional misconduct that proximately causes injury to the discovered trespasser, and must warn the trespasser of dangerous conditions that are known to the person or organization owning or controlling an interest in real property but that are not readily observable by others.

(c) This subsection shall not be interpreted or construed to alter the common law as it pertains to the "attractive nuisance doctrine."

(4) A person or organization owning or controlling an interest in real property, or an agent of such person or organization, shall not be held liable for negligence that results in the death of, injury to, or damage to a person who is attempting to commit a felony or who is engaged in the commission of a felony on the property.

Section 20. Section 768.36, Florida Statutes, is created to read:

768.36 Alcohol or drug defense.—

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

(a) "Alcoholic beverage" means distilled spirits and any beverage that contains 0.5 percent or more alcohol by volume as determined in accordance with s. 561.01(4)(b).

(b) "Drug" means any chemical substance set forth in s. 877.111 or any substance controlled under chapter 893. The term does not include any drug or medication obtained pursuant to a prescription as defined in s. 893.02 which was taken in accordance with the prescription, or any medication that is authorized under state or federal law for general distribution and use without a prescription in treating human diseases, ailments, or injuries and that was taken in the recommended dosage.

(2) In any civil action, a plaintiff may not recover any damages for loss or injury to his or her person or property if the trier of fact finds that, at the time the plaintiff was injured:

(a) The plaintiff was under the influence of any alcoholic beverage or drug to the extent that the plaintiff's normal faculties were impaired or the plaintiff had a blood or breath alcohol level of 0.08 percent or higher; and

(b) As a result of the influence of such alcoholic beverage or drug the plaintiff was more than 50 percent at fault for his or her own harm.

Section 21. Section 768.725, Florida Statutes, is created to read:

768.725 Punitive damages; burden of proof.—In all civil actions, the plaintiff must establish at trial, by clear and convincing evidence, its entitlement to an award of punitive damages. The "greater weight of the evidence" burden of proof applies to a determination of the amount of damages.

Section 22. Section 768.72, Florida Statutes, is amended to read:

768.72 Pleading in civil actions; claim for punitive damages.—

(1) In any civil action, no claim for punitive damages shall be permitted unless there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recovery of such damages. The claimant may move to amend her or his complaint to assert a claim for punitive damages as allowed by the rules of civil procedure. The rules of civil procedure shall be liberally construed so as to allow the claimant discovery of evidence which appears reasonably calculated to lead to admissible evidence on the issue of punitive damages. No discovery of financial worth shall proceed until after the pleading concerning punitive damages is permitted.

(2) A defendant may be held liable for punitive damages only if the trier of fact, based on clear and convincing evidence, finds that the defendant was personally guilty of intentional misconduct or gross negligence. As used in this section, the term:

(a) "Intentional misconduct" means that the defendant had actual knowledge of the wrongfulness of the conduct and the high probability that injury or damage to the claimant would result and, despite that knowledge, intentionally pursued that course of conduct, resulting in injury or damage.

(b) "Gross negligence" means that the defendant's conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct.

(3) In the case of an employer, principal, corporation, or other legal entity, punitive damages may be imposed for the conduct of an employee or agent only if the conduct of the employee or agent meets the criteria specified in subsection (2) and:

(a) The employer, principal, corporation, or other legal entity actively and knowingly participated in such conduct;

(b) The officers, directors, or managers of the employer, principal, corporation, or other legal entity knowingly condoned, ratified, or consented to such conduct; or

(c) The employer, principal, corporation, or other legal entity engaged in conduct that constituted gross negligence and that contributed to the loss, damages, or injury suffered by the claimant.

(4) The provisions of this section shall be applied to all causes of action arising after the effective date of this act.

Section 23. Section 768.73, Florida Statutes, is amended to read:

768.73 Punitive damages; limitation.—

(1)(a) *Except as provided in paragraphs (b) and (c), an award of punitive damages may not exceed the greater of:*

1. Three times the amount of compensatory damages awarded to each claimant entitled thereto, consistent with the remaining provisions of this section; or

2. The sum of $500,000. ~~In any civil action based on negligence, strict liability, products liability, misconduct in commercial transactions, professional liability, or breach of warranty, and involving willful, wanton, or gross misconduct, the judgment for the total amount of punitive damages awarded to a claimant may not exceed three times the amount of compensatory damages awarded to each person entitled thereto by the trier of fact, except as provided in paragraph (b). However, this subsection does not apply to any class action.~~

(b) *Where the fact finder determines that the wrongful conduct proven under this section was motivated solely by unreasonable financial gain and determines that the unreasonably dangerous nature of the conduct, together with the high likelihood of injury resulting from the conduct, were actually known by the managing agent, director, officer, or other person responsible for making policy decisions on behalf of the defendant, it may award an amount of punitive damages not to exceed the greater of:*

1. Four times the amount of compensatory damages awarded to each claimant entitled thereto, consistent with the remaining provisions of this section; or

2. The sum of $2,000,000. ~~If any award for punitive damages exceeds the limitation specified in paragraph (a), the award is presumed to be excessive and the defendant is entitled to remittitur of the amount in excess of the limitation unless the claimant demonstrates to the court by clear and convincing evidence that the award is not excessive in light of the facts and circumstances which were presented to the trier of fact.~~

(c) Where the fact finder determines that at the time of injury the defendant had a specific intent to harm the claimant and determines that the defendant's conduct did in fact harm the claimant, there shall be no cap on punitive damages.

(d)~~(c)~~ This subsection is not intended to prohibit an appropriate court from exercising its jurisdiction under s. 768.74 in determining the reasonableness of an award of punitive damages that is less than three times the amount of compensatory damages.

(2)(a) Except as provided in paragraph (b), punitive damages may not be awarded against a defendant in a civil action if that defendant establishes, before trial, that punitive damages have previously been awarded against that defendant in any state or federal court in any action alleging harm from the same act or single course of conduct for which the claimant seeks compensatory damages. For purposes of a civil action, the term "the same act or single course of conduct" includes acts resulting in the same manufacturing defects, acts resulting in the same defects in design, or failure to warn of the same hazards, with respect to similar units of a product.

(b) In subsequent civil actions involving the same act or single course of conduct for which punitive damages have already been awarded, if the court determines by clear and convincing evidence that the amount of prior punitive damages awarded was insufficient to punish that defendant's behavior, the court may permit a jury to consider an award of subsequent punitive damages. In permitting a jury to consider awarding subsequent punitive damages, the court shall make specific findings of fact in the record to support its conclusion. In addition, the court may consider whether the defendant's act or course of conduct has ceased. Any subsequent punitive damage awards must be reduced by the amount of any earlier punitive damage awards rendered in state or federal court.

(3) The claimant attorney's fees, if payable from the judgment, are, to the extent that the fees are based on the punitive damages, calculated based on the final judgment for punitive damages. This subsection does not limit the payment of attorney's fees based upon an award of damages other than punitive damages.

(4)~~(2)~~ The jury may neither be instructed nor informed as to the provisions of this section.

(5) The provisions of this section shall be applied to all causes of action arising after the effective date of this act.

Section 24. Section 768.735, Florida Statutes, is created to read:

768.735 Punitive damages; exceptions; limitation.—

(1) Sections 768.72(2)-(4), 768.725, and 768.73 do not apply to any civil action based upon child abuse, abuse of the elderly, or abuse of the developmentally disabled or any civil action arising under chapter 400. Such actions are governed by applicable statutes and controlling judicial precedent.

(2)(a) In any civil action based upon child abuse, abuse of the elderly, or abuse of the developmentally disabled, or actions arising under chapter 400 and involving the award of punitive damages, the judgment for the total amount of punitive damages awarded to a claimant may not exceed three times the amount of compensatory damages awarded to each person entitled thereto by the trier of fact, except as provided in paragraph (b). This subsection does not apply to any class action.

(b) If any award for punitive damages exceeds the limitation specified in paragraph (a), the award is presumed to be excessive and the defendant is entitled to remittitur of the amount in excess of the limitation unless the claimant demonstrates to the court by clear and convincing evidence that the award is not excessive in light of the facts and circumstances that were presented to the trier of fact.

(c) This subsection is not intended to prohibit an appropriate court from exercising its jurisdiction under s. 768.74 in determining the reasonableness of an award of punitive damages which is less than three times the amount of compensatory damages.

(d) The jury may not be instructed or informed as to the provisions of this section.

Section 25. Section 768.736, Florida Statutes, is created to read:

768.736 Punitive damages; exceptions for intoxication.—Sections 768.725 and 768.73 do not apply to any defendant who, at the time of the act or omission for which punitive damages are sought, was under the influence of any alcoholic beverage or drug to the extent that the defendant's normal faculties were impaired, or who had a blood or breath alcohol level of 0.08 percent or higher.

Section 26. Section 768.737, Florida statutes, is created to read:

768.737 Punitive damages; application in arbitration.—Where punitive damages are available as a remedy in an arbitration proceeding, ss. 768.72, 768.725, and 768.73 apply. When an award of punitive damages is made in an arbitration proceeding, the arbitrator who renders the award must issue a written opinion setting forth the conduct which gave rise to the award and how the arbitrator applied the standards in s. 768.72 to such conduct.

Section 27. Subsections (3), (4), (5), and (6) of section 768.81, Florida Statutes, are amended to read:

768.81 Comparative fault.—

(3) APPORTIONMENT OF DAMAGES.—In cases to which this section applies, the court shall enter judgment against each party liable on the basis of such party's percentage of fault and not on the basis of the doctrine of joint and several liability, *except as provided in paragraphs (a), (b), and (c):*

(a) Where a plaintiff is found to be at fault, the following shall apply:

1. Any defendant found 10 percent or less at fault shall not be subject to joint and several liability.

2. For any defendant found more than 10 percent but less than 25 percent at fault, joint and several liability shall not apply to that portion of economic damages in excess of $200,000.

3. For any defendant found at least 25 percent but not more than 50 percent at fault, joint and several liability shall not apply to that portion of economic damages in excess of $500,000.

4. For any defendant found more than 50 percent at fault, joint and several liability shall not apply to that portion of economic damages in excess of $1,000,000.

For any defendant under subparagraph 2., subparagraph 3., or subparagraph 4., the amount of economic damages calculated under joint and several liability shall be in addition to the amount of economic and noneconomic damages already apportioned to that defendant based on that defendant's percentage of fault.

(b) Where a plaintiff is found to be without fault, the following shall apply:

1. Any defendant found less than 10 percent at fault shall not be subject to joint and several liability.

2. For any defendant found at least 10 percent but less than 25 percent at fault, joint and several liability shall not apply to that portion of economic damages in excess of $500,000.

3. For any defendant found at least 25 percent but not more than 50 percent at fault, joint and several liability shall not apply to that portion of economic damages in excess of $1,000,000.

4. For any defendant found more than 50 percent at fault, joint and several liability shall not apply to that portion of economic damages in excess of $2,000,000.

For any defendant under subparagraph 2., subparagraph 3., or subparagraph 4., the amount of economic damages calculated under joint and several liability shall be in addition to the amount of economic and noneconomic damages already apportioned to that defendant based on that defendant's percentage of fault.

(c) With respect to any defendant whose percentage of fault is less than the fault of a particular plaintiff, the doctrine of joint and several liability shall not apply to any damages imposed against the defendant. ~~; provided that with respect to any party whose percentage of fault equals or exceeds that of a particular claimant, the court shall enter judgment with respect to economic damages against that party on the basis of the doctrine of joint and several liability.~~

(d) In order to allocate any or all fault to a nonparty, a defendant must affirmatively plead the fault of a nonparty and, absent a showing of good cause, identify the nonparty, if known, or describe the nonparty as specifically as practicable, either by motion or in the initial responsive pleading when defenses are first presented, subject to amendment any time before trial in accordance with the Florida Rules of Civil Procedure.

(e) In order to allocate any or all fault to a nonparty and include the named or unnamed nonparty on the verdict form for purposes of apportioning damages, a defendant must prove at trial, by a preponderance of the evidence, the fault of the nonparty in causing the plaintiff's injuries.

(4) APPLICABILITY.—

(a) This section applies to negligence cases. For purposes of this section, "negligence cases" includes, but is not limited to, civil actions for damages based upon theories of negligence, strict liability, products liability, professional malpractice whether couched in terms of contract or tort, or breach of warranty and like theories. In determining whether a case falls within the term "negligence cases," the court shall look to the substance of the action and not the conclusory terms used by the parties.

(b) This section does not apply to any action brought by any person to recover actual economic damages resulting from pollution, to any action based upon an intentional tort, or to any cause of action as to which application of the doctrine of joint and several liability is specifically provided by chapter 403, chapter 498, chapter 517, chapter 542, or chapter 895.

~~(5) APPLICABILITY OF JOINT AND SEVERAL LIABILITY.—Notwithstanding the provisions of this section, the doctrine of joint and several liability applies to all actions in which the total amount of damages does not exceed $25,000.~~

(5)~~(6)~~ Notwithstanding anything in law to the contrary, in an action for damages for personal injury or wrongful death arising out of medical malpractice, whether in contract or tort, when an apportionment of damages pursuant to this section is attributed to a teaching hospital as defined in s. 408.07, the court shall enter judgment against the teaching hospital on the basis of such party's percentage of fault and not on the basis of the doctrine of joint and several liability.

Section 28. Effective July 1, 1999, paragraph (b) of subsection (9) of section 324.021, Florida Statutes, is amended, and paragraph (c) is added to that subsection, to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(9) OWNER; OWNER/LESSOR.—

(b) Owner/lessor.—Notwithstanding any other provision of the Florida Statutes or existing case law:~~,~~

1. The lessor, under an agreement to lease a motor vehicle for 1 year or longer which requires the lessee to obtain insurance acceptable to the lessor which contains limits not less than $100,000/$300,000 bodily injury liability and $50,000 property damage liability or not less than $500,000 combined property damage liability and bodily injury liability, shall not be deemed the owner of said motor vehicle for the purpose of determining financial responsibility for the operation of said motor vehicle or for the acts of the operator in connection therewith; further, this *subparagraph* ~~paragraph~~ shall be applicable so long as the insurance meeting these requirements is in effect. The insurance meeting such requirements may be obtained by the lessor or lessee, provided, if such insurance is obtained by the lessor, the combined coverage for bodily injury liability and property damage liability shall contain limits of not less than $1 million and may be provided by a lessor's blanket policy.

2. The lessor, under an agreement to rent or lease a motor vehicle for a period of less than 1 year, shall be deemed the owner of the motor vehicle for the purpose of determining liability for the operation of the vehicle or the acts of the operator in connection therewith only up to $100,000 per person and up to $300,000 per incident for bodily injury and up to $50,000 for property damage. If the lessee or the operator of the motor vehicle is uninsured or has any insurance with limits less than $500,000 combined property damage and bodily injury liability, the lessor shall be liable for up to an additional $500,000 in economic damages only arising out of the use of the motor vehicle. The additional specified liability of the lessor for economic damages shall be reduced by amounts actually recovered from the lessee, from the operator, and from any insurance or self-insurance covering the lessee or operator. Nothing in this subparagraph shall be construed to affect the liability of the lessor for its own negligence.

3. The owner who is a natural person and loans a motor vehicle to any permissive user shall be liable for the operation of the vehicle or the acts of the operator in connection therewith only up to $100,000 per person and up to $300,000 per incident for bodily injury and up to $50,000 for property damage. If the permissive user of the motor vehicle is uninsured or has any insurance with limits less than $500,000 combined property damage and bodily injury liability, the owner shall be liable for up to an additional $500,000 in economic damages only arising out of the use of the motor vehicle. The additional specified liability of the owner for economic damages shall be reduced by amounts actually recovered from the permissive user and from any insurance or self-insurance covering the permissive user. Nothing in this subparagraph shall be construed to affect the liability of the owner for his or her own negligence.

(c) Application.—

1. The limits on liability in subparagraphs (b)2. and (b)3. do not apply to an owner of motor vehicles that are used for commercial activity in the owner's ordinary course of business, other than a rental company that rents or leases motor vehicles. For purposes of this paragraph, the term "rental company" includes only an entity that is engaged in the business of renting or leasing motor vehicles to the general public and that rents or leases a majority of its motor vehicles to persons with no direct or indirect affiliation with the rental company. The term also includes a motor vehicle dealer that provides temporary replacement vehicles to its customers for up to 10 days.

2. Furthermore, with respect to commercial motor vehicles as defined in s. 627.732, the limits on liability in subparagraphs (b)2. and (b)3. do not apply if, at the time of the incident, the commercial motor vehicle is being used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Authorization Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is required

pursuant to such act to carry placards warning others of the hazardous cargo, unless at the time of lease or rental either:

a. The lessee indicates in writing that the vehicle will not be used to transport materials found to be hazardous for the purposes of the Hazardous Materials Transportation Authorization Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq.; or

b. The lessee or other operator of the commercial motor vehicle has in effect insurance with limits of at least $5,000,000 combined property damage and bodily injury liability.

Section 29. Section 768.098, Florida Statutes, is created to read:

768.098 Limitation of liability for employee leasing.—

(1) An employer in a joint employment relationship pursuant to s. 468.520 shall not be liable for the tortious actions of another employer in that relationship, or for the tortious actions of any jointly employed employee under that relationship, provided that:

(a) The employer seeking to avoid liability pursuant to this section did not authorize or direct the tortious action;

(b) The employer seeking to avoid liability pursuant to this section did not have actual knowledge of the tortious conduct and fail to take appropriate action;

(c) The employer seeking to avoid liability pursuant to this section did not have actual control over the day-to-day job duties of the jointly employed employee who has committed a tortious act nor actual control over the portion of a job site at which or from which the tortious conduct arose or at which and from which a jointly employed employee worked, and that said control was assigned to the other employer under the contract;

(d) The employer seeking to avoid liability pursuant to this section is expressly absolved in the written contract forming the joint employment relationship of control over the day-to-day job duties of the jointly employed employee who has committed a tortious act, and actual control over the portion of the job site at which or from which the tortious conduct arose or at which and from which the jointly employed employee worked, and that said control was assigned to the other employer under the contract; and

(e) Complaints, allegations, or incidents of any tortious misconduct or workplace safety violations, regardless of the source, are required to be reported to the employer seeking to avoid liability pursuant to this section by all other joint employers under the written contract forming the joint employment relationship, and that the employer seeking to avoid liability pursuant to this section did not fail to take appropriate action as a result of receiving any such report related to a jointly employed employee who has committed a tortious act.

(2) An employer seeking to avoid liability pursuant to this section shall not be presumed to have actual control over the day-to-day job duties of the jointly employed employee who has committed a tortious act, nor actual control over the portion of a job site at which or from which that employee worked, based solely upon the fact that the employee at issue is a leased employee.

(3) This section shall not alter any responsibilities of the joint employer who has actual control over the day-to-day job duties of the jointly employed employee and who has actual control over the portion of a job site at which or from which the employee is employed, which arises from s. 768.096.

Section 30. Subsections (6), (7), and (8) are added to section 400.023, Florida Statutes, to read:

400.023 Civil enforcement.—

(6) To recover attorney's fees under this section, the following conditions precedent must be met:

(a) Within 120 days after the filing of a responsive pleading or defensive motion to a complaint brought under this section and before trial, the parties or their designated representatives shall meet in mediation to discuss the issues of liability and damages in accordance with this paragraph for the purpose of an early resolution of the matter.

1. Within 60 days after the filing of the responsive pleading or defensive motion, the parties shall:

a. Agree on a mediator. If the parties cannot agree on a mediator, the defendant shall immediately notify the court, which shall appoint a mediator within 10 days after such notice.

b. Set a date for mediation.

c. Prepare an order for the court that identifies the mediator, the scheduled date of the mediation, and other terms of the mediation. Absent any disagreement between the parties, the court may issue the order for the mediation submitted by the parties without a hearing.

2. The mediation must be concluded within 120 days after the filing of a responsive pleading or defensive motion. The date may be extended only by agreement of all parties subject to mediation under this subsection.

3. The mediation shall be conducted in the following manner:

a. Each party shall ensure that all persons necessary for complete settlement authority are present at the mediation.

b. Each party shall mediate in good faith.

4. All aspects of the mediation which are not specifically established by this subsection must be conducted according to the rules of practice and procedure adopted by the Supreme Court of this state.

(b) If the parties do not settle the case pursuant to mediation, the last offer of the defendant made at mediation shall be recorded by the mediator in a written report that states the amount of the offer, the date the offer was made in writing, and the date the offer was rejected. If the matter subsequently proceeds to trial under this section and the plaintiff prevails but is awarded an amount in damages, exclusive of attorney's fees, which is equal to or less than the last offer made by the defendant at mediation, the plaintiff is not entitled to recover any attorney's fees.

(c) This subsection applies only to claims for liability and damages and does not apply to actions for injunctive relief.

(d) This subsection applies to all causes of action that accrue on or after October 1, 1999.

(7) Discovery of financial information for the purpose of determining the value of punitive damages may not be had unless the plaintiff shows the court by proffer or evidence in the record that a reasonable basis exists to support a claim for punitive damages.

(8) In addition to any other standards for punitive damages, any award of punitive damages must be reasonable in light of the actual harm suffered by the resident and the egregiousness of the conduct that caused the actual harm to the resident.

Section 31. Section 400.429, Florida statutes, is amended to read:

400.429 Civil actions to enforce rights.—

(1) Any person or resident whose rights as specified in this part are violated shall have a cause of action against any facility owner, administrator, or staff responsible for the violation. The action may be brought by the resident or his or her guardian, or by a person or organization acting on behalf of a resident with the consent of the resident or his or her guardian, or by the personal representative of the estate of a deceased resident when the cause of death resulted from a violation of the decedent's rights, to enforce such rights. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual damages, and punitive damages when malicious, wanton, or willful disregard of the rights of others can be shown. Any plaintiff who prevails in any such action may be entitled to recover reasonable attorney's fees, costs of the action, and damages, unless the court finds that the plaintiff has acted in bad faith, with malicious purpose, and that there was a complete absence of a justiciable issue of either law or fact. A prevailing defendant may be entitled to recover reasonable attorney's fees pursuant to s. 57.105. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a resident or to the agency.

(2) To recover attorney's fees under this section, the following conditions precedent must be met:

(a) Within 120 days after the filing of a responsive pleading or defensive motion to a complaint brought under this section and before trial, the parties or their designated representatives shall meet in mediation to discuss the issues of liability and damages in accordance with this paragraph for the purpose of an early resolution of the matter.

1. Within 60 days after the filing of the responsive pleading or defensive motion, the parties shall:

a. Agree on a mediator. If the parties cannot agree on a mediator, the defendant shall immediately notify the court, which shall appoint a mediator within 10 days after such notice.

b. Set a date for mediation.

c. Prepare an order for the court that identifies the mediator, the scheduled date of the mediation, and other terms of the mediation. Absent any disagreement between the parties, the court may issue the order for the mediation submitted by the parties without a hearing.

2. The mediation must be concluded within 120 days after the filing of a responsive pleading or defensive motion. The date may be extended only by agreement of all parties subject to mediation under this subsection.

3. The mediation shall be conducted in the following manner:

a. Each party shall ensure that all persons necessary for complete settlement authority are present at the mediation.

b. Each party shall mediate in good faith.

4. All aspects of the mediation which are not specifically established by this subsection must be conducted according to the rules of practice and procedure adopted by the Supreme Court of this state.

(b) If the parties do not settle the case pursuant to mediation, the last offer of the defendant made at mediation shall be recorded by the mediator in a written report that states the amount of the offer, the date the offer was made in writing, and the date the offer was rejected. If the matter subsequently proceeds to trial under this section and the plaintiff prevails but is awarded an amount in damages, exclusive of attorney's fees, which is equal to or less than the last offer made by the defendant at mediation, the plaintiff is not entitled to recover any attorney's fees.

(c) This subsection applies only to claims for liability and damages and does not apply to actions for injunctive relief.

(d) This subsection applies to all causes of action that accrue on or after October 1, 1999.

(3) Discovery of financial information for the purpose of determining the value of punitive damages may not be had unless the plaintiff shows the court by proffer or evidence in the record that a reasonable basis exists to support a claim for punitive damages.

(4) In addition to any other standards for punitive damages, any award of punitive damages must be reasonable in light of the actual harm suffered by the resident and the egregiousness of the conduct that caused the actual harm to the resident.

Section 32. Section 400.629, Florida Statutes, 1998 Supplement, is amended to read:

400.629 Civil actions to enforce rights.—

(1) Any person or resident whose rights as specified in this part are violated has a cause of action against any adult family-care home, provider, or staff responsible for the violation. The action may be brought by the resident or the resident's guardian, or by a person or organization acting on behalf of a resident with the consent of the resident or the resident's guardian, to enforce the right. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual damages, and punitive damages when malicious, wanton, or willful disregard of the rights of others can be shown. Any plaintiff who prevails in any such action is entitled to recover reasonable attorney's fees, costs of the action, and damages, unless the court finds that the plaintiff has acted in bad faith or with malicious purpose or that there was a complete absence of a justiciable issue of either law or fact. A prevailing defendant is entitled to recover reasonable attorney's fees pursuant to s. 57.105. The remedies provided in this section are in addition to other legal and administrative remedies available to a resident or to the agency.

(2) To recover attorney's fees under this section, the following conditions precedent must be met:

(a) Within 120 days after the filing of a responsive pleading or defensive motion to a complaint brought under this section and before trial, the parties or their designated representatives shall meet in mediation to discuss the issues of liability and damages in accordance with this paragraph for the purpose of an early resolution of the matter.

1. Within 60 days after the filing of the responsive pleading or defensive motion, the parties shall:

a. Agree on a mediator. If the parties cannot agree on a mediator, the defendant shall immediately notify the court, which shall appoint a mediator within 10 days after such notice.

b. Set a date for mediation.

c. Prepare an order for the court that identifies the mediator, the scheduled date of the mediation, and other terms of the mediation. Absent any disagreement between the parties, the court may issue the order for the mediation submitted by the parties without a hearing.

2. The mediation must be concluded within 120 days after the filing of a responsive pleading or defensive motion. The date may be extended only by agreement of all parties subject to mediation under this subsection.

3. The mediation shall be conducted in the following manner:

a. Each party shall ensure that all persons necessary for complete settlement authority are present at the mediation.

b. Each party shall mediate in good faith.

4. All aspects of the mediation which are not specifically established by this subsection must be conducted according to the rules of practice and procedure adopted by the Supreme Court of this state.

(b) If the parties do not settle the case pursuant to mediation, the last offer of the defendant made at mediation shall be recorded by the mediator in a written report that states the amount of the offer, the date the offer was made in writing, and the date the offer was rejected. If the matter subsequently proceeds to trial under this section and the plaintiff prevails but is awarded an amount in damages, exclusive of attorney's fees, which is equal to or less than the last offer made by the defendant at mediation, the plaintiff is not entitled to recover any attorney's fees.

(c) This subsection applies only to claims for liability and damages and does not apply to actions for injunctive relief.

(d) This subsection applies to all causes of action that accrue on or after October 1, 1999.

(3) Discovery of financial information for the purpose of determining the value of punitive damages may not be had unless the plaintiff shows the court by proffer or evidence in the record that a reasonable basis exists to support a claim for punitive damages.

(4) In addition to any other standards for punitive damages, any award of punitive damages must be reasonable in light of the actual harm suffered by the resident and the egregiousness of the conduct that caused the actual harm to the resident.

Section 33. *(1) The Office of Program Policy Analysis and Government Accountability shall, after issuing a request for proposals, contract with a national independent actuarial firm to conduct an actuarial analysis, consistent with generally accepted actuarial practices, of the expected reduction in liability judgments, settlements, and related costs resulting from the provisions of this act. The analysis shall be based on credible loss cost data derived from settlement or adjudication of liability claims accruing after the effective date of this act. The analysis shall*

include an estimate of the percentage decrease in such judgments, settlements, and costs by type of coverage affected by this act, including the time period when such savings or reductions are expected.

(2) The report shall be completed and submitted to the Office of Program Policy Analysis and Government Accountability by March 1, 2007.

Section 34. *It is the intent of this act and the Legislature to accord the utmost comity and respect to the constitutional prerogatives of Florida's judiciary, and nothing in this act should be construed as any effort to impinge upon those prerogatives. To that end, should any court of competent jurisdiction enter a final judgment concluding or declaring that any provision of this act improperly encroaches upon the authority of the Florida Supreme Court to determine the rules of practice and procedure in Florida courts, the Legislature hereby declares its intent that any such provision be construed as a request for rule change pursuant to s. 2, Art. 5 of the State Constitution and not as a mandatory legislative directive.*

Section 35. *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 36. Except as otherwise provided herein, 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 civil actions; creating s. 40.50, F.S.; providing for instructions to juries after the jury is sworn in; providing for the taking of notes under certain circumstances; providing for written questions; providing for final instructions; amending s. 44.102, F.S.; requiring that the court require mediation in certain actions for monetary damages; amending s. 44.104, F.S.; providing for voluntary trial resolution upon the agreement of parties to a civil dispute; providing for the appointment and compensation of a trial resolution judge; providing guidelines for conducting a voluntary trial resolution; providing for enforcement and appeal; amending s. 57.105, F.S.; revising conditions for award of attorney's fees for presenting unsupported claims or defenses; authorizing damage awards against a party for unreasonable delay of litigation; authorizing the court to impose additional sanctions; amending s. 57.071, F.S.; providing criteria under which expert witness fees may be awarded as taxable costs; providing for expedited trials; amending s. 768.77, F.S.; deleting a requirement to itemize future damages on verdict forms; amending s. 768.78, F.S.; conforming provisions relating to alternative methods of payment of damage awards to changes made by the act; correcting a cross reference; creating s. 47.025, F.S.; providing that certain venue provisions in a contract for improvement to real property are void; specifying appropriate venue for actions against resident contractors, subcontractors, sub-subcontractors, and materialmen; requiring the clerk of courts to report certain information on negligence cases to the Office of the State Courts Administrator; amending s. 95.031, F.S.; imposing a 12-year statute of repose on actions brought to recover for harm caused by products with a specified expected useful life; exempting certain categories of products from the statute of repose; imposing variable repose periods based on specific warranties by the manufacturer; providing an exception for certain injuries; providing for tolling under particular circumstances; specifying the date by which certain actions must be brought or be otherwise barred by the statute of repose; amending s. 90.407, F.S.; providing limitations on the admissibility of subsequent remedial measures; providing exceptions; creating s. 768.1257, F.S.; requiring the finder of fact, in certain product defect actions, to consider circumstances that existed at the time of manufacture; creating s. 768.1256, F.S.; providing a government rules defense with respect to certain products liability actions; providing for rebuttable presumptions; providing an exception; creating s. 768.096, F.S.; providing an employer with a presumption against negligent hiring under specified conditions in an action for civil damages resulting from an intentional tort committed by an employee; amending s. 768.095, F.S.; revising the conditions under which an employer is immune from civil liability for disclosing information regarding an employee to a prospective employer; creating s. 768.0705, F.S.; providing a presumption against liability for criminal acts for convenience business under specified conditions; amending s. 768.075, F.S.; delineating the duty owed to trespassers by a person or organization owning or controlling an interest in real property; providing definitions; providing for the avoidance of liability to discovered and undiscovered trespassers under described circumstances; providing immunity from certain liability arising out of the attempt to commit or the commission of a felony; creating s. 768.36, F.S.; prohibiting a plaintiff from recovering damages if plaintiff is more than a specified percentage at fault due to the influence of alcoholic beverages or drugs; creating s. 768.725, F.S.; providing for evidentiary standards for an award of punitive damages; amending s. 768.72, F.S.; revising provisions with respect to claims for punitive damages in civil actions; requiring clear and convincing evidence of gross negligence or intentional misconduct to support the recovery of such damages; providing definitions; providing criteria for the imposition of punitive damages with respect to employers, principals, corporations, or other legal entities for the conduct of an employee or agent; providing for the application of the section; amending s. 768.73, F.S.; revising provisions with respect to limitations on punitive damages; providing monetary limitations; providing for the effect of certain previous punitive damages awards; providing for the application of the section; creating s. 768.735, F.S.; providing that ss. 768.72(2)-(4), 768.725, and 768.73, F.S., relating to punitive damages, are inapplicable to specified causes of action; limiting the amount of punitive damages that may be awarded to a claimant in certain civil actions involving abuse or arising under ch. 400, F.S.; creating s. 768.736, F.S.; providing that ss. 768.725 and 768.73, F.S., relating to punitive damages, do not apply to intoxicated defendants; creating s. 768.737, F.S.; providing for application of punitive damages statutes to arbitration; amending s. 768.81, F.S.; providing for the apportionment of damages on the basis of joint and several liability when a party's fault exceeds certain percentages; limiting the applicability of joint and several liability based on the amount of damages; providing for the allocation of fault to a nonparty; requiring that such fault must be proved by a preponderance of the evidence; amending s. 324.021, F.S.; providing the lessor of a motor vehicle under certain rental agreements shall be deemed the owner of the vehicle for the purpose of determining liability for the operation of the vehicle within certain limits; providing for the liability of the owner of a motor vehicle who loans the vehicle to certain users; creating s. 768.098, F.S.; limiting the liability of employers in a joint employment relationship under specific circumstances; providing exceptions and limitations; amending s. 400.023, F.S., relating to actions brought on behalf of nursing home residents; providing that a party to any such action may not recover attorney's fees unless parties submit to mediation; specifying requirements for such mediation; providing for application; providing a standard for an award of punitive damages; amending s. 400.429, F.S.; relating to actions brought on behalf of assisted living care facility residents; providing that a party to any such action may not recover attorney's fees unless parties submit to mediation; specifying requirements for such mediation; providing for application; providing a standard for an award of punitive damages; amending s. 400.629, F.S.; relating to actions brought on behalf of adult family care home residents; providing that a party to any such action may not recover attorney's fees unless parties submit to mediation; specifying requirements for such mediation; providing for application; providing a standard for an award of punitive damages; requiring the Office of Program Policy Analysis and Government Accountability to contract with an actuarial firm to conduct an actuarial analysis of expected reductions in judgments and related costs resulting from litigation reforms; specifying the basis and due date for the actuarial report; providing a declaration of intent pertaining to the constitutional prerogatives of the judiciary; providing for severability; providing effective dates.

THE PRESIDENT PRESIDING

The Conference Committee Report was read and on motion by Senator Latvala was adopted. **HB 775** passed as recommended and the action of the Senate was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—25

Madam President	Cowin	Latvala	Sebesta
Bronson	Diaz-Balart	Laurent	Sullivan
Burt	Grant	Lee	Thomas
Carlton	Gutman	McKay	Webster
Casas	Horne	Myers	
Childers	King	Saunders	
Clary	Kirkpatrick	Scott	

Nays—14

Brown-Waite	Dawson-White	Forman	Hargrett
Campbell	Dyer	Geller	Jones

Klein	Meek	Rossin	Silver
Kurth	Mitchell		

Vote after roll call:

Yea—Holzendorf

SPECIAL ORDER CALENDAR, continued

Consideration of **CS for SB 2348**, **CS for SB 74**, **CS for SB 1286** and **CS for SB 1316** was deferred.

CS for SB 690—A bill to be entitled An act relating to the Fair Housing Act; amending s. 760.29, F.S.; providing that certain housing facilities or communities shall be deemed housing for older persons despite specified provisions in the document which governs deed restrictions pertaining to that facility or community; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 690** to **CS for HB 475**.

Pending further consideration of **CS for SB 690** as amended, on motion by Senator Campbell, by two-thirds vote **CS for HB 475** was withdrawn from the Committees on Comprehensive Planning, Local and Military Affairs; and Fiscal Resource.

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

CS for HB 475—A bill to be entitled An act relating to housing for older persons; amending s. 760.29, F.S.; providing that certain housing facilities or communities shall be deemend housing for older persons despite specified provisions in the document which governs deed restrictions pertaining to that facility or community; amending s. 420.503, F.S.; providing that certain projects shall qualify as housing for the elderly for purposes of certain loans under the State Apartment Incentive Loan Program, and shall qualify as a project targeted for the elderly in connection with allocation of low-income housing tax credits and with the HOME program under certain conditions; providing for severability of invalid provisions, providing an effective date.

—a companion measure, was substituted for **CS for SB 690** as amended and read the second time by title. On motion by Senator Campbell, by two-thirds vote **CS for HB 475** 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	Silver
Casas	Gutman	Laurent	Sullivan
Childers	Hargrett	Lee	Thomas
Clary	Holzendorf	McKay	Webster
Cowin	Horne	Meek	

Nays—None

Consideration of **SB 960** was deferred.

On motion by Senator Horne, by two-thirds vote **HB 257** was withdrawn from the Committees on Education and Fiscal Policy.

On motion by Senator Horne—

HB 257—A bill to be entitled An act relating to the Florida School for the Deaf and the Blind; amending ss. 235.014 and 235.017, F.S., relating to educational facilities; authorizing the Department of Management Services to provide facilities services for the Florida School for the Deaf and the Blind; amending s. 236.1229, F.S.; providing for Florida School Improvement and Academic Achievement Trust Fund grants to the Florida School for the Deaf and the Blind; providing for allocation and school-level administration; amending s. 242.3305, F.S.; revising provisions relating to mission and responsibilities of the Florida School for the Deaf and the Blind; amending s. 287.059, F.S.; authorizing private attorney services for the Florida School for the Deaf and the Blind without certain prior written approval; providing an effective date.

—a companion measure, was substituted for **CS for SB 994** and read the second time by title. On motion by Senator Horne, by two-thirds vote **HB 257** 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

Consideration of **CS for CS for SB 1470**, **CS for CS for SB 1594**, **CS for SB 1588**, **SB 2234** and **CS for SB 1656** was deferred.

CS for SB 2092—A bill to be entitled An act relating to child care; amending s. 110.151, F.S.; modifying duties of state agencies regarding child care programs sponsored by the agencies; amending s. 212.08, F.S.; providing a sales tax exemption for educational materials purchased by child care facilities, under certain conditions; amending s. 402.281, F.S.; providing for Gold Seal Quality Care designation for large family child care homes; amending s. 402.3015, F.S.; increasing the maximum family income for participation in the subsidized child care program; creating s. 402.3016, F.S.; providing for Early Head Start collaboration grants, contingent upon specific appropriations; providing duties of the Department of Children and Family Services; providing for rules; creating s. 402.3017, F.S.; directing the department to establish health care coverage for employees of certain subsidized child care providers through the state employees health insurance program; providing eligibility requirements; providing a schedule of premium participation; amending s. 402.302, F.S.; defining the term "large family child care home"; creating s. 402.3027, F.S.; directing the department to establish a system for the behavioral observation and developmental assessment of young children in subsidized child care programs; providing definitions; providing principles and procedures; amending s. 402.305, F.S.; revising minimum training requirements for child care personnel; providing minimum training requirements for child care facility directors; providing for development of minimum standards for specialized child care facilities for mildly ill children; amending s. 402.3051, F.S.; providing for child care market rate reimbursement for child care providers who hold a Gold Seal Quality Care designation; amending ss. 402.3055, 943.0585, 943.059, F.S.; conforming cross-references; creating s. 402.3108, F.S.; establishing a toll-free telephone line to provide consultation to child care centers and family day care homes, contingent upon specific appropriations; providing for contracts; amending s. 402.313, F.S.; revising requirements relating to the training course for operators of family day care homes; providing a compliance schedule; creating s. 402.3131, F.S.; providing for licensure of large family child care homes; providing a penalty; providing requirements and standards; providing duties of the department; providing for screening of certain persons; providing for rules; providing an effective date.

—was read the second time by title.

Amendments were considered and failed to conform **CS for SB 2092** to **HB 869**.

Pending further consideration of **CS for SB 2092**, on motion by Senator Sebesta, by two-thirds vote **HB 869** was withdrawn from the Committees on Children and Families; and Fiscal Resource.

On motion by Senator Sebesta—

HB 869—A bill to be entitled An act relating to child care; amending s. 110.151, F.S.; modifying duties of state agencies regarding child care programs sponsored by the agencies; creating s. 196.095, F.S.; providing for a tax exemption for real estate used and owned by a child care facility operating in an enterprise zone; providing procedures for application for the tax exemption; amending s. 212.08, F.S.; providing a sales tax exemption for educational materials purchased by child care facilities, under certain conditions; amending s. 402.26, F.S.; providing legislative intent that certain licensed child care facilities be considered an educational institution for the purpose of qualifying for exemption from ad valorem taxation; amending s. 402.281, F.S.; providing for Gold Seal Quality Care designation for large family child care homes; amending s. 402.3015, F.S.; increasing the maximum family income for participation in the subsidized child care program; creating s. 402.3016, F.S.; providing for Early Head Start collaboration grants, contingent upon specific appropriations; providing duties of the Florida Partnership for School Readiness; providing for rules; amending s. 402.302, F.S.; defining the term "large family child care home"; creating s. 402.3027, F.S.; directing the department to establish a system for the behavioral observation and developmental assessment of young children in subsidized child care programs; providing definitions; providing principles and procedures; amending s. 402.305, F.S.; revising minimum training requirements for child care personnel; providing minimum training requirements for child care facility directors; providing for development of minimum standards for specialized child care facilities for mildly ill children; amending s. 402.3051, F.S.; providing for child care market rate reimbursement for child care providers who hold a Gold Seal Quality Care designation; amending ss. 402.3055, 943.0585, 943.059, F.S.; conforming cross-references; creating s. 402.3108, F.S.; establishing a toll-free telephone line to provide consultation to child care centers and family day care homes, contingent upon specific appropriations; providing for contracts; amending s. 402.313, F.S.; revising requirements relating to the training course for operators of family day care homes; providing a compliance schedule; creating s. 402.3131, F.S.; providing for licensure of large family child care homes; providing a penalty; providing requirements and standards; providing duties of the department; providing for screening of certain persons; providing for rules; requiring the Department of Insurance to conduct a study on health insurance for child care provider staff; requiring a report; providing an effective date.

—a companion measure, was substituted for **CS for SB 2092** and read the second time by title. On motion by Senator Sebesta, by two-thirds vote **HB 869** 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 SB 2250**, **CS for SB 1982** and **SB 1984** was deferred.

On motion by Senator Campbell, by two-thirds vote **CS for HB 327** was withdrawn from the Committees on Criminal Justice, Judiciary and Fiscal Policy.

On motion by Senator Campbell—

CS for HB 327—A bill to be entitled An act relating to conflicts of interests in the representation of indigent defendants; amending s. 27.53, F.S.; requiring that the court review an alleged conflict of interest without disclosing confidential communications; providing for withdrawal of the public defender unless the court determines that the conflict is not prejudicial to the indigent defendant; requiring each circuit conflict committee to assess the circuit's conflict representation system; requiring that the committees report findings and recommendations to the Legislature; providing an effective date.

—a companion measure, was substituted for **CS for SB 1910** and read the second time by title. On motion by Senator Campbell, by two-thirds vote **CS for HB 327** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—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	Laurent	Sullivan
Casas	Gutman	Lee	Thomas
Childers	Hargrett	Meek	Webster
Clary	Holzendorf	Mitchell	
Cowin	Horne	Myers	

Nays—None

Consideration of **CS for SB 1934**, **SB 2070**, **CS for SB 1676** and **CS for SB 1698** was deferred.

On motion by Senator Dawson-White, by two-thirds vote **HB 241** was withdrawn from the Committee on Education.

On motion by Senator Dawson-White—

HB 241—A bill to be entitled An act relating to education; creating s. 232.042, F.S.; authorizing each district to require each child, prior to enrollment in school, to submit evidence of whether or not he or she has learned to swim; requiring the district school board to provide certain information; providing for review and repeal; providing an effective date.

—a companion measure, was substituted for **CS for SB 1552** and read the second time by title. On motion by Senator Dawson-White, by two-thirds vote **HB 241** 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 SB 1600**, **CS for SB 1260** and **CS for SB 1290** was deferred.

On motion by Senator Lee, by two-thirds vote **CS for HB 309** was withdrawn from the Committee on Education.

On motion by Senator Lee—

CS for HB 309—A bill to be entitled An act relating to courses of study; amending s. 233.061, F.S.; authorizing certain exemptions from required reproductive health or HIV/AIDS instructional activities; conforming terminology; providing an effective date.

—a companion measure, was substituted for **CS for SB 1440** and read the second time by title. On motion by Senator Lee, by two-thirds vote **CS for HB 309** 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

Consideration of **CS for CS for SB 1478** was deferred.

On motion by Senator Sullivan, by two-thirds vote **HB 1031** was withdrawn from the Committees on Health, Aging and Long-Term Care; and Fiscal Policy.

On motion by Senator Sullivan—

HB 1031—A bill to be entitled An act relating to physician assistants; amending s. 39.304, F.S.; allowing a physician assistant to perform a medical examination, and to authorize a radiological examination to be performed, on a child who is suspected to be a victim of abuse, abandonment, or neglect; amending ss. 458.347 and 459.022, F.S.; providing for the appointment of a formulary committee to establish a formulary of medicinal drugs that physician assistants may prescribe; providing for terms and meetings of the formulary committee; providing standards for formulary drugs; providing for the Board of Medicine and the Board of Osteopathic Medicine to adopt the formularies; providing an effective date.

—a companion measure, was substituted for **CS for SB 1068** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 1031** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

On motion by Senator Horne, by two-thirds vote **HB 289** was withdrawn from the Committees on Comprehensive Planning, Local and Military Affairs; and Fiscal Resource.

On motion by Senator Horne—

HB 289—A bill to be entitled An act relating to the local government infrastructure surtax; amending s. 212.055, F.S.; revising provisions which authorize certain counties to use tax proceeds to retire or service indebtedness for bonds issued before July 1, 1987, for infrastructure purposes; including charter counties within such authorization; authorizing use of interest accrued on tax proceeds for such purpose; extending such authorization to bonds subsequently issued to refund such bonds; ratifying prior use of tax proceeds and interest for such refunding bonds; providing an effective date.

—a companion measure, was substituted for **SB 732** and read the second time by title. On motion by Senator Horne, by two-thirds vote **HB 289** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

CS for SB 1982—A bill to be entitled An act relating to title insurance reserve; amending s. 625.111, F.S.; specifying the components of unearned premium reserve for certain financial statements; providing a formula for releasing unearned premium reserve over a period of years; providing definitions; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 1982** to **CS for CS for CS for HB 93**.

Pending further consideration of **CS for SB 1982** as amended, on motion by Senator Dyer, by two-thirds vote **CS for CS for CS for HB 93** was withdrawn from the Committee on Banking and Insurance.

On motion by Senator Dyer—

CS for CS for CS for HB 93—A bill to be entitled An act relating to title insurance reserve; amending s. 625.111, F.S.; specifying the components of unearned premium reserve for certain financial statements; providing a formula for releasing unearned premium reserve over a period of years; providing definitions; providing an effective date.

—a companion measure, was substituted for **CS for SB 1982** as amended and read the second time by title. On motion by Senator Dyer, by two-thirds vote **CS for CS for CS for HB 93** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

MOTION

On motion by Senator McKay, by two-thirds vote **SB 1980** was withdrawn from the Committee on Rules and Calendar and by two-thirds vote placed on the Special Order Calendar and by unanimous consent taken up instanter.

SB 1980—A bill to be entitled An act relating to public records; creating s. 240.554, F.S.; providing an exemption from public records requirements for account information associated with the Florida College Savings Program; authorizing the release of such information to community colleges, colleges, and universities under certain circumstances; requiring that such institutions maintain the confidentiality of the informa-

tion; providing for future legislative review and repeal; providing a finding of public necessity; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 1980** to **HB 2121**.

Pending further consideration of **SB 1980** as amended, on motion by Senator Dyer, by two-thirds vote **HB 2121** was withdrawn from the Committee on Rules and Calendar.

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

HB 2121—A bill to be entitled An act relating to public records; creating s. 400.1185, F.S.; providing an exemption from public records requirements for information contained in records of nursing home quality-of-care monitors; providing for review and repeal; providing a statement of public necessity; providing a contingent effective date.

—a companion measure, was substituted for **SB 1980** as amended and by two-thirds vote read the second time by title. On motion by Senator Dyer, by two-thirds vote **HB 2121** 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 SB 1028**, **CS for SB 984** and **CS for SB 734** was deferred.

CS for SB 946—A bill to be entitled An act relating to local government code enforcement; amending s. 125.69, F.S.; providing an exception from certain notice requirements under certain circumstances; requiring owners of property subject to an enforcement proceeding to disclose certain information prior to transfer of such property; creating a presumption of fraud under certain circumstances; authorizing local governing bodies to make certain repairs under certain circumstances; providing for absence of liability for such repairs under certain circumstances; amending s. 162.03, F.S.; specifying the status of special masters; amending s. 162.04, F.S.; revising a definition; amending s. 162.06, F.S.; requiring owners of property subject to enforcement proceedings to provide disclosure and notice to prospective transferors under certain circumstances; providing a rebuttable presumption; providing for continuation of enforcement proceedings under certain circumstances; providing procedures; amending s. 162.09, F.S.; specifying that certain actions taken by a local government do not create continuing obligations or liabilities under certain circumstances; clarifying enforcement of orders imposing certain fines or costs; amending s. 162.12, F.S.; revising prescribed methods for providing certain notices; clarifying the time period for posting certain notices; amending s. 162.23, F.S.; providing an additional exception to requirements to provide reasonable time to correct violations under certain circumstances; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 946** to **CS for CS for HB 163**.

Pending further consideration of **CS for SB 946** as amended, on motion by Senator Forman, by two-thirds vote **CS for CS for HB 163** was withdrawn from the Committee on Comprehensive Planning, Local and Military Affairs.

On motion by Senator Forman—

CS for CS for HB 163—A bill to be entitled An act relating to local government code enforcement; amending s. 125.69, F.S.; providing an exception from certain notice requirements under certain circumstances; requiring owners of property subject to an enforcement proceeding to disclose certain information prior to transfer of such property; creating a presumption of fraud under certain circumstances; authorizing local governing bodies to make certain repairs under certain circumstances; providing for absence of liability for such repairs under certain circumstances; amending s. 162.03, F.S.; specifying the status of special masters; amending s. 162.04, F.S.; revising a definition; amending s. 162.06, F.S.; requiring owners of property subject to enforcement proceedings to provide disclosure and notice to prospective transferors under certain circumstances; providing a rebuttable presumption; providing for continuation of enforcement proceedings under certain circumstances; providing procedures; amending s. 162.09, F.S.; specifying that certain actions taken by a local government do not create continuing obligations or liabilities under certain circumstances; 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; clarifying enforcement of orders imposing certain fines or costs; amending s. 162.12, F.S.; revising prescribed methods for providing certain notices; clarifying the time period for posting certain notices; amending s. 162.23, F.S.; providing an additional exception to requirements to provide reasonable time to correct violations under certain circumstances; amending ss. 125.0103 and 166.043, F.S.; authorizing local governments to enact public service rates for certain activities; providing for inapplicability of county rates for such activities in certain municipalities; providing severability; providing an effective date.

—a companion measure, was substituted for **CS for SB 946** as amended and read the second time by title. On motion by Senator Forman, by two-thirds vote **CS for CS for HB 163** 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	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

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB 1056, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 1056—A bill to be entitled An act relating to driving under the influence; amending ss. 316.192, 316.193, 322.271, 322.291, F.S.; providing that any person convicted of driving under the influence must, in addition to any other penalties provided by law, complete a substance abuse education course conducted by a licensed DUI program, including a psychosocial evaluation, and, if referred, substance abuse treatment; providing criteria for temporary reinstatement of driving privileges by the Department of Highway Safety and Motor Vehicles; deleting the requirement that the clerk send a second notice of impoundment or immobilization of a vehicle to the registered owner; amending

s. 322.292, F.S.; providing criteria for the granting of DUI program licenses and deleting obsolete provisions; providing an effective date.

House Amendment 1 (493289)—On page 15, lines 4 & 5, remove from the bill: upon becoming a law and insert in lieu thereof: January 1, 2000

House Amendment 2 (721453)—On page 13, line 6, after the period insert: *However, a classroom shall not be required to be relocated when a business selling alcoholic beverages locates to within 250 feet of the classroom.*

House Amendment 4 (582827)(with title amendment)—On page 1, line 22, insert:

Section 1. Subsection (9) is added to section 322.34, Florida Statutes, 1998 Supplement, to read:

322.34 Driving while license suspended, revoked, canceled, or disqualified.—

(9)(a) A motor vehicle that is driven by a person under the influence of alcohol or drugs in violation of s. 316.193 is subject to seizure and forfeiture under ss. 932.701-932.707 and is subject to liens for recovering, towing, or storing vehicles under s. 713.78 if, at the time of the offense, the person's driver's license is suspended, revoked, or canceled as a result of a prior conviction for driving under the influence.

(b) The law enforcement officer shall notify the Department of Highway Safety and Motor Vehicles of any impoundment or seizure for violation of paragraph (a) in accordance with procedures established by the department.

(c) Notwithstanding s. 932.703(1)(c) or s. 932.7055, when the seizing agency obtains a final judgment granting forfeiture of the motor vehicle under this section, 30 percent of the net proceeds from the sale of the motor vehicle shall be retained by the seizing law enforcement agency and 70 percent shall be deposited in the General Revenue Fund for use by local WAGES coalitions in providing transportation services for participants of the WAGES program. In a forfeiture proceeding under this section, the court may consider the extent that the family of the owner has other public or private means of transportation.

Section 2. Paragraph (a) of subsection (2) of section 932.701, Florida Statutes, is amended to read:

932.701 Short title; definitions.—

(2) As used in the Florida Contraband Forfeiture Act:

(a) "Contraband article" means:

1. Any controlled substance as defined in chapter 893 or any substance, device, paraphernalia, or currency or other means of exchange that was used, was attempted to be used, or was intended to be used in violation of any provision of chapter 893, if the totality of the facts presented by the state is clearly sufficient to meet the state's burden of establishing probable cause to believe that a nexus exists between the article seized and the narcotics activity, whether or not the use of the contraband article can be traced to a specific narcotics transaction.

2. Any gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was used, was attempted, or intended to be used in violation of the gambling laws of the state.

3. Any equipment, liquid or solid, which was being used, is being used, was attempted to be used, or intended to be used in violation of the beverage or tobacco laws of the state.

4. Any motor fuel upon which the motor fuel tax has not been paid as required by law.

5. Any personal property, including, but not limited to, any vessel, aircraft, item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, securities, books, records, research, negotiable instruments, or currency, which was used or was attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony, whether or not comprising an element of the felony, or which is acquired by proceeds obtained as a result of a violation of the Florida Contraband Forfeiture Act.

6. Any real property, including any right, title, leasehold, or other interest in the whole of any lot or tract of land, which was used, is being used, or was attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony, or which is acquired by proceeds obtained as a result of a violation of the Florida Contraband Forfeiture Act.

7. Any personal property, including, but not limited to, equipment, money, securities, books, records, research, negotiable instruments, currency, or any vessel, aircraft, item, object, tool, substance, device, weapon, machine, or vehicle of any kind in the possession of or belonging to any person who takes aquaculture products in violation of s. 812.014(2)(c).

8. Any motor vehicle used during the course of committing an offense in violation of s. 322.34(9)(a).

Section 3. For purposes of incorporating the amendment to section 932.701, Florida Statutes, in references thereto, section 932.703, Florida Statutes, is reenacted to read:

932.703 Forfeiture of contraband article; exceptions.—

(1)(a) Any contraband article, vessel, motor vehicle, aircraft, other personal property, or real property used in violation of any provision of the Florida Contraband Forfeiture Act, or in, upon, or by means of which any violation of the Florida Contraband Forfeiture Act has taken or is taking place, may be seized and shall be forfeited subject to the provisions of the Florida Contraband Forfeiture Act.

(b) Notwithstanding any other provision of the Florida Contraband Forfeiture Act, except the provisions of paragraph (a), contraband articles set forth in s. 932.701(2)(a)7. used in violation of any provision of the Florida Contraband Forfeiture Act, or in, upon, or by means of which any violation of the Florida Contraband Forfeiture Act has taken or is taking place, shall be seized and shall be forfeited subject to the provisions of the Florida Contraband Forfeiture Act.

(c) All rights to, interest in, and title to contraband articles used in violation of s. 932.702 shall immediately vest in the seizing law enforcement agency upon seizure.

(d) The seizing agency may not use the seized property for any purpose until the rights to, interest in, and title to the seized property are perfected in accordance with the Florida Contraband Forfeiture Act. This section does not prohibit use or operation necessary for reasonable maintenance of seized property. Reasonable efforts shall be made to maintain seized property in such a manner as to minimize loss of value.

(2)(a) Personal property may be seized at the time of the violation or subsequent to the violation, if the person entitled to notice is notified at the time of the seizure or by certified mail, return receipt requested, that there is a right to an adversarial preliminary hearing after the seizure to determine whether probable cause exists to believe that such property has been or is being used in violation of the Florida Contraband Forfeiture Act. Seizing agencies shall make a diligent effort to notify the person entitled to notice of the seizure. Notice provided by certified mail must be mailed within 5 working days after the seizure and must state that a person entitled to notice may request an adversarial preliminary hearing within 15 days after receiving such notice. When a postseizure, adversarial preliminary hearing as provided in this section is desired, a request must be made in writing by certified mail, return receipt requested, to the seizing agency. The seizing agency shall set and notice the hearing, which must be held within 10 days after the request is received or as soon as practicable thereafter.

(b) Real property may not be seized or restrained, other than by lis pendens, subsequent to a violation of the Florida Contraband Forfeiture Act until the persons entitled to notice are afforded the opportunity to attend the preseizure adversarial preliminary hearing. A lis pendens may be obtained by any method authorized by law. Notice of the adversarial preliminary hearing shall be by certified mail, return receipt requested. The purpose of the adversarial preliminary hearing is to determine whether probable cause exists to believe that such property has been used in violation of the Florida Contraband Forfeiture Act. The seizing agency shall make a diligent effort to notify any person entitled to notice of the seizure. The preseizure adversarial preliminary hearing provided herein shall be held within 10 days of the filing of the lis pendens or as soon as practicable.

(c) When an adversarial preliminary hearing is held, the court shall review the verified affidavit and any other supporting documents and take any testimony to determine whether there is probable cause to believe that the property was used, is being used, was attempted to be used, or was intended to be used in violation of the Florida Contraband Forfeiture Act. If probable cause is established, the court shall authorize the seizure or continued seizure of the subject contraband. A copy of the findings of the court shall be provided to any person entitled to notice.

(d) If the court determines that probable cause exists to believe that such property was used in violation of the Florida Contraband Forfeiture Act, the court shall order the property restrained by the least restrictive means to protect against disposal, waste, or continued illegal use of such property pending disposition of the forfeiture proceeding. The court may order the claimant to post a bond or other adequate security equivalent to the value of the property.

(3) Neither replevin nor any other action to recover any interest in such property shall be maintained in any court, except as provided in this act; however, such action may be maintained if forfeiture proceedings are not initiated within 45 days after the date of seizure. However, if good cause is shown, the court may extend the aforementioned prohibition to 60 days.

(4) In any incident in which possession of any contraband article defined in s. 932.701(2)(a) constitutes a felony, the vessel, motor vehicle, aircraft, other personal property, or real property in or on which such contraband article is located at the time of seizure shall be contraband subject to forfeiture. It shall be presumed in the manner provided in s. 90.302(2) that the vessel, motor vehicle, aircraft, other personal property, or real property in which or on which such contraband article is located at the time of seizure is being used or was attempted or intended to be used in a manner to facilitate the transportation, carriage, conveyance, concealment, receipt, possession, purchase, sale, barter, exchange, or giving away of a contraband article defined in s. 932.701(2).

(5) The court shall order the forfeiture of any other property of a claimant, excluding lienholders, up to the value of any property subject to forfeiture under this section if any of the property described in this section:

(a) Cannot be located;

(b) Has been transferred to, sold to, or deposited with, a third party;

(c) Has been placed beyond the jurisdiction of the court;

(d) Has been substantially diminished in value by any act or omission of the person in possession of the property; or

(e) Has been commingled with any property which cannot be divided without difficulty.

(6)(a) Property may not be forfeited under the Florida Contraband Forfeiture Act unless the seizing agency establishes by a preponderance of the evidence that the owner either knew, or should have known after a reasonable inquiry, that the property was being employed or was likely to be employed in criminal activity.

(b) A bona fide lienholder's interest that has been perfected in the manner prescribed by law prior to the seizure may not be forfeited under the Florida Contraband Forfeiture Act unless the seizing agency establishes by a preponderance of the evidence that the lienholder had actual knowledge, at the time the lien was made, that the property was being employed or was likely to be employed in criminal activity. If a lienholder's interest is not subject to forfeiture under the requirements of this section, such interest shall be preserved by the court by ordering the lienholder's interest to be paid as provided in s. 932.7055.

(c) Property titled or registered between husband and wife jointly by the use of the conjunctives "and," "and/or," or "or," in the manner prescribed by law prior to the seizure, may not be forfeited under the Florida Contraband Forfeiture Act unless the seizing agency establishes by a preponderance of the evidence that the coowner either knew or had reason to know, after reasonable inquiry, that such property was employed or was likely to be employed in criminal activity.

(d) A vehicle that is rented or leased from a company engaged in the business of renting or leasing vehicles, which vehicle was rented or leased in the manner prescribed by law prior to the seizure, may not be forfeited under the Florida Contraband Forfeiture Act unless the seizing agency establishes by preponderance of the evidence that the renter or lessor had actual knowledge, at the time the vehicle was rented or leased, that the vehicle was being employed or was likely to be employed in criminal activity. When a vehicle that is rented or leased from a company engaged in the business of renting or leasing vehicles is seized under the Florida Contraband Forfeiture Act, upon learning the address or phone number of the company, the seizing law enforcement agency shall, as soon as practicable, inform the company that the vehicle has been seized and is available for the company to take possession.

(7) Any interest in, title to, or right to property titled or registered jointly by the use of the conjunctives "and," "and/or," or "or" held by a coowner, other than property held jointly between husband and wife, may not be forfeited unless the seizing agency establishes by a preponderance of the evidence that the coowner either knew, or had reason to know, after reasonable inquiry, that the property was employed or was likely to be employed in criminal activity. When the interests of each culpable coowner are forfeited, any remaining coowners shall be afforded the opportunity to purchase the forfeited interest in, title to, or right to the property from the seizing law enforcement agency. If any remaining coowner does not purchase such interest, the seizing agency may hold the property in coownership, sell its interest in the property, liquidate its interest in the property, or dispose of its interest in the property in any other reasonable manner.

(8) It is an affirmative defense to a forfeiture proceeding that the nexus between the property sought to be forfeited and the commission of any underlying violation was incidental or entirely accidental. The value of the property sought to be forfeited in proportion to any other factors must not be considered in any determination as to this affirmative defense.

And the title is amended as follows:

On page 1, line 2, after the semicolon insert: driving under the influence of alcohol or drugs; amending s. 322.34, F.S.; providing that a motor vehicle is subject to forfeiture under the Florida Contraband Act if the motor vehicle is driven by a person under the influence of alcohol or drugs and the person's license is suspended as a result of a prior conviction for driving under the influence; requiring that notification of the impoundment or seizure be sent to the Department of Highway Safety and Motor Vehicles; amending s. 932.701, F.S., relating to definitions with respect to the Florida Contraband Act; redefining the term "contraband article" to conform to changes made by the act; reenacting s. 932.703, F.S., relating to forfeiture of contraband articles, to incorporate the amendment to s. 932.701, F.S., in references;

House Amendment 5 (692125)(with title amendment)—On page 5, line 23, through page 8, line 25, remove from the bill: all of said lines, and insert in lieu thereof:

Section 3. Effective June 1, 2000, subsection (6) is added to section 318.1451, Florida Statutes, is amended to read:

318.1451 Driver improvement schools.—

(6)(a) No governmental entity or court shall provide, issue or maintain any information or orders regarding driver improvement schools or course providers, with the exception of directing inquiries or request to the local telephone directory heading of driving instruction or the traffic school reference guide.

(b) The department shall prepare for any governmental entity to distribute, a traffic school reference guide which shall list the benefits of attending a driver improvement school, but under no circumstance may any list of course providers or schools be included, and shall refer further inquiries to the telephone directory under driving instruction.

Section 4. Paragraph (a) of subsection (2) of section 322.271, Florida Statutes, 1998 Supplement, is amended to read:

322.271 Authority to modify revocation, cancellation, or suspension order.—

(2)(a) Upon such hearing, the person whose license has been suspended, canceled, or revoked may show that such suspension, cancellation, or revocation of his or her license causes a serious hardship and

precludes the person's carrying out his or her normal business occupation, trade, or employment and that the use of the person's license in the normal course of his or her business is necessary to the proper support of the person or his or her family. Except as otherwise provided in this subsection, the department shall require proof of the successful completion of *the applicable department* ~~an~~ approved driver training *course operating pursuant to s. 318.1451* or *DUI program* substance abuse education course *and evaluation as provided in s. 316.193(5).* ~~and may require~~ Letters of recommendation from respected business persons in the community, law enforcement officers, or judicial officers *may also be required to determine* ~~in determining~~ whether such person should be permitted to operate a motor vehicle on a restricted basis for business or employment use only and in determining whether such person can be trusted to so operate a motor vehicle. If a driver's license has been suspended under the point system or pursuant to s. 322.2615, the department shall require proof of enrollment in *the applicable department* ~~an~~ approved driver training course or *licensed DUI program* substance abuse education course, *including evaluation and treatment, if referred,* and may require ~~the~~ letters of recommendation described in this subsection to determine if the driver should be reinstated on a restricted basis.~~;~~ If such person fails to complete the approved course within 90 days after reinstatement *or subsequently fails to complete treatment, if applicable,* the department shall cancel his or her driver's license until the course *and treatment, if applicable,* is successfully completed*, notwithstanding the terms of the court order or any suspension or revocation of the driving privilege. The department may temporarily reinstate the driving privilege on a restricted basis upon verification from the DUI program that the offender has reentered and is currently participating in treatment and has completed the DUI education course and evaluation requirement. If the DUI program notifies the department of the second failure to complete treatment, the department shall reinstate the driving privilege only after notice of completion of treatment from the DUI program.* The privilege of driving on a limited or restricted basis for business or employment use shall not be granted to a person who has been convicted of a violation of s. 316.193 until completion of *the DUI program substance abuse* ~~such~~ education ~~or training~~ course *and evaluations as provided in s. 316.193(5).* Except as provided in paragraph (b), the privilege of driving on a limited or restricted basis for business or employment use shall not be granted to a person whose license is revoked pursuant to s. 322.28 or suspended pursuant to s. 322.2615 and who has been convicted of a violation of s. 316.193 two or more times or whose license has been suspended two or more times for refusal to submit to a test pursuant to s. 322.2615 or former s. 322.261.

Section 5. Section 322.291, Florida Statutes, is amended to read:

322.291 Driver improvement schools *or DUI programs*; required in certain suspension and revocation cases.—Except as provided in s. 322.03(2), any person:

(1) Whose driving privilege has been revoked:

(a) Upon conviction for:

1. Driving, or being in actual physical control of, any vehicle while under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, in violation of s. 316.193;

2. Driving with an unlawful blood- or breath-alcohol level;

3. Manslaughter resulting from the operation of a motor vehicle;

4. Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;

5. Reckless driving; or

(b) As an habitual offender;

(c) Upon direction of the court, if the court feels that the seriousness of the offense and the circumstances surrounding the conviction warrant the revocation of the licensee's driving privilege; or

(2) Whose license was suspended under the point system, was suspended for driving with an unlawful blood-alcohol level of 0.10 percent or higher before January 1, 1994, was suspended for driving with an unlawful blood-alcohol level of 0.08 percent or higher after December 31, 1993, *was suspended for a violation of s. 316.193(1),* or was suspended for refusing to submit to a lawful breath, blood, or urine test as provided in s. 322.2615

shall, before the driving privilege may be reinstated, present to the department proof of enrollment in a department-approved advanced driver improvement course *operating pursuant to s. 318.1451* or *a* substance abuse

And the title is amended as follows:

On page 1, line 16, after the semicolon, insert: clarifying references to certain courses; amending s. 318.1451, F.S.; prohibiting governmental entities or courts from providing, maintaining, or disclosing certain information relating to certain schools or course providers;

On motion by Senator Casas, the Senate concurred in the House amendments.

CS for CS for SB 1056 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 1446, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1446—A bill to be entitled An act relating to transportation; amending s. 334.044, F.S.; providing for the allocation of a certain percentage of each project for roadside beautification by the Department of Transportation; amending s. 335.0415, F.S.; modifying the date on which jurisdiction and responsibility for public roads is determined; providing an effective date.

House Amendment 1 (424701)—On page 1, lines 19-25, remove from the bill: all of said lines and insert in lieu thereof: maintenance of roadside beautification programs. *To accomplish this, for fiscal years 1999-2000, 2000-2001, and 2001-2002 no less than one percent, and for subsequent fiscal years no less than one and one-half percent of the amount contracted for construction projects shall be allocated by the department to beautification programs. Except where prohibited by federal law or federal regulation and to the extent practical, a minimum of 50 percent of these funds shall be used to purchase large plant materials with the remaining funds for other plant materials and these materials shall be purchased from Florida-based nurseryman stock on a uniform competitive bid basis. The department will develop grades and standards for landscaping materials purchased through this process.* To accomplish these

On motion by Senator Jones, the Senate concurred in the House amendment.

SB 1446 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—40

Madam President	Brown-Waite	Campbell	Casas
Bronson	Burt	Carlton	Childers

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

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed SB 1670, 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 1670—A bill to be entitled An act creating the Student Loan Operating Trust Fund within the Department of Education; creating the trust fund, specifying its uses, and providing for its exemption from the termination requirements of the State Constitution; providing an effective date.

House Amendment 1 (932811)(with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Section 240.4595, Florida Statutes, is created to read:

240.4595 Student Loan Operating Trust Fund.—

(1) The Student Loan Operating Trust Fund is hereby created, to be administered by the Department of Education. Funds shall be credited to the trust fund pursuant to the Higher Education Act of 1965, as amended, from loan processing and issuance fees, administrative cost allowances, account maintenance fees, default aversion fees, amounts remaining from collection of defaulted loans, amounts borrowed from the Student Loan Guaranty Reserve Fund, and other amounts specified in federal regulation. The purpose of the trust fund is to segregate funds used for administration of the guaranteed student loan program from the reserve funds used to guarantee student loans contained in the Student Loan Guaranty Reserve Fund. The fund is exempt from the service charges imposed by s. 215.20.

(2) Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purposes of the trust fund.

(3) Pursuant to the provisions of s. 19(f)(2), Art. III of the State Constitution, the trust fund shall, unless terminated sooner, be terminated on July 1, 2003. However, prior to its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2).

Section 2. *Funds for administration of the guaranteed student loan program pursuant to the Higher Education Act of 1965, as amended, shall be transferred from the Student Loan Guaranty Reserve Fund to the Student Loan Operating Trust Fund on July 1, 1999.*

Section 3. This act shall take effect July 1, 1999.

And the title is amended as follows:

remove from the title of the bill: everything before the enacting clause and insert in lieu thereof: A bill to be entitled An act relating to trust funds; creating s. 240.4595, F.S.; creating the Student Loan Operating Trust Fund within the Department of Education; providing for sources of funds and purposes; exempting the trust fund from various service charges; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing for transfer of certain funds to the trust fund; providing an effective date.

On motion by Senator Casas, the Senate concurred in the House amendment.

SB 1670 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	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 1924, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 1924—A bill to be entitled An act relating to postsecondary education; amending s. 110.1099, F.S.; revising provisions relating to tuition waivers for state employees; amending s. 121.35, F.S.; revising eligibility for participation in the optional retirement program for the system; amending ss. 239.117, 240.235, 240.35, F.S.; providing a fee exemption for certain postsecondary students; amending s. 240.156, F.S.; allowing the use of moneys in the State University System Concurrency Trust Fund to be used to defray the costs of updating campus master plans; amending s. 240.209, F.S.; providing requirements for certain tuition waivers; providing for naming an entity within a state university for a living person; amending s. 240.227, F.S.; defining the term "continuing contract" for purposes of a university president's contracting authority; amending s. 240.233, F.S.; providing for the recalculation of grade-point averages; amending s. 240.2605, F.S.; modifying the Board of Regent's authority relating to the Trust Fund for Major Gifts; amending s. 240.271, F.S.; providing for funding for students enrolled at a state university using an employee fee waiver; amending s. 240.289, F.S.; authorizing institutions in the system to accept credit cards and debit cards; authorizing those institutions to absorb the costs of using such cards; amending s. 240.299, F.S.; providing a restriction on financing agreements by direct-support organizations; amending s. 240.409, F.S.; amending restrictions on the Florida Student Assistance Grant; amending s. 240.4095, F.S.; revising restrictions on the Florida Private Student Assistance Grant Program; amending s. 240.4097, F.S.; amending restrictions on the Florida Student Assistance Grant; amending s. 240.421, F.S.; expanding the membership of the Florida Council of Student Financial Aid Advisors; amending s. 243.19, F.S.; providing findings for institutions for higher education; amending s. 243.20, F.S.; redefining the terms "project" and "cost"; defining the term "loan in anticipation of tuition revenues"; amending s. 243.22, F.S.; authorizing loans in anticipation of tuition revenues; amending s. 378.101, F.S.; revising financial restrictions on the Florida Institute of Phosphate Research and the Phosphate Research Trust Fund; amending s. 413.613, F.S.; requiring reports by institutions receiving funds from the Brain and Spinal Cord Injury Rehabilitation Trust Fund; repealing provisions relating to the program review process; providing an exemption from registration as an engineer for certain teachers; repealing s. 240.5335, F.S., relating to the Women's Athletics Trust Fund; amending s. 240.207, F.S.; revising the terms of office of members of the Board of Regents; providing an effective date.

House Amendment 1 (451153)(with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Paragraph (a) of subsection (2) of section 121.35, Florida Statutes, 1998 Supplement, is amended to read:

121.35 Optional retirement program for the State University System.—

(2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.—

(a) Participation in the optional retirement program provided by this section shall be limited to persons who are otherwise eligible for membership in the Florida Retirement System; who are employed or appointed for no less than one academic year; and who are employed in one of the following State University System positions:

1. Positions classified as instructional and research faculty which are exempt from the career service under the provisions of s. 110.205(2)(d).

2. Positions classified as administrative and professional which are exempt from the career service under the provisions of s. 110.205(2)(d).~~, provided that only those positions that are included in the State University System Executive Service, or those which the division determines meet the following criteria, shall be eligible to participate: The duties and responsibilities of the position shall include either the formulation, interpretation, or implementation of academic policies, or the performance of functions which are unique or specialized within higher education and which frequently involve the support of the academic mission of the university; and recruiting to fill vacancies in the position shall be conducted within the national or regional market. The employer shall submit an application, including a certification that the position meets the criteria for eligibility, to the division for each administrative and professional position not in the Executive Service for which it seeks eligibility for the optional retirement program.~~

3. The Chancellor and the university presidents.

Section 2. Paragraph (c) of subsection (4) of section 239.117, Florida Statutes, 1998 Supplement, is amended to read:

239.117 Postsecondary student fees.—

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

(c) A student for whom the state is paying a foster care board payment pursuant to s. 409.145(3) or pursuant to parts II and III of chapter 39, for whom the permanency planning goal pursuant to part III of chapter 39 is long-term foster care or independent living, or who is adopted from the Department of Children and Family Services after *May 5* ~~December 31~~, 1997. Such exemption includes fees associated with enrollment in vocational-preparatory instruction and completion of the college-level communication and computation skills testing program. Such exemption shall be available to any student adopted from the Department of Children and Family Services after *May 5* ~~December 31~~, 1997; however, the exemption shall be valid for no more than 4 years after the date of graduation from high school.

Section 3. Section 240.156, Florida Statutes, is amended to read:

240.156 State University System Concurrency Trust Fund.—Notwithstanding any other provision of law, the general revenue service charge deducted pursuant to s. 215.20 on revenues raised by any local option motor fuel tax levied pursuant to s. 336.025(1)(b), as created by chapter 93-206, Laws of Florida, or similar legislation, shall be deposited in the State University System Concurrency Trust Fund, which is hereby created. Moneys in such trust fund shall be for the purpose of funding State University System offsite improvements required to meet concurrency standards adopted under part II of chapter 163. *In addition, in any year in which campus master plans are updated pursuant to s. 240.155, but no more frequently than once every 5 years, up to 25 percent of the balance in the trust fund for that year may be used to defray the costs incurred in updating those campus master plans.*

Section 4. Subsection (10) is added to section 240.209, Florida Statutes, 1998 Supplement, to read:

240.209 Board of Regents; powers and duties.—

(10) No school, college, or center at a state university shall be named for a living person unless approved by the Board of Regents.

Section 5. Paragraph (a) of subsection (5) of section 240.235, Florida Statutes, 1998 Supplement, is amended and subsection (11) is added to that section to read:

240.235 Fees.—

(5)(a) Any student for whom the state is paying a foster care board payment pursuant to s. 409.145(3) or parts II and III of chapter 39, for whom the permanency planning goal pursuant to part III of chapter 39 is long-term foster care or independent living, or who is adopted from the Department of Children and Family Services after *May 5* ~~December 31~~, 1997, shall be exempt from the payment of all undergraduate fees, including fees associated with enrollment in college-preparatory instruction or completion of college-level communication and computation skills testing programs. Before a fee exemption can be given, the student shall have applied for and been denied financial aid, pursuant to s. 240.404, which would have provided, at a minimum, payment of all undergraduate fees. Such exemption shall be available to any student adopted from the Department of Children and Family Services after *May 5* ~~December 31~~, 1997; however, the exemption shall be valid for no more than 4 years after the date of graduation from high school.

(11) Students who are enrolled in Programs in Medical Sciences are considered graduate students for the purpose of enrollment and student fees.

Section 6. Paragraph (a) of subsection (2) of section 240.35, Florida Statutes, 1998 Supplement, is amended to read:

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

(2)(a) Any student for whom the state is paying a foster care board payment pursuant to s. 409.145(3) or parts II and III of chapter 39, for whom the permanency planning goal pursuant to part III of chapter 39 is long-term foster care or independent living, or who is adopted from the Department of Children and Family Services after *May 5* ~~December 31~~, 1997, shall be exempt from the payment of all undergraduate fees, including fees associated with enrollment in college-preparatory instruction or completion of the college-level communication and computation skills testing program. Before a fee exemption can be given, the student shall have applied for and been denied financial aid, pursuant to s. 240.404, which would have provided, at a minimum, payment of all student fees. Such exemption shall be available to any student adopted from the Department of Children and Family Services after *May 5* ~~December 31~~, 1997; however, the exemption shall be valid for no more than 4 years after the date of graduation from high school.

Section 7. Subsection (12) of section 240.227, Florida Statutes, 1998 Supplement, is amended to read:

240.227 University presidents; powers and duties.—The president is the chief administrative officer of the university and is responsible for the operation and administration of the university. Each university president shall:

(12) Approve and execute contracts for the acquisition of commodities, goods, equipment, services, leases of real and personal property, and construction to be rendered to or by the university, provided such contracts are made pursuant to rules of the Board of Regents, are for the implementation of approved programs of the university, and do not require expenditures in excess of $1 million. The acquisition may be made by installment or lease-purchase contract. Such contracts may provide for the payment of interest on the unpaid portion of the purchase price. Notwithstanding any other provisions of this subsection, university presidents shall comply with the provisions of s. 287.055 for the procurement of professional services and may approve and execute all contracts for planning, construction, and equipment for projects with building programs and construction budgets approved by the Board of Regents. *For the purposes of a university president's contracting authority, a "continuing contract" for professional services under the provisions of s. 287.055 is one in which construction costs do not exceed $1 million or the fee for study activity does not exceed $100,000.*

Section 8. Subsection (8) is added to section 240.233, Florida Statutes, 1998 Supplement, to read:

240.233 Universities; admissions of students.—Each university shall govern admissions of students, subject to this section and rules of the Board of Regents.

(8) A Florida resident who is denied admission as an undergraduate to a state university for failure to meet the high school grade-point-average requirement may appeal the decision to the university and request a recalculation of the grade point average including in the revised calculation the grades earned in up to three credits of advanced fine arts courses. The university shall provide the student with a description of the appeals process at the same time as notification of the admissions decision. The university shall recalculate the student's grade point average using the additional courses and advise the student of any changes in the student's admission status. For purposes of this section, fine arts courses include courses in music, drama, painting, sculpture, speech, debate, or a course in any art form that requires manual dexterity. Advanced level fine arts courses include fine arts courses identified in the course code directory as Advanced Placement, pre-International Baccalaureate, or International Baccalaureate, or fine arts courses taken in the third or fourth year of a fine arts curriculum.

Section 9. Paragraph (a) of subsection (1) of section 240.421, Florida Statutes, is amended to read:

240.421 Florida Council of Student Financial Aid Advisors.—

(1) There is created the Florida Council of Student Financial Aid Advisors for the purpose of advising the State Board of Education, the Legislature, the Board of Regents, the State Board of Community Colleges, and the Postsecondary Education Planning Commission on policy matters related to student financial aid.

(a) The council shall be composed of *the Chancellor of the State University System, or his or her designee, the Executive Director of the Division of Community Colleges, or his or her designee, the Executive Director of the Independent Colleges and Universities of Florida, the Executive Director of the Florida Association of Postsecondary Schools and Colleges, or his or her designee, and* 14 members who shall be appointed by the Commissioner of Education. The membership of the council *appointed by the Commissioner of Education* shall include:

1. Two persons from the commercial financial community in this state.

2. Two persons from the postsecondary education community in this state who must be either the president, chief academic officer, or principal administrator for student services of a postsecondary educational institution.

3. Two practicing financial aid administrators for accredited private postsecondary institutions in this state.

4. Two practicing financial aid administrators for public community colleges in this state.

5. Two practicing financial aid administrators for state universities in this state.

6. Two practicing financial aid administrators for degree career education centers in this state, one of whom shall represent proprietary schools.

7. One lay citizen who does not derive a majority of his or her income from education or the commercial financial field.

8. One full-time student enrolled in postsecondary education in this state.

Section 10. Subsection (4) of section 413.613, Florida Statutes, is amended to read:

413.613 Brain and Spinal Cord Injury Rehabilitation Trust Fund.—

(4) The Board of Regents shall establish a program *administration* ~~review~~ process ~~and may allocate up to $10,000 of such funds for an overall program review~~ which *shall* ~~would~~ include: *an annual* ~~a~~ prospective program plan with goals, research design, ~~and~~ proposed outcomes, *a proposed budget,* ~~and~~ an annual report of research activities and findings*, and an annual end-of-year financial statement*. Prospective program plans shall be submitted to the Board of Regents, and funds shall be released upon acceptance of the proposed program plans. The annual report of research activities and findings shall be submitted to the Board of Regents, with the executive summaries submitted to the President of the Senate, the Speaker of the House of Representatives, and the secretary of the Department of Labor and Employment Security.

Section 11. *For the sole purpose of teaching the principles and methods of engineering design, notwithstanding the provisions of section 471.005(6), Florida Statutes, a person employed by a public postsecondary educational institution, or by an independent postsecondary educational institution licensed or exempt from licensure pursuant to the provisions of chapter 246, Florida Statutes, is not required to register under the provisions of sections 471.001-471.037, Florida Statutes, as a registered engineer.*

Section 12. *Section 240.5335, Florida Statutes, is repealed.*

Section 13. Subsection (1) of section 240.207, Florida Statutes, 1998 Supplement, is amended to read:

240.207 Board of Regents; appointment of members; qualifications and terms of office.—

(1) The Board of Regents shall consist of the Commissioner of Education and 13 citizens of this state who shall be selected from the state at large, representative of the geographical areas of the state; who shall have been residents and citizens thereof for a period of at least 10 years prior to their appointment (one of whom shall be a member registered as a full-time student in the State University System and who shall have been a resident of this state for at least 5 years prior to appointment in lieu of the 10 years required of other members); and who shall be appointed by the Governor, approved by three members of the Cabinet, and confirmed by the Senate. However, no appointee shall take office until after his or her appointment has been approved by three members of the Cabinet. The State Board of Education shall develop rules and procedures for review and approval of the appointees. Except for the Commissioner of Education and except for the full-time student member, who shall serve for 1 year, the terms of office for the members of the Board of Regents ~~appointed after the effective date of this act~~ shall be *6* **4** years and until their successors are appointed and qualified, except in case of an appointment to fill a vacancy, in which case the appointment shall be for the unexpired term, and except as in this section otherwise provided. No member shall be selected from any county to serve with any other member from the same county, except that not more than two members may be selected from a county which has a population in excess of 900,000, and with the exceptions of the student member, who shall be selected at large, and the Commissioner of Education. The Governor shall fill all vacancies, subject to the above approval and confirmation, that may at any time occur on the board.

Section 14. *There is hereby appropriated $200,000 from the General Revenue Fund to the University of Miami, School of Medicine, Office of Minority Affairs for Fiscal Year 1999-2000.*

Section 15. *Florida State University and the Florida Department of Environmental Protection shall conduct a study of the feasibility of creating the Florida Geoscience Center in Tallahassee. The findings and recommendations of the study shall be forwarded to the Speaker of the House of Representatives, President of the Senate, and the Governor by January 15, 2000.*

Section 16. Section 243.19, Florida Statutes, is amended to read:

243.19 Findings and declaration of necessity.—It is declared that for the benefit of the people of the state, the increase of their commerce, welfare, and prosperity, and the improvement of their health and living conditions, it is essential that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities; that it is essential that institutions for higher education within each county in the state be provided with appropriate additional means to assist such youth in achieving the required levels of learning and development of their intellectual and mental capacities*;* ~~and~~ that it is the purpose of this part to provide a measure of assistance and an alternate method to enable institutions of higher education in each county of this state to provide the facilities and structures which are sorely needed to accomplish the purposes of this part*; and that it is essential to provide additional assistance to institutions for higher education by enabling those institutions to coordinate their budgetary needs with the timing of receipt of tuition revenues in a manner similar to programs authorized for school districts within the state.* The necessity in the public interest of the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

Section 17. Subsections (5) and (6) of section 243.20, Florida Statutes, are amended and subsection (10) is added to that section to read:

243.20 Definitions.—The following terms, wherever used or referred to in this part shall have the following respective meanings, unless a different meaning clearly appears from the context:

(5) "Project" means a structure suitable for use as a dormitory or other housing facility, dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, and maintenance, storage, or utility facility, and other structures or facilities related thereto, or required thereto, or required or useful for the instruction of students, or the conducting of research, or the operation of an institution for higher education, including parking and other facilities or structures, essential or convenient for the orderly conduct of such institution for higher education and shall also include equipment and machinery and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended but shall not include such items as books, fuel, supplies or other items which are customarily deemed to result in a current operating charge. *The term also includes a loan in anticipation of tuition revenues by a private institution for higher education.*

(6) "Cost," as applied to a project or any portion thereof financed under the provisions of this part, embraces all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be removed, the cost of all machinery and equipment, financing charges, interest prior to, during and for a period of 30 months after completion of such construction, provisions for working capital, reserves for principal and interest and for extensions, enlargements, additions and improvements, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing the project and such other expenses as may be necessary or incident to the construction and acquisition of the project, the financing of such construction and acquisition and the placing of the project in operation. *In the case of a loan in anticipation of tuition revenues, the term "cost" means the amount of the loan in anticipation of revenues which does not exceed the amount of tuition revenues anticipated to be received by the borrowing institution for higher education in the 1-year period following the date of the loan, plus costs related to the issuance of the loans, or bonds, the proceeds of which fund the loans, and any related cost of debt service reserve funds associated therewith.*

(10) "Loan in anticipation of tuition revenues" means a loan to a private institution for higher education under circumstances in which tuition revenues anticipated to be received by the institution in any budget year are estimated to be insufficient at any time during the budget year to pay the operating expenses or other obligations of the institution in accordance with the budget of the institution. The loans are permitted within guidelines adopted by the authority consistent with the provisions for similar loans undertaken by school districts under s. 237.151, excluding provisions applicable to the limitations on borrowings relating to the levy of taxes and the adoption of budgets in accordance with law applicable solely to school districts. The Florida Resident Access Grant shall not be considered tuition revenues for the purpose of calculating a loan to a private institution pursuant to the provision of this chapter.

Section 18. Subsection (12) of section 243.22, Florida Statutes, is amended to read:

243.22 Powers of authority.—The purpose of the authority shall be to assist institutions for higher education in the construction, financing, and refinancing of projects, and for this purpose the authority is authorized and empowered:

(12) To make loans to any participating institution for higher education for the cost of a project, *including a loan in anticipation of tuition revenues*, in accordance with an agreement between the authority and the participating institution for higher education; provided no such loan shall exceed the total cost of the project as determined by the participating institution for higher education and approved by the authority.

Section 19. This act shall take effect July 1, 1999.

And the title is amended as follows:

On page 1, line 3 through page 3 line 2, remove from the title of the bill all of said lines: and insert in lieu thereof: amending s. 121.35, F.S.; revising eligibility for participation in the optional retirement program for the system; amending s. 239.117, F.S.; providing a fee exemption for certain postsecondary students; amending s. 240.156, F.S.; allowing the use of moneys in the State University System Concurrency Trust Fund to defray the costs of updating campus master plans; amending s. 240.209, F.S.; providing for naming an entity within a state university for a living person; amending s. 240.235, F.S.; providing a fee exemption for certain students; providing that students enrolled in Programs in Medical Sciences are graduate students for purposes of enrollment and fees; amending s. 240.35, F.S.; providing a fee exemption for certain students; amending s. 240.227, F.S.; defining the term "continuing contract" for purposes of a university president's contracting authority; amending s. 240.233, F.S.; providing for the recalculation of grade-point averages; amending s. 240.421, F.S.; expanding the membership of the Florida Council of Student Financial Aid Advisors; amending s. 413.613, F.S.; requiring reports by institutions receiving funds from the Brain and Spinal Cord Injury Rehabilitation Trust Fund; repealing provisions relating to the program review process; providing an exemption from registration as an engineer for certain teachers; repealing s. 240.5335, F.S., relating to the Women's Athletics Trust Fund; amending s. 240.207, F.S.; revising the terms of office of members of the Board of Regents; providing an appropriation for the University of Miami, School of Medicine, Office of Minority Affairs; providing for a feasibility study regarding creation of the Florida Geoscience Center in Tallahassee; amending s. 243.19, F.S.; providing findings for institutions for higher education; amending s. 243.20, F.S.; redefining the terms "project" and "cost"; defining the term "loan in anticipation of tuition revenues"; amending s. 243.22, F.S.; authorizing loans in anticipation fo tuition revenues; providing an effective date.

On motion by Senator Grant, the Senate concurred in the House amendment.

CS for CS for SB 1924 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 SB 2280, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 2280—A bill to be entitled An act relating to governmental reorganization; repealing s. 20.37(3), F.S., which provides for the location of the headquarters of the Department of Veterans' Affairs; amending s. 20.22, F.S.; transferring functions of the Divisions of State Group Insurance and Retirement to the department; abolishing the Florida State Group Insurance Council; amending ss. 110.1227, 110.123, 110.12315, 110.1232, 110.1234, 110.161, 112.05, 112.3173, 112.352, 112.354, 112.356, 112.358, 112.361, 112.362, 112.363, 112.63, 112.64, 112.658, 112.665, 121.025, 121.027, 121.031, 121.051, 121.0511, 121.0515, 121.052, 121.055, 121.071, 121.081, 121.091, 121.101, 121.111, 121.133, 121.135, 121.136, 121.1815, 121.1905, 121.192,

121.193, 121.22, 121.23, 121.24, 121.30, 121.35, 121.40, 121.45, 122.02, 122.03, 122.05, 122.06, 122.07, 122.08, 122.10, 122.12, 122.13, 122.15, 122.16, 122.23, 122.30, 122.34, 122.351, 189.412, 215.20, 215.28, 215.50, 238.01, 238.02, 238.03, 238.05, 238.07, 238.08, 238.09, 238.10, 238.11, 238.12, 238.14, 238.15, 238.171, 238.181, 238.32, 240.3195, 250.22, 321.17, 321.19, 321.191, 321.202, 321.203, 321.2205, 413.051, 633.382, 650.02, F.S., to conform to the restructuring of the department by this act; revising the Florida Employee Long-Term-Care Plan Act; requiring the Department of Management Services and the Department of Elderly Affairs to provide for long-term-care insurance through payroll deduction; requiring the Department of Management Services to review proposals; authorizing the department to award a contract; amending s. 230.23162, F.S.; directing the department to seek proposals for the use or transfer of a specified state facility; requiring the department to take steps to preserve the facility; requiring executive departments to report information on boards, commissions, and similar entities to the department, along with recommendations for continuance, abolition, or revision; requiring the department to report that information to the Governor and the Legislature; amending s. 110.12315, F.S.; substantially revising the state employees' prescription drug program; prohibiting the Department of Management Services from restricting access to prescription drugs for certain enrollees under the state employees' prescription drug program; providing effective dates.

House Amendment 1 (810669)(with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Section 20.22, Florida Statutes, is amended to read:

20.22 Department of Management Services.—There is created a Department of Management Services.

(1) The head of the Department of Management Services is the Secretary of Management Services, who shall be appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor.

(2) The following divisions and programs within the Department of Management Services are established:

(a) Facilities Program.

(b) Information Technology Program.

(c) Workforce Program.

(d)1. Support Program.

2. Federal Property Assistance Program.

(e) Administration Program.

(f) Division of Administrative Hearings.

(g) Division of Retirement.

(h) Division of State Group Insurance.

(3) The Information Technology Program shall operate and manage the Technology Resource Center.

(4) The duties of the Office of Labor Relations shall be determined by the Secretary of Management Services, and must include, but need not be limited to, the representation of the Governor as the public employer in collective bargaining negotiations pursuant to the provisions of chapter 447.

~~(5)(a) The Florida State Group Insurance Council is created within the division for the purpose of providing joint and coordinated oversight of the operation and administration of the state group insurance program. The council shall consist of the state budget director; an individual from the private sector with an extensive health administration background, appointed by the Governor; a member of the Florida Senate, appointed by the President of the Senate; a member of the Florida House of Representatives, appointed by the Speaker of the House of Representatives; a representative of the State University System, appointed by the Board of Regents; the State Insurance Commissioner or his designee; the director of the Division of Retirement; and two representatives of employees and retirees, appointed by the Governor. Members of the council appointed by the Governor shall be appointed to serve terms of 4 years each. Each member of the council shall serve until a successor is appointed. Additionally, the director of the Division of State Employee Insurance shall be a nonvoting member of the council.~~

~~(b) Of the two members representing employees, one member must be appointed in such a manner as to represent state employee bargaining units, and one member must be a retired employee. Each member must be a resident of the state.~~

~~(c) The council is assigned to the Division of State Group Insurance for administrative and fiscal accountability purposes, but the council and its staff shall otherwise function independently of the control and direction of the division. The Division of State Group Insurance shall furnish dedicated administrative and secretarial assistance to the council, and other assistance to the council as requested.~~

~~(d) The council shall have the primary functions to:~~

~~1. Recommend accountability measures and review the implementation of performance-based program budgeting measures under which the Division of State Group Insurance operates.~~

~~2. Review and recommend procedures and criteria for contract selection before any contract solicitation.~~

~~3. Review and make recommendations regarding insurance benefit packages.~~

~~4. Review external audit reports, service organization reports, compliance reviews, or other contractually required management reports relating to third-party administrator activities to determine areas that potentially may require division action.~~

~~5. Review third-party administrator management reports leading to conclusions regarding report completion, accuracy, validity, and reasonableness.~~

~~6. Review third-party administrator overpayment and refund collection activities to provide assurances that health plan assets are safeguarded.~~

~~7. Review use of detailed provider/subscriber surveys designed to detect potential problem areas with the state group insurance program and make recommendations to the director.~~

~~8. Review reports and make recommendations to safeguard the financial stability of the group insurance program.~~

~~(e) The council or a member thereof may not enter into the day-to-day operation of the division and is specifically prohibited from taking part in:~~

~~1. The awarding of contracts.~~

~~2. The selection of a consultant or contractor or the prequalification of any individual consultant or contractor. However, the council may recommend to the director standards and policies governing the procedure for selection and prequalification of consultants and contractors.~~

~~3. The employment, promotion, demotion, suspension, transfer, or discharge of any division personnel.~~

~~4. The granting, denial, suspension, or revocation of any license or permit issued by the division.~~

~~(f)1. The chair and any other officers of the council shall be selected by the council members for a 1-year term but may succeed themselves.~~

~~2. The council shall hold a minimum of four regular meetings annually, and other meetings may be called by the chair upon giving at least 1 week's notice to all members and the public pursuant to chapter 120. Other meetings may also be held upon the written request of at least four other members of the council, with at least 1 week's notice of such meeting being given to all members and the public by the chair pursuant to chapter 120. Emergency meetings may be held without notice upon the request of all members of the council.~~

~~3. A majority of the membership of the council constitutes a quorum at any meeting of the council. An action of the council is not considered~~

~~adopted unless the action is taken pursuant to the affirmative vote of a majority of the members present, but not fewer than four members of the council at a meeting held pursuant to subparagraph 2., and the vote is recorded in the minutes of that meeting.~~

~~4. The chair shall cause to be made a complete record of the proceedings of the council. The proceedings of the council shall be open to the public, and the records shall be open for public inspection.~~

~~(g) The meetings of the council shall be held in the central office of the department in Tallahassee unless the chair determines that special circumstances warrant meeting at another location.~~

~~(h) Members of the council are entitled to per diem and travel expenses pursuant to s. 112.061.~~

Section 2. *Subsection (3) of section 20.37, Florida Statutes, is repealed.*

Section 3. Section 110.1082, Florida Statutes, is created to read:

110.1082 Telephone voice mail systems and telephone menu options systems.—

(1) No state employee shall utilize a voice mail system when the employee is at his or her regularly assigned work station where his or her telephone is functional and available for use, unless:

(a) The device is in use, and/or;

(b) Such voice mail system alerts the caller to, and provides the caller with access to a nonelectronic attendant; or

(c) Such voice mail system automatically transfers the caller to a nonelectronic attendant.

(2) Telephone menu options systems used by state agencies, departments, or other state government units, will alert the caller to, and provide the caller with access to a nonelectronic attendant.

(3) Agency heads will ensure compliance with the provisions of this section.

Section 4. Section 110.1238, Florida Statutes, is amended to read:

110.1238 State group health insurance plans; refunds with respect to overcharges by providers.—A participant in a state group health insurance plan who discovers that he or she was overcharged by a health care provider shall receive a refund of 50 percent of any amount recovered as a result of such overcharge, up to a maximum of $1,000 ~~per admission~~.

Section 5. Section 110.1227, Florida Statutes, 1998 Supplement, is amended to read:

110.1227 Florida Employee Long-Term-Care Plan Act.—

(1) The Legislature finds that state expenditures for long-term-care services continue to increase at a rapid rate and that the state faces increasing pressure in its efforts to meet the long-term-care needs of the public.

(a) It is the intent of the Legislature that the *Department of Management Services* ~~Division of State Group Insurance~~ and the Department of Elderly Affairs implement a self-funded or fully insured, voluntary, long-term-care plan for public employees and their families *and provide an opportunity for public employees and their families to purchase said long-term-care insurance by means of payroll deduction.*

(b) The Department of Elderly Affairs and the *Department of Management Services* ~~Division of State Group Insurance~~ shall jointly design the plan to provide long-term-care coverage for public employees, ~~and~~ family members of public employees *and retirees*. The *Department of Management Services* ~~Division of State Group Insurance~~ and the Department of Elderly Affairs shall enter into an interagency agreement defining their roles with regard to plan development and design. Joint planning expenses shall be shared to the extent that funded planning activities are consistent with the goals of the *departments* ~~department and the division~~. Eligible plan participants must include active and retired officers and employees of all branches and agencies of state ~~and local government~~ and their spouses, children, stepchildren, parents, and parents-in-law; *and upon the affirmative vote of the governing body of any county or municipality in this state the active and retired officers and employees of any such county or municipality and their spouses, children, stepchildren, parents and parents-in-law* ~~active and retired federal employees residing in the state and their spouses, children, stepchildren, parents, and parents-in-law residing in the state~~; and the surviving spouses, children, stepchildren, parents, and parents-in-law of such deceased officers and employees, whether active or retired at the time of death.

(c) This act in no way affects the *Department of Management Services'* ~~Division of State Group Insurance's~~ authority pursuant to s. 110.123.

(d) The Department of Management Services and the Department of Elderly Affairs shall review all self-insured and all fully-insured proposals submitted to it by qualified vendors who have submitted responses prior to February 23, 1999. Upon review of the proposals, the Department of Management Services and the Department of Elderly Affairs may award a contract to the vendor that the departments deem to represent the best value to public employees family members of public employees, and retirees.

(e) No entity providing actuarial consulting services to the Department of Management Services or the Department of Elderly Affairs in the preparation of the request for proposals, in the evaluation of such proposals, or in the selection of a provider of long-term-care service offerings shall be eligible to provide or contract to provide the entity selected as the provider of long-term-care service offerings in this state with any services related to the Florida Employee Long-Term-Care Plan.

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

(a) "Department" means the Department of Elderly Affairs.

~~(b) "Division" means the Division of State Group Insurance.~~

(b)~~(c)~~ "Self-funded" means that plan benefits and costs are funded from contributions made by or on behalf of participants and trust fund investment revenue.

(c)~~(d)~~ "Plan" means the Florida Employee Long-Term-Care Plan.

(3) The *Department of Management Services* ~~division~~ and the department shall, in consultation with public employers and employees and representatives from unions and associations representing state, university, local government, and other public employees, establish and supervise the implementation and administration of a self-funded or fully insured long-term-care plan entitled "Florida Employee Long-Term-Care Plan."

(a) The *Department of Management Services* ~~division~~ and the department shall, in consultation with the ~~department, the Department of Management Services, and the~~ Department of Insurance, contract for actuarial, professional-administrator, and other services for the Florida Employee Long-Term-Care Plan.

(b) When contracting for a professional administrator, the *Department of Management Services* ~~division~~ shall consider, at a minimum, the entity's previous experience and expertise in administering group long-term-care self-funded plans or long-term-care insurance programs; the entity's demonstrated ability to perform its contractual obligations in the state and in other jurisdictions; the entity's projected administrative costs; the entity's capability to adequately provide service coverage, including a sufficient number of experienced and qualified personnel in the areas of marketing, claims processing, recordkeeping, and underwriting; the entity's accessibility to public employees and other qualified participants; and the entity's financial soundness and solvency.

(c) Any contract with a professional administrator entered into by the *Department of Management Services* ~~division~~ must require that the state be held harmless and indemnified for any financial loss caused by the failure of the professional administrator to comply with the terms of the contract.

(d) The *Department of Management Services* ~~division~~ shall explore innovations in long-term-care financing and service delivery with regard to possible future inclusion in the plan. Such innovative financing and

service-delivery mechanisms may include managed long-term care and plans that set aside assets with regard to eligibility for Medicaid-funded long-term-care services in the same proportion that private long-term-care insurance benefits are used to pay for long-term care.

(4) The *Department of Management Services* ~~division~~ and the department shall coordinate, directly or through contract, marketing of the plan. Expenses related to such marketing shall be reimbursed from funds of the plan.

(5) The *Department of Management Services* ~~division~~ shall contract with the State Board of Administration for the investment of funds in the Florida Employee Long-Term-Care Plan reserve fund. Plan funds are not state funds. The moneys shall be held by the State Board of Administration on behalf of enrollees and invested and disbursed in accordance with a trust agreement approved by the division and the State Board of Administration and in accordance with the provisions of ss. 215.44-215.53. Moneys in the reserve fund may be used only for the purposes specified in the agreement.

(6) A Florida Employee Long-Term-Care Plan Board of Directors is created, composed of *nine* ~~seven~~ members who shall serve 2-year terms, to be appointed *after May 1, 1999,* as follows:

(a) The secretary of the Department of Elderly Affairs shall appoint a member who is a plan participant.

(b) The Insurance Commissioner shall appoint an actuary.

(c) The Attorney General shall appoint an attorney licensed to practice law in this state.

(d) The Governor shall appoint three members from a broad cross-section of the residents of this state.

(e) The *Department of Management Services* ~~division~~ shall appoint a member.

(f) The President of the Senate shall appoint a member of the Senate.

(g) The Speaker of the House shall appoint a member of the House.

(7) The board of directors of the Florida Long-Term-Care Plan shall:

(a) Prepare an annual report of the plan, with the assistance of an actuarial consultant, to be submitted to the Speaker of the House of Representatives, the President of the Senate, the Governor, and the Minority Leaders of the Senate and the House of Representatives.

(b) Approve the appointment of an executive director jointly recommended by the *Department of Management Services* ~~division~~ and the department to serve as the chief administrative and operational officer of the Florida Employee Long-Term-Care Plan.

(c) Approve the terms of the *Department of Management Services'* ~~division's~~ third-party administrator contract.

(d) Implement such other policies and procedures as necessary to assure the soundness and efficient operation of the plan.

(8) Members of the board may not receive a salary, but may be reimbursed for travel, per diem, and administrative expenses related to their duties. Board expenses and costs for the annual report and other administrative expenses must be borne by the plan. State funds may not be contributed toward costs associated with board members or their activities conducted on behalf of and for the benefit of plan beneficiaries.

Section 6. Section 110.123, Florida Statutes, 1998 Supplement, is amended to read:

110.123 State group insurance program.—

(1) TITLE.—This section may be cited as the "State Group Insurance Program Law."

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

(a) "Department" means the Department of Management Services.

~~(b) "Division" means the Division of State Group Insurance in the department.~~

(b)~~(c)~~ "Enrollee" means all state officers and employees, retired state officers and employees, ~~and~~ surviving spouses of deceased state officers and employees, *and terminated employees or individuals with continuation coverage who are* enrolled in an insurance plan offered by the state group insurance program.

(c)~~(d)~~ "Full-time state employees" includes all full-time employees of all branches or agencies of state government holding salaried positions and paid by state warrant or from agency funds, and employees paid from regular salary appropriations for 8 months' employment, including university personnel on academic contracts, but in no case shall "state employee" or "salaried position" include persons paid from other-personal-services (OPS) funds.

(d)~~(e)~~ "Health maintenance organization" or "HMO" means an entity certified under part I of chapter 641.

(e) "Health plan member" means any person participating in the state group health insurance plan or in a health maintenance organization plan under the state group insurance program, including enrollees and covered dependents thereof.

(f) "Part-time state employee" means any employee of any branch or agency of state government paid by state warrant from salary appropriations or from agency funds, and who is employed for less than the normal full-time workweek established by the department or, if on academic contract or seasonal or other type of employment which is less than year-round, is employed for less than 8 months during any 12-month period, but in no case shall "part-time" employee include a person paid from other-personal-services (OPS) funds.

(g) "Retired state officer or employee" or "retiree" means any state officer or state employee who retires under a state retirement system or a state optional annuity or retirement program or is placed on disability retirement, and who was insured under the state group insurance program at the time of retirement, and who begins receiving retirement benefits immediately after retirement from state office or employment.

(h) "State agency" or "agency" means any branch, department, or agency of state government.

(i) "State group health insurance plan *or "state plan"* means the state self-insured health insurance plan offered to state officers and employees, retired state officers and employees, and surviving spouses of deceased state officers and employees pursuant to this section.

(j) "State-contracted HMO" means any health maintenance organization under contract with the department to participate in the state group insurance program.

(k)~~(j)~~ "State group insurance program" or "programs" means the package of insurance plans offered to state officers and employees, retired state officers and employees, and surviving spouses of deceased state officers and employees pursuant to this section, including the state group health insurance plan, health maintenance organization plans, and other plans required or authorized by this section.

(l)~~(k)~~ "State officer" means any constitutional state officer, any elected state officer paid by state warrant, or any appointed state officer who is commissioned by the Governor and who is paid by state warrant.

(m)~~(l)~~ "Surviving spouse" means the widow or widower of a deceased state officer, full-time state employee, part-time state employee, or retiree if such widow or widower was covered as a dependent under the state group health insurance plan or a health maintenance organization plan established pursuant to this section at the time of the death of the deceased officer, employee, or retiree. "Surviving spouse" also means any widow or widower who is receiving or eligible to receive a monthly state warrant from a state retirement system as the beneficiary of a state officer, full-time state employee, or retiree who died prior to July 1, 1979. For the purposes of this section, any such widow or widower shall cease to be a surviving spouse upon his or her remarriage.

(3) STATE GROUP INSURANCE PROGRAM.—

(a) The Division of State Group Insurance is created within the Department of Management Services~~, to be headed by a director who shall be appointed by the Governor and confirmed by the Senate~~. ~~The division shall be a separate budget entity, and the director shall be its agency~~

~~head for all purposes. The Department of Management Services shall provide administrative support and service to the division to the extent requested by the director. The division shall not be subject to control, supervision, or direction by the Department of Management Services in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters, except to the extent as provided in this chapter and chapters 216, 255, 282, and 287 for agencies of the executive branch.~~

~~(b) The director shall be a person qualified by training and experience to understand the problems and needs of state employees in the area of health care coverage and insurance issues. The director shall have training and experience in the field of health care reimbursement, insurance or self-insurance programs, and the administration of such programs in the public or private sector.~~

(b)~~(c)~~ It is the intent of the Legislature to offer a comprehensive package of health insurance *and retirement* benefits *and a personnel system* for state employees which are provided in a cost-efficient and prudent manner, and to allow state employees the option to choose benefit plans which best suit their individual needs. Therefore, the state group insurance program is established which may include the state group health insurance plan, health maintenance organization plans, group life insurance plans, group accidental death and dismemberment plans, and group disability insurance plans. Furthermore, the *department* ~~division~~ is additionally authorized to establish and provide as part of the state group insurance program any other group insurance plans which are consistent with the provisions of this section.

(c)~~(d)~~ Notwithstanding any provision in this section to the contrary, it is the intent of the Legislature that the *department* ~~division~~ shall be responsible for all aspects of the purchase of health care for state employees under the state group health insurance plan and the health maintenance organization plans. Responsibilities shall include, but not be limited to, the development of requests for proposals for state employee health services, the determination of health care benefits to be provided, and the negotiation of contracts for health care and health care administrative services. Prior to the negotiation of contracts for health care services, the Legislature intends that the *department* ~~division~~ shall develop, ~~in consultation with the Department of Management Services~~ with respect to state collective bargaining issues, the health benefits and terms to be included in the state group health insurance program. The *department* ~~division~~ shall adopt rules necessary to perform its responsibilities pursuant to this section. It is the intent of the Legislature that the *department* ~~division~~ shall be responsible for the contract management and day-to-day management of the state employee health insurance program, including, but not limited to, employee enrollment, premium collection, payment to health care providers, and other administrative functions related to the program.

(d)~~(e)~~1. Notwithstanding the provisions of chapter 287 and the authority of the department, for the purpose of protecting the health of, and providing medical services to, state employees participating in the State *Group Insurance Program* ~~Employees' Health Self-Insurance Plan~~, the *department* ~~Division of State Group Insurance~~ may contract to retain the services of professional administrators for the State *Group Insurance Program* ~~Employees' Health Self-Insurance Plan~~. The agency shall follow good purchasing practices of state procurement to the extent practicable under the circumstances.

2. Each vendor in a major procurement, and any other vendor if the *department* ~~division~~ deems it necessary to protect the state's financial interests, shall, at the time of executing any contract with the *department* ~~division~~, post an appropriate bond with the *department* ~~division~~ in an amount determined by the *department* ~~division~~ to be adequate to protect the state's interests but not higher than the full amount estimated to be paid annually to the vendor under the contract.

3. Each major contract entered into by the *department* ~~division~~ pursuant to this section shall contain a provision for payment of liquidated damages to the *department* ~~division~~ for material noncompliance by a vendor with a contract provision. The *department* ~~division~~ may require a liquidated damages provision in any contract if the *department* ~~division~~ deems it necessary to protect the state's financial interests.

4. The provisions of s. 120.57(3) apply to the *department's* ~~division's~~ contracting process, except:

a. A formal written protest of any decision, intended decision, or other action subject to protest shall be filed within 72 hours after receipt of notice of the decision, intended decision, or other action.

b. As an alternative to any provision of s. 120.57(3), the *department* ~~division~~ may proceed with the bid selection or contract award process if the director of the department sets forth, in writing, particular facts and circumstances which demonstrate the necessity of continuing the procurement process or the contract award process in order to avoid a substantial disruption to the provision of any scheduled insurance services.

(e)~~(f)~~ Except as provided for in subparagraph *(g)2.* ~~(h)2.~~, the percentage of state contribution toward the cost of any plan in the state group insurance program shall be uniform with respect to all state employees in state collective bargaining units participating in the same plan or any similar plan. Nothing contained within this section prohibits the development of separate benefit plans for officers and employees exempt from collective bargaining or the development of separate benefit plans for each collective bargaining unit.

(f)~~(g)~~ Participation by individuals in the program shall be available to all state officers, full-time state employees, and part-time state employees; and such participation in the program or any plan thereof shall be voluntary. Participation in the program shall also be available to retired state officers and employees who elect at the time of retirement to continue coverage under the program, but they may elect to continue all or only part of the coverage they had at the time of retirement. A surviving spouse may elect to continue coverage only under the state group health insurance plan or a health maintenance organization plan.

(g)~~(h)~~1. A person eligible to participate in the state group ~~health~~ insurance *program* ~~plan~~ may be authorized by rules adopted by the *department* ~~division~~, in lieu of participating in the state group health insurance plan, to exercise an option to elect membership in a health maintenance organization plan which is under contract with the state in accordance with criteria established by this section and by said rules. The offer of optional membership in a health maintenance organization plan permitted by this paragraph may be limited or conditioned by rule as may be necessary to meet the requirements of state and federal laws.

2. The *department* ~~division~~ shall contract with health maintenance organizations *seeking* to participate in the state group insurance program through a request for proposal *or other procurement process, as devleoped by the Department of Management Services and determined to be appropriate* ~~based upon a premium and a minimum benefit package as follows~~:

a. *The department shall establish a schedule of minimum benefits for health maintenance organization coverage, and that schedule* ~~A minimum benefit package to be provided by a participating HMO~~ shall include: physician services; inpatient and outpatient hospital services; emergency medical services, including out-of-area emergency coverage; diagnostic laboratory and diagnostic and therapeutic radiologic services; mental health, alcohol, and chemical dependency treatment services meeting the minimum requirements of state and federal law; skilled nursing facilities and services; prescription drugs; and other benefits as may be required by the *department* ~~division~~. Additional services may be provided subject to the contract between the *department* ~~division~~ and the HMO.

b. *The department may establish* ~~A~~ uniform ~~schedule for~~ deductibles, ~~and~~ copayments, *or coinsurance schedules* ~~may be established~~ for all participating HMO~~s~~ *plans*.

c. *The department may require detailed information from each health maintenance organization participating in the procurement process, including information pertaining to organizational status, experience in providing pre-paid health benefits, accessibility of services, financial stability of the plan, quality of management services, accreditation status, quality of medical services, network access and adequacy, performance measurement, ability to meet the department's reporting requirements, and the actuarial basis of the proposed rates and other data determined by the director to be necessary for the evaluation and selection of health maintenance organization plans and negotiation of appropriate rates for these plans. Upon receipt of proposals by health maintenance organization plans and the evaluation of those proposals, the department may enter into negotiations with all of the plans or a subset of the plans, as*

the department determines appropriate. ~~Based upon the minimum benefit package and copayments and deductibles contained in sub-subparagraphs a. and b., the division shall issue a request for proposal for all HMOs which are interested in participating in the state group insurance program. Upon receipt of all proposals, the division may, as it deems appropriate, enter into contract negotiations with HMOs submitting bids. As part of the request for proposal process, the division may require detailed financial data from each HMO which participates in the bidding process for the purpose of determining the financial stability of the HMO.~~

~~d. In determining which HMOs to contract with, the division shall, at a minimum, consider: each proposed contractor's previous experience and expertise in providing prepaid health benefits; each proposed contractor's historical experience in enrolling and providing health care services to participants in the state group insurance program; the cost of the premiums; the plan's ability to adequately provide service coverage and administrative support services as determined by the division; plan benefits in addition to the minimum benefit package; accessibility to providers; and the financial solvency of the plan.~~ Nothing shall preclude the *department* ~~division~~ from negotiating regional or statewide contracts with health maintenance organization plans when this is cost-effective and when the *department* ~~division~~ determines *that* the plan *offers high value to enrollees* ~~has the best overall benefit package for the service areas involved. However, no HMO shall be eligible for a contract if the HMO's retiree Medicare premium exceeds the retiree rate as set by the division for the state group health insurance plan~~.

e. The *department* ~~division~~ may limit the number of HMOs that it contracts with in each service area based on the nature of the bids the *department* ~~division~~ receives, the number of state employees in the service area, *or* ~~and~~ any unique geographical characteristics of the service area. The *department* ~~division~~ shall establish by rule service areas throughout the state.

f. All persons participating in the state group insurance program who are required to contribute towards a total state group health premium shall be subject to the same dollar contribution regardless of whether the enrollee enrolls in the state group health insurance plan or in an HMO plan.

3.~~4.~~ In addition to contracting pursuant to subparagraph 2., the *department* ~~division~~ shall enter into contract with any HMO to participate in the state group insurance program which:

a. Serves greater than 5,000 recipients on a prepaid basis under the Medicaid program;

b. Does not currently meet the 25 percent non-Medicare/non-Medicaid enrollment composition requirement established by the Department of Health ~~and Human Services~~ excluding participants enrolled in the state group insurance program;

c. Meets the minimum benefit package and copayments and deductibles contained in sub-subparagraphs 2.a. and b.;

d. Is willing to participate in the state group insurance program at a cost of premiums that is not greater than 95 percent of the cost of HMO premiums accepted by the *department* ~~division~~ in each service area; and

e. Meets the minimum surplus requirements of s. 641.225.

The *department* ~~division~~ is authorized to contract with HMOs that meet the requirements of sub-subparagraphs a. through d. prior to the open enrollment period for state employees. The *department* ~~division~~ is not required to renew the contract with the HMOs as set forth in this paragraph more than twice. Thereafter, the HMOs shall be eligible to participate in the state group insurance program only through the request for proposal process described in subparagraph 2.

4.~~5.~~ All enrollees in the state group health insurance plan or any health maintenance organization plan shall have the option of changing to any other health plan which is offered by the state within any open enrollment period designated by the *department* ~~division~~. Open enrollment shall be held at least once each calendar year.

5.~~6.~~ *Any HMO participating in the state group insurance program shall submit health care utilization and cost data to the department, in such form and in such manner as the division shall require, as a condition of participating in the program. The department shall enter into negotiations with its contracting HMOs to determine the nature and scope of the data submission and the final requirements, format, penalties associated with noncompliance, and timetables for submission. These determinations shall be adopted by rule.* ~~Any HMO participating in the state group insurance program shall, upon the request of the division, submit to the division standardized data for the purpose of comparison of the appropriateness, quality, and efficiency of care provided by the HMO. Such standardized data shall include: membership profiles; inpatient and outpatient utilization by age and sex, type of service, provider type, and facility; and emergency care experience. Requirements and timetables for submission of such standardized data and such other data as the division deems necessary to evaluate the performance of participating HMOs shall be adopted by rule.~~

6.~~7.~~ The *department* ~~division~~ *may establish and direct with respect to collective bargaining issues, a comprehensive package of insurance benefits that may include, supplemental health and life coverage, dental care, long-term care, vision care, and other benefits it determines necessary to enable state employees to select from among benefit options that best suit their individual and family needs* ~~shall, after consultation with representatives from each of the unions representing state and university employees, establish a comprehensive package of insurance benefits including, but not limited to, supplemental health and life coverage, dental care, long-term care, and vision care to allow state employees the option to choose the benefit plans which best suit their individual needs.~~

a. Based upon a desired benefit package, the *department* ~~division~~ shall issue a request for proposal for health insurance providers interested in participating in the state group insurance program, and the division shall issue a request for proposal for insurance providers interested in participating in the non-health-related components of the state group insurance program. Upon receipt of all proposals, the *department* ~~division~~ may enter into contract negotiations with insurance providers submitting bids or negotiate a specially designed benefit package. Insurance providers offering or providing supplemental coverage as of May 30, 1991, which qualify for pretax benefit treatment pursuant to s. 125 of the Internal Revenue Code of 1986, with 5,500 or more state employees currently enrolled may be included by the *department* ~~division~~ in the supplemental insurance benefit plan established by the *department* ~~division~~ without participating in a request for proposal, submitting bids, negotiating contracts, or negotiating a specially designed benefit package. These contracts shall provide state employees with the most cost-effective and comprehensive coverage available; however, no state or agency funds shall be contributed toward the cost of any part of the premium of such supplemental benefit plans.

b. Pursuant to the applicable provisions of s. 110.161, and s. 125 of the Internal Revenue Code of 1986, the *department* ~~division~~ shall enroll in the pretax benefit program those state employees who voluntarily elect coverage in any of the supplemental insurance benefit plans as provided by sub-subparagraph a.

c. Nothing herein contained shall be construed to prohibit insurance providers from continuing to provide or offer supplemental benefit coverage to state employees as provided under existing agency plans.

(h)~~(i)~~ The benefits of the insurance authorized by this section shall not be in lieu of any benefits payable under chapter 440, the Workers' Compensation Law. The insurance authorized by this law shall not be deemed to constitute insurance to secure workers' compensation benefits as required by chapter 440.

(4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE; LIMITATION ON ACTIONS TO PAY AND COLLECT PREMIUMS.—

(a) Except as provided in paragraph (e) with respect to law enforcement *officers*, correctional~~,~~ and correctional probation officers, *and firefighters,* legislative authorization through the appropriations act is required for payment by a state agency of any part of the premium cost of participation in any group insurance plan. However, the state contribution for full-time employees or part-time permanent employees shall continue in the respective proportions for up to 6 months for any such officer or employee who has been granted an approved parental or medical leave of absence without pay.

(b) If a state officer or full-time state employee selects membership in a health maintenance organization as authorized by paragraph (3)(g), the officer or employee is entitled to a state contribution toward individ-

ual and dependent membership as provided by the Legislature through the appropriations act.

(c) During each policy or budget year, no state agency shall contribute a greater percentage of the premium cost for its officers or employees for any type of coverage under the state group insurance program than any other agency, nor shall any greater percentage contribution of premium cost be made for employees in one state collective bargaining unit than for those in any other state collective bargaining unit.

(d) The state contribution for a part-time permanent state employee who elects to participate in the program shall be prorated so that the percentage of the cost contributed for the part-time permanent employee bears that relation to the percentage of cost contributed for a similar full-time employee that the part-time employee's normal workday bears to a full-time employee's normal workday.

(e) No state contribution for the cost of any part of the premium shall be made for retirees or surviving spouses for any type of coverage under the state group insurance program. However, any state agency that employs a full-time law enforcement officer, correctional officer, or correctional probation officer who is killed *or suffers catastrophic injury* in the line of duty *as provided in s. 112.19, or a full-time firefighter who is killed or suffers catastrophic injury in the line of duty as provided in s. 112.191,* ~~on or after July 1, 1980, as a result of an act of violence inflicted by another person while the officer is engaged in the performance of law enforcement duties or as a result of an assault against the officer under riot conditions~~ shall pay the entire premium of the state group health insurance plan for the employee's surviving spouse until remarried, and for each dependent child of the employee, *subject to the conditions and limitations set forth in s. 112.19 or s. 112.191, as applicable* ~~until the child reaches the age of majority or until the end of the calendar year in which the child reaches the age of 25 if:~~

~~1. At the time of the employee's death, the child is dependent upon the employee for support; and~~

~~2. The surviving child continues to be a dependent for support, or the surviving child is a full-time or part-time student and is dependent for support~~.

(f) Pursuant to the request of each state officer, full-time or part-time state employee, or retiree participating in the state group insurance program, and upon certification of the employing agency approved by the *department* ~~Division of State Group Insurance~~, the Comptroller shall deduct from the salary or retirement warrant payable to each participant the amount so certified and shall handle such deductions in accordance with rules established by the *department* ~~division~~.

(g) No administrative or civil proceeding shall be commenced to collect an underpayment or refund an overpayment of premiums collected pursuant to this subsection unless such claim is filed with the *department* ~~Division of State Group Insurance~~ within 2 years after the alleged underpayment or overpayment was made. For purposes of this paragraph, a payroll deduction, salary reduction, or contribution by an agency is deemed to be made on the date the salary warrant is issued.

(h) State employees may participate in the state group health insurance plan at the time of receiving their state retirement benefits.

(5) *DEPARTMENT* ~~DIVISION OF STATE GROUP INSURANCE;~~ POWERS AND DUTIES.—The *department* ~~division~~ is responsible for the administration of the state group insurance program. The *department* ~~division~~ shall initiate and supervise the program as established by this section and shall adopt such rules as are necessary to perform its responsibilities. To implement this program, the *department* ~~division~~ shall, with prior approval by the Legislature:

(a) Determine the benefits to be provided and the contributions to be required for the state group insurance program. Such determinations, whether for a contracted plan or a self-insurance plan pursuant to paragraph (c), do not constitute rules within the meaning of s. 120.52 or final orders within the meaning of s. 120.52. Any physician's fee schedule used in the health and accident plan shall not be available for inspection or copying by medical providers or other persons not involved in the administration of the program. However, in the determination of the design of the program, the *department* ~~division~~ shall consider existing and complementary benefits provided by the Florida Retirement System and the Social Security System.

(b) Prepare, in cooperation with the Department of Insurance, the specifications necessary to implement the program.

(c) Contract on a competitive proposal basis with an insurance carrier or carriers, or professional administrator, determined by the Department of Insurance to be fully qualified, financially sound, and capable of meeting all servicing requirements. Alternatively, the *department* ~~division~~ may self-insure any plan or plans contained in the state group insurance program subject to approval based on actuarial soundness by the Department of Insurance. The *department* ~~division~~ may contract with an insurance company or professional administrator qualified and approved by the Department of Insurance to administer such plan. Before entering into any contract, the *department* ~~division~~ shall advertise for competitive proposals, and such contract shall be let upon the consideration of the benefits provided in relationship to the cost of such benefits. In determining which entity to contract with, the *department* ~~division~~ shall, at a minimum, consider: the entity's previous experience and expertise in administering group insurance programs of the type it proposes to administer; the entity's ability to specifically perform its contractual obligations in this state and other governmental jurisdictions; the entity's anticipated administrative costs and claims experience; the entity's capability to adequately provide service coverage and sufficient number of experienced and qualified personnel in the areas of claims processing, recordkeeping, and underwriting, as determined by the *department* ~~division~~; the entity's accessibility to state employees and providers; the financial solvency of the entity, using accepted business sector measures of financial performance. The *department* ~~division~~ may contract for medical services which will improve the health or reduce medical costs for employees who participate in the state group insurance plan.

(d) With respect to the state group health insurance plan, be authorized to require copayments with respect to all providers under the plan.

(e) Have authority to establish a voluntary program for comprehensive health maintenance, which may include health educational components and health appraisals.

(f) With respect to any contract with an insurance carrier or carriers or professional administrator entered into by the *department* ~~division~~, require that the state and the enrollees be held harmless and indemnified for any financial loss caused by the failure of the insurance carrier or professional administrator to comply with the terms of the contract.

(g) With respect to any contract with an insurance carrier or carriers, or professional administrator entered into by the *department* ~~division~~, require that the carrier or professional administrator provide written notice to individual enrollees if any payment due to any health care provider of the enrollee remains unpaid beyond a period of time as specified in the contract.

(h) Have authority to establish ~~a voluntary group long-term care program or~~ other *voluntary* programs to be funded on a pretax contribution basis or on a posttax contribution basis, as the *department* ~~division~~ determines.

(i) Beginning November 1, 1998, and for the 1998-1999 fiscal year only, continue to process health insurance claims for the 1996 and 1997 calendar years, subject to the review and approval process provided in s. 216.177. This paragraph is repealed on July 1, 1999.

Final decisions concerning *enrollment,* the existence of coverage, or *covered* benefits under the state group ~~health~~ insurance *program* ~~plan~~ shall not be delegated or deemed to have been delegated by the *department* ~~division~~.

(6) DEPOSIT OF PREMIUMS AND REFUNDS.—Premium dollars collected and not required to pay the costs of the program, prior to being paid to the carrier insurance company, shall be invested, and the earnings from such investment shall be deposited in a trust fund to be designated in the State Treasury and utilized for increased benefits or reduced premiums for the participants or may be used to pay for the administration of the state group insurance program. Any refunds paid the state by the insurance carrier from premium dollar reserves held by the carrier and earned on such refunds shall be deposited in the trust fund and used for such purposes.

(7) CONTINUATION OF AGENCY INSURANCE PLANS.—Nothing contained in this section shall require the discontinuation of any

insurance plan provided by any state agency; however, no state or agency funds shall be contributed toward the cost of any part of the premium of such agency plans. Such agency plans shall not be deemed to be included in the state group insurance program.

(8) COVERAGE FOR LEGISLATIVE MEMBERS AND EMPLOYEES.—The Legislature may provide coverage for its members and employees under all or any part of the state group insurance program; may provide coverage for its members and employees under a legislative group insurance program in lieu of all or any part of the state group insurance program; and, notwithstanding the provisions of paragraph (4)(c), may assume the cost of any group insurance coverage provided to its members and employees. *Effective July 1, 1999, any legislative member who terminates his or her elected service after July 1, 1999, after having vested in the state retirement system, may purchase coverage in the state group health insurance plan at the same premium cost as that for retirees and surviving spouses. Such legislators may also elect to continue coverage under the group term life insurance program prevailing for current members at the premium cost in effect for that plan.*

(9) PUBLIC RECORDS LAW; EXEMPTION.—Patient medical records and medical claims records of state employees, former *state* employees, and *their* eligible *covered* dependents in the custody or control of the state group insurance program are confidential and exempt from the provisions of s. 119.07(1). Such records shall not be furnished to any person other than the *affected state* employee *or former state employee* or *his or her* ~~the employee's~~ legal representative, except upon written authorization of the employee *or former state employee*, but may be furnished in any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the *state* employee, *former state employee,* or *his or her* ~~the employee's~~ legal representative by the party seeking such records.

(10) STATEMENTS OF PURPOSE AND INTENT AND OTHER PROVISIONS REQUIRED FOR QUALIFICATION UNDER THE INTERNAL REVENUE CODE OF THE UNITED STATES.—Any other provisions in this chapter to the contrary notwithstanding:

(a) Any provision in this chapter relating to a state group insurance program shall be construed and administered to the extent possible to qualify such program to be a qualified and nondiscriminatory employee benefit plan under existing or hereafter-enacted provisions of the Internal Revenue Code of the United States.

(b) The *department* ~~division~~ may adopt any rule necessary to accomplish the purposes of this subsection not inconsistent with this chapter.

(c) This subsection is declaratory of the legislative intent upon the original enactment of this section and is deemed to have been in effect since that date.

(11) NOTICE BY HEALTH CARE PROVIDERS.—Any health care provider that has entered into a contract with a carrier or professional administrator that has contracted with the *department* ~~division~~ to administer the self-insurance program under this section shall provide written notification to the enrollee and the carrier or administrator at least 10 days before assigning or transferring the responsibility for collecting any payment or debt related to the plan to a collection agency or to any other third party.

Section 7. Section 110.12315, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 110.12315, F.S., for present text.)

110.12315 Prescription drug program.—The state employees' prescription drug program is established. This program shall be administered by the Department of Management Services, according to the terms and conditions of the plan as established by the relevant provisions of the annual General Appropriations Act and implementing legislation, subject to the following conditions:

(1) The Department of Management Services shall allow prescriptions written by health care providers under the plan to be filled by any licensed pharmacy pursuant to contractual claims-processing provisions. Nothing in this section may be construed as prohibiting a mail order prescription drug program distinct from the service provided by retail pharmacies.

(2) In providing for reimbursement of pharmacies for prescription medicines dispensed to members of the state group health insurance plan and their dependents under the state employees' prescription drug program:

(a) Retail pharmacies participating in the program must be reimbursed at a uniform rate and subject to uniform conditions, according to the terms and conditions of the plan.

(b) There shall be a 30-day supply limit for prescription card purchases and 90-day supply limit for mail order or mail order prescription drug purchases.

(c) The current pharmacy dispensing fee remains in effect.

(3) The Department of Management Services shall establish the reimbursement schedule for prescription pharmaceuticals dispensed under the program. Reimbursement rates for a prescription pharmaceutical must be based on the cost of the generic equivalent drug if a generic equivalent exists, unless the physician prescribing the pharmaceutical clearly states on the prescription that the brand name drug is medically necessary or that the drug product is included on the formulary of drug products that may not be interchanged as provided in chapter 465, in which case reimbursement must be based on the cost of the brand name drug as specified in the reimbursement schedule adopted by the Department of Management Services.

(4) The Department of Management Services shall conduct a prescription utilization review program. In order to participate in the state employees' prescription drug program, retail pharmacies dispensing prescription medicines to members of the state group health insurance plan or their covered dependents, or to subscribers or covered dependents of a health maintenance organization plan under the state group insurance program, shall make their records available for this review.

(5) The Department of Management Services shall implement such additional cost-saving measures and adjustments as may be required to balance program funding within appropriations provided, including a trial or starter dose program and dispensing of long-term-maintenance medication in lieu of acute therapy medication.

(6) Participating pharmacies must use a point-of-sale device or an online computer system to verify a participant's eligibility for coverage. The state is not liable for reimbursement of a participating pharmacy for dispensing prescription drugs to any person whose current eligibility for coverage has not been verified by the state's contracted administrator or by the Department of Management Services.

Section 8. *The Department of Management Services shall not implement a prior authorization program or a restricted formulary program that restricts a non-HMO enrollee's access to prescription drugs beyond the provisions of paragraph (b) related specifically to generic equivalents for prescriptions and the provisions in paragraph (d) related specifically to starter dose programs or the dispensing of long-term maintenance medications. The prior authorization program expanded pursuant to section 8 of the 1998-1999 General Appropriations Act is hereby terminated. If this section conflicts with any General Appropriations Act or any act implementing a General Appropriations Act, the Legislature intends that the provisions of this section shall prevail. This section shall take effect upon becoming law.*

Section 9. Section 110.1232, Florida Statutes, is amended to read:

110.1232 Health insurance coverage for persons retired under state-administered retirement systems before January 1, 1976, and for spouses.—Notwithstanding any provisions of law to the contrary, the *Department of Management Services* ~~Division of State Group Insurance~~ shall provide health insurance coverage *under* ~~in~~ the State Group ~~Health~~ Insurance *Program* ~~Plan~~ for persons who retired *before* ~~prior to~~ January 1, 1976, under any of the state-administered retirement systems and who are not covered by social security and for the spouses and surviving spouses of such retirees who are also not covered by social security. Such health insurance coverage shall provide the same benefits as provided to other retirees who are entitled to participate under s. 110.123. The claims experience of this group shall be commingled with the claims experience of other members covered under s. 110.123.

Section 10. Section 110.1234, Florida Statutes, is amended to read:

110.1234 Health insurance for retirees under the Florida Retirement System; Medicare supplement and fully insured coverage.—

(1) The *Department of Management Services* ~~Division of State Group Insurance~~ shall solicit competitive bids from state-licensed insurance companies to provide and administer a fully insured Medicare supplement policy for all eligible retirees of a state or local public employer. Such Medicare supplement policy shall meet the provisions of ss. 627.671-627.675. For the purpose of this subsection, "eligible retiree" means any public employee who retired from a state or local public employer who is covered by Medicare, Parts A and B. The department shall authorize one company to offer the Medicare supplement coverage to all eligible retirees. All premiums shall be paid by the retiree.

(2) The *Department of Management Services* ~~Division of State Group Insurance~~ shall solicit competitive bids from state-licensed insurance companies to provide and administer fully insured health insurance coverage for all public employees who retired from a state or local public employer who are not covered by Medicare, Parts A and B. The *department* ~~division~~ may authorize one company to offer such coverage if the proposed benefits and premiums are reasonable. If such coverage is authorized, all premiums shall be paid for by the retiree.

Section 11. Subsections (5), (6), and (7) of section 110.161, Florida Statutes, are amended to read:

110.161 State employees; pretax benefits program.—

(5) The *Department of Management Services* ~~Division of State Group Insurance~~ shall develop rules for the pretax benefits program, which shall specify the benefits to be offered under the program, the continuing tax-exempt status of the program, and any other matters deemed necessary by the department to implement this section. The rules must be approved by a majority vote of the Administration Commission.

(6) The *Department of Management Services* ~~Division of State Group Insurance~~ is authorized to *administer the* ~~establish a~~ pretax benefits program *established* for all employees *so that* ~~whereby~~ employees *may* ~~would~~ receive benefits *that* ~~which~~ are not includable in gross income under the Internal Revenue Code of 1986. The pretax benefits program*:* ~~shall be implemented in phases.~~

(a) ~~Phase one~~ Shall allow employee contributions to premiums for the state *group insurance* ~~health~~ program *administered under s. 110.123* ~~and state life insurance~~ to be paid on a pretax basis unless an employee elects not to participate.

(b) ~~Phase two~~ Shall allow employees to voluntarily establish expense reimbursement plans from their salaries on a pretax basis to pay for qualified medical and dependent care expenses, including premiums paid by employees for qualified supplemental insurance.

(c) ~~Phase two~~ May ~~also~~ provide for the payment of such premiums through a pretax payroll procedure ~~as used in phase one~~. The Administration Commission and the *Department of Management Services* ~~Division of State Group Insurance~~ are directed to take all actions necessary to preserve the tax-exempt status of the program.

(7) The Legislature recognizes that a substantial amount of the employer savings realized by the implementation of a pretax benefits program will be the result of diminutions in the state's employer contribution to the Federal Insurance Contributions Act tax. There is hereby created the Pretax Benefits Trust Fund in the *Department of Management Services* ~~Division of State Group Insurance~~. Each agency shall transfer to the Pretax Benefits Trust Fund the employer FICA contributions saved by the state as a result of the implementation of the pretax benefits program authorized pursuant to this section. Any moneys forfeited pursuant to employees' salary reduction agreements to participate in ~~phase one or phase two of~~ the program must also be deposited in the Pretax Benefits Trust Fund. Moneys in the Pretax Benefits Trust Fund shall be used for the pretax benefits program, including its administration by the Department of Management Services or a third-party administrator.

Section 12. Paragraph (b) of subsection (4) of section 112.05, Florida Statutes, is amended to read:

112.05 Retirement; cost-of-living adjustment; employment after retirement.—

(4)

(b) Any person to whom the limitation in paragraph (a) applies who violates such reemployment limitation and is reemployed with any agency participating in the Florida Retirement System prior to completion of the 12-month limitation period shall give timely notice of this fact in writing to the employer and to the division; and the person's retirement benefits shall be suspended for the balance of the 12-month limitation period. Any person employed in violation of this subsection and any employing agency which knowingly employs or appoints such person without notifying the *Department of Management Services* ~~Division of Retirement~~ to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by such person while reemployed during this limitation period shall be repaid to the retirement trust fund, and the retirement benefits shall remain suspended until such repayment has been made. Any benefits suspended beyond the reemployment limitation period shall apply toward the repayment of benefits received in violation of the reemployment limitation.

Section 13. Paragraph (d) of subsection (4) of section 112.3173, Florida Statutes, is amended to read:

112.3173 Felonies involving breach of public trust and other specified offenses by public officers and employees; forfeiture of retirement benefits.—

(4) NOTICE.—

(d) The Commission on Ethics shall forward any notice and any other document received by it pursuant to this subsection to the governing body of the public retirement system of which the public officer or employee is a member or from which the public officer or employee may be entitled to receive a benefit. When called on by the Commission on Ethics, the *Department of Management Services* ~~Division of Retirement~~ shall assist the commission in identifying the appropriate public retirement system.

Section 14. Subsection (7) of section 112.352, Florida Statutes, is amended to read:

112.352 Definitions.—The following words and phrases as used in this act shall have the following meaning unless a different meaning is required by the context:

(7) *"Department"* ~~"Division"~~ means the *Department of Management Services* ~~Division of Retirement~~.

Section 15. Section 112.354, Florida Statutes, is amended to read:

112.354 Eligibility for supplement.—Each retired member or, if applicable, a joint annuitant, except any person receiving survivor benefits under the teachers' retirement system of the state in accordance with s. 238.07(16), shall be entitled to receive a supplement computed in accordance with s. 112.355 upon:

(1) Furnishing to the *Department of Management Services* ~~Division of Retirement~~ evidence from the Social Security Administration setting forth the retired member's social security benefit or certifying the noninsured status of the retired member under the Social Security Act, and

(2) Filing written application with the *Department of Management Services* ~~Division of Retirement~~ for such supplement.

Section 16. Section 112.356, Florida Statutes, is amended to read:

112.356 Payment of supplement.—Any supplement due and payable under this act shall be paid by the *department* ~~division~~ or under the direction and control of the *department* ~~division~~, based on information furnished by the retired member, or a joint annuitant, and the administrator of the system under which retirement benefits are being paid, beginning on the first day of the month coincident with or next following the later of the effective date of this act and the date of approval of the application for supplement by the *department* ~~division~~, and payable thereafter on the first day of each month in the normal or optional form in which retirement benefits under the applicable system are being paid;

provided, however, that if application for supplement is made subsequent to December 31, 1967, not more than 6 retroactive monthly supplements shall be paid.

Section 17. Section 112.358, Florida Statutes, is amended to read:

112.358 Administration of system.—The *Department of Management Services* ~~Division of Retirement~~ shall make such rules and regulations as are necessary for the effective and efficient administration of this act and the cost to pay the expenses of such administration is hereby appropriated out of the appropriate retirement fund.

Section 18. Paragraph (g) of subsection (2) and subsections (4), (6), and (8) of section 112.361, Florida Statutes, are amended to read:

112.361 Additional and updated supplemental retirement benefits.—

(2) DEFINITIONS.—As used in this section, unless a different meaning is required by the context:

(g) "*Department*" ~~"Division"~~ means the *Department of Management Services* ~~Division of Retirement~~.

(4) ELIGIBILITY FOR SUPPLEMENT.—Each retired member or, if applicable, a joint annuitant, except any person receiving survivor's benefits under the Teachers' Retirement System of the state in accordance with s. 238.07(16), shall be entitled to receive a supplement computed in accordance with subsection (5), upon:

(a) Furnishing to the *department* ~~division~~ evidence from the Social Security Administration setting forth the retired member's social security benefit or certifying the noninsured status of the retired member under the Social Security Act, and

(b) Filing written application with the *department* ~~division~~ for such supplement.

(6) PAYMENT OF SUPPLEMENT.—Any supplement due and payable under this section shall be paid by the *department* ~~division~~ or under the direction and control of the *department* ~~division~~, based on information furnished by the retired member, or a joint annuitant, and the administrator of the system under which retirement benefits are being paid, beginning on the first day of the month coincident with or next following the later of:

(a) July 1, 1969, or

(b) The date of approval of the application for supplement by the *department* ~~division~~,

and payable thereafter on the first day of each month in the normal or optional form in which retirement benefits under the applicable system are being paid. However, no retroactive monthly supplements shall be paid for any period prior to the date specified in this paragraph.

(8) ADMINISTRATION OF SYSTEM.—The *department* ~~Division of Retirement~~ shall make such rules ~~and regulations~~ as are necessary for the effective and efficient administration of this section, and the cost to pay the expenses of such administration is hereby appropriated out of the appropriate fund pursuant to subsection (7).

Section 19. Paragraphs (a) and (b) of subsection (4) of section 112.362, Florida Statutes, are amended to read:

112.362 Recomputation of retirement benefits.—

(4)(a) Effective July 1, 1980, any person who retired prior to July 1, 1987, under a state-supported retirement system with not less than 10 years of creditable service and who is not receiving or entitled to receive federal social security benefits shall, upon reaching 65 years of age and upon application to the *Department of Management Services* ~~Division of Retirement~~, be entitled to receive a minimum monthly benefit equal to $16.50 multiplied by the member's total number of years of creditable service and adjusted by the actuarial factor applied to the original benefit for optional forms of retirement. Thereafter, the minimum monthly benefit shall be recomputed as provided in paragraph (5)(a). Application for this minimum monthly benefit shall include certification by the retired member that he or she is not receiving and is not entitled to receive social security benefits and shall include written authorization for the *Department of Management Services* ~~Division of Retirement~~ to have access to information from the Federal Social Security Administration concerning the member's entitlement to or eligibility for social security benefits. The minimum benefit provided by this paragraph shall not be paid unless and until the application requirements of this paragraph are satisfied.

(b) Effective July 1, 1978, the surviving spouse or beneficiary who is receiving or entitled to receive a monthly benefit commencing prior to July 1, 1987, from the account of any deceased retired member who had completed at least 10 years of creditable service shall, at the time such deceased retiree would have reached age 65, if living, and, upon application to the *Department of Management Services* ~~Division of Retirement~~, be entitled to receive the minimum monthly benefit described in paragraph (a), adjusted by the actuarial factor applied to the optional form of benefit payable to said surviving spouse or beneficiary, provided said person is not receiving or entitled to receive federal social security benefits. Application for this minimum monthly benefit shall include certification by the surviving spouse or beneficiary that he or she is not receiving and is not entitled to receive social security benefits and shall include written authorization for the *Department of Management Services* ~~Division of Retirement~~ to have access to information from the Federal Social Security Administration concerning such person's entitlement to or eligibility for social security benefits. The minimum benefit provided by this paragraph shall not be paid unless and until the application requirements of this paragraph are satisfied.

Section 20. Subsections (2), (4), (7), and (8) of section 112.363, Florida Statutes, 1998 Supplement, are amended to read:

112.363 Retiree health insurance subsidy.—

(2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—A person who is retired under a state-administered retirement system, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under a state-administered retirement system, is eligible for health insurance subsidy payments provided under this section; except that pension recipients under ss. 121.40, 238.07(16)(a), and 250.22, recipients of health insurance coverage under s. 110.1232, or any other special pension or relief act shall not be eligible for such payments. Payment of the retiree health insurance subsidy shall be made only after coverage for health insurance for the retiree or beneficiary has been certified in writing to the *Department of Management Services* ~~Division of Retirement~~. Participation in a former employer's group health insurance program is not a requirement for eligibility under this section. However, participants in the Senior Management Service Optional Annuity Program as provided in s. 121.055(6) and the State University System Optional Retirement Program as provided in s. 121.35 shall not receive the retiree health insurance subsidy provided in this section. The employer of such participant shall pay the contributions required in subsection (8) to the annuity program provided in s. 121.055(6)(d) or s. 121.35(4)(a), as applicable.

(4) PAYMENT OF RETIREE HEALTH INSURANCE SUBSIDY.—Beginning January 1, 1988, any monthly retiree health insurance subsidy amount due and payable under this section shall be paid to retired members by the *Department of Management Services* ~~Division of Retirement~~ or under the direction and control of the *department* ~~division~~.

(7) ADMINISTRATION OF SYSTEM.—The *Department of Management Services* ~~Division of Retirement~~ may adopt such rules and regulations as are necessary for the effective and efficient administration of this section. The cost of administration shall be appropriated from the trust fund.

(8) CONTRIBUTIONS.—For purposes of funding the insurance subsidy provided by this section:

(a) Beginning October 1, 1987, the employer of each member of a state-administered retirement plan shall contribute 0.24 percent of gross compensation each pay period.

(b) Beginning January 1, 1989, the employer of each member of a state-administered retirement plan shall contribute 0.48 percent of gross compensation each pay period.

(c) Beginning January 1, 1994, the employer of each member of a state-administered retirement plan shall contribute 0.56 percent of gross compensation each pay period.

(d) Beginning January 1, 1995, the employer of each member of a state-administered retirement plan shall contribute 0.66 percent of gross compensation each pay period.

(e) Beginning July 1, 1998, the employer of each member of a state-administered retirement plan shall contribute 0.94 percent of gross compensation each pay period.

Such contributions shall be submitted to the *Department of Management Services* ~~Division of Retirement~~ and deposited in the Retiree Health Insurance Subsidy Trust Fund.

Section 21. Subsections (2) and (4) of section 112.63, Florida Statutes, are amended to read:

112.63 Actuarial reports and statements of actuarial impact; review.—

(2) The frequency of actuarial reports must be at least every 3 years commencing from the last actuarial report of the plan or system or October 1, 1980, if no actuarial report has been issued within the 3-year period prior to October 1, 1979. The results of each actuarial report shall be filed with the plan administrator within 60 days of certification. Thereafter, the results of each actuarial report shall be made available for inspection upon request. Additionally, each retirement system or plan covered by this act which is not administered directly by the *Department of Management Services* ~~Division of Retirement~~ shall furnish a copy of each actuarial report to the *Department of Management Services* ~~Division of Retirement~~ within 60 days after receipt from the actuary. The requirements of this section are supplemental to actuarial valuations necessary to comply with the requirements of ss. 11.45 and 218.32.

(4) Upon receipt, pursuant to subsection (2), of an actuarial report, or upon receipt, pursuant to subsection (3), of a statement of actuarial impact, the *Department of Management Services* ~~division~~ shall review and comment on the actuarial valuations and statements. If the *department* ~~division~~ finds that the actuarial valuation is not complete, accurate, or based on reasonable assumptions, or if the *department* ~~division~~ does not receive the actuarial report or statement of actuarial impact, the *department* ~~division~~ shall notify the local government and request appropriate adjustment. If, after a reasonable period of time, a satisfactory adjustment is not made, the affected local government or the *department* ~~division~~ may petition for a hearing under the provisions of ss. 120.569 and 120.57. If the administrative law judge recommends in favor of the *department* ~~division~~, the *department* ~~division~~ shall perform an actuarial review or prepare the statement of actuarial impact. The cost to the *department* ~~division~~ of performing such actuarial review or preparing such statement shall be charged to the governmental entity of which the employees are covered by the retirement system or plan. If payment of such costs is not received by the *department* ~~division~~ within 60 days after receipt by the governmental entity of the request for payment, the *department* ~~division~~ shall certify to the Comptroller the amount due, and the Comptroller shall pay such amount to the *department* ~~division~~ from any funds payable to the governmental entity of which the employees are covered by the retirement system or plan. If the administrative law judge recommends in favor of the local retirement system and the *department* ~~division~~ performs an actuarial review, the cost to the *department* ~~division~~ of performing the actuarial review shall be paid by the *department* ~~division~~.

Section 22. Subsection (1) of section 112.64, Florida Statutes, is amended to read:

112.64 Administration of funds; amortization of unfunded liability.—

(1) Employee contributions shall be deposited in the retirement system or plan at least monthly. Employer contributions shall be deposited at least quarterly; however, any revenues received from any source by an employer which are specifically collected for the purpose of allocation for deposit into a retirement system or plan shall be so deposited within 30 days of receipt by the employer. All employers and employees participating in the Florida Retirement System and other existing retirement systems which are administered by the *Department of Management Services* ~~Division of Retirement~~ shall continue to make contributions at least monthly.

Section 23. Subsections (1) and (3) of section 112.658, Florida Statutes, are amended to read:

112.658 Office of Program Policy Analysis and Government Accountability to determine compliance of the Florida Retirement System.—

(1) The Office of Program Policy Analysis and Government Accountability shall determine, through the examination of actuarial reviews, financial statements, and the practices and procedures of the *Department of Management Services* ~~Division of Retirement~~, the compliance of the Florida Retirement System with the provisions of this act.

(3) The Office of Program Policy Analysis and Government Accountability shall employ the same actuarial standards to monitor the *Department of Management Services* ~~Division of Retirement~~ as the *Department of Management Services* ~~Division of Retirement~~ uses to monitor local governments.

Section 24. Section 112.665, Florida Statutes, is amended to read:

112.665 Duties of *Department of Management Services* ~~Division of Retirement~~.—

(1) The *Department of Management Services* ~~Division of Retirement~~ shall:

(a) Gather, catalog, and maintain complete, computerized data information on all public employee retirement systems or plans in the state, based upon a review of audits, reports, and other data pertaining to the systems or plans;

(b) Receive and comment upon all actuarial reviews of retirement systems or plans maintained by units of local government;

(c) Cooperate with local retirement systems or plans on matters of mutual concern and provide technical assistance to units of local government in the assessment and revision of retirement systems or plans;

(d) Issue, by January 1 annually, a report to the President of the Senate and the Speaker of the House of Representatives, which report details division activities, findings, and recommendations concerning all governmental retirement systems. The report may include legislation proposed to carry out such recommendations;

(e) Issue, by January 1 annually, a report to the Special District Information Program of the Department of Community Affairs that includes the participation in and compliance of special districts with the local government retirement system provisions in s. 112.63 and the state-administered retirement system provisions as specified in chapter 121; and

(f) Adopt reasonable rules to administer the provisions of this part.

(2) The *department* ~~division~~ may subpoena actuarial witnesses, review books and records, hold hearings, and take testimony. A witness shall have the right to be accompanied by counsel.

Section 25. Subsections (4), (5), and (32) and paragraph (a) of subsection (39) of section 121.021, Florida Statutes, 1998 Supplement, are amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(4) *"Department"* ~~"Division"~~ means the *Department of Management Services* ~~Division of Retirement~~.

(5) "Administrator" means the *Secretary* ~~director~~ of the *Department of Management Services* ~~Division of Retirement~~.

(32) "State agency" means the *Department of Management Services* ~~Division of Retirement~~ within the provisions and contemplation of chapter 650.

(39)(a) "Termination" occurs, except as provided in paragraph (b), when a member ceases all employment relationships with employers under this system, as defined in subsection (10), but in the event a member should be employed by any such employer within the next calendar month, termination shall be deemed not to have occurred. A leave of absence shall constitute a continuation of the employment relationship, except that a leave of absence without pay due to disability may constitute termination for a member, if such member makes application

for and is approved for disability retirement in accordance with s. 121.091(4). The *department* ~~division~~ may require other evidence of termination as it deems necessary.

Section 26. Section 121.025, Florida Statutes, is amended to read:

121.025 Administrator; powers and duties.—The *Secretary* ~~director~~ of the *Department of Management Services* ~~Division of Retirement~~ shall be the administrator of the retirement and pension systems assigned or transferred to the *Department of Management Services* ~~Division of Retirement~~ by law and shall have the authority to sign the contracts necessary to carry out the duties and responsibilities assigned by law to the *Department of Management Services* ~~Division of Retirement~~.

Section 27. Section 121.027, Florida Statutes, is amended to read:

121.027 Rulemaking authority for ch. 97-180.—The *Department of Management Services* ~~Division of Retirement~~ shall have rulemaking authority for administering all the provisions of chapter 97-180, Laws of Florida.

Section 28. Subsections (1), (2), and (5) of section 121.031, Florida Statutes, are amended to read:

121.031 Administration of system; appropriation; oaths; actuarial studies; public records.—

(1) The *Department of Management Services* ~~Division of Retirement~~ shall make such rules as are necessary for the effective and efficient administration of this system. The funds to pay the expenses for such administration are hereby appropriated from the interest earned on investments made for the retirement and social security trust funds and the assessments allowed under chapter 650.

(2) The *Department of Management Services* ~~Division of Retirement~~ is authorized to require oaths, by affidavit or otherwise, and acknowledgments from persons in connection with the administration of its duties and responsibilities under this chapter.

(5) The names and addresses of retirees are confidential and exempt from the provisions of s. 119.07(1) to the extent that no state or local governmental agency may provide the names or addresses of such persons in aggregate, compiled, or list form to any person except to a public agency engaged in official business. However, a state or local government agency may provide the names and addresses of retirees from that agency to a bargaining agent as defined in s. 447.203(12) or to a retiree organization for official business use. Lists of names or addresses of retirees may be exchanged by public agencies, but such lists shall not be provided to, or open for inspection by, the public. Any person may view or copy any individual's retirement records at the *Department of Management Services* ~~Division of Retirement~~, one record at a time, or may obtain information by a separate written request for a named individual for which information is desired.

Section 29. Paragraph (c) of subsection (1) and paragraphs (b) and (f) of subsection (2) of section 121.051, Florida Statutes, 1998 Supplement, are amended to read:

121.051 Participation in the system.—

(1) COMPULSORY PARTICIPATION.—

(c)1. After June 30, 1983, a member of an existing system who is reemployed after terminating employment shall have at the time of reemployment the option of selecting to remain in the existing retirement system or to transfer to the Florida Retirement System. Failure to submit such selection in writing to the *Department of Management Services* ~~Division of Retirement~~ within 6 months of reemployment shall result in compulsory membership in the Florida Retirement System.

2. After June 30, 1988, the provisions of subparagraph 1. shall not apply to a member of an existing system who is reemployed within 12 months after terminating employment. Such member shall continue to have membership in the existing system upon reemployment and shall not be permitted to become a member of the Florida Retirement System, except by transferring to that system as provided in ss. 121.052 and 121.055.

(2) OPTIONAL PARTICIPATION.—

(b)1. The governing body of any municipality or special district in the state may elect to participate in the system upon proper application to the administrator and may cover all or any of its units as approved by the Secretary of Health and Human Services and the administrator. Prior to being approved for participation in the Florida Retirement System, the governing body of any such municipality or special district that has a local retirement system shall submit to the administrator a certified financial statement showing the condition of the local retirement system as of a date within 3 months prior to the proposed effective date of membership in the Florida Retirement System. The statement must be certified by a recognized accounting firm that is independent of the local retirement system. All required documents necessary for extending Florida Retirement System coverage must be received by the *department* ~~division~~ for consideration at least 15 days prior to the proposed effective date of coverage. If the municipality or special district does not comply with this requirement, the *department* ~~division~~ may require that the effective date of coverage be changed.

2. Any city or special district that has an existing retirement system covering the employees in the units that are to be brought under the Florida Retirement System may participate only after holding a referendum in which all employees in the affected units have the right to participate. Only those employees electing coverage under the Florida Retirement System by affirmative vote in said referendum shall be eligible for coverage under this chapter, and those not participating or electing not to be covered by the Florida Retirement System shall remain in their present systems and shall not be eligible for coverage under this chapter. After the referendum is held, all future employees shall be compulsory members of the Florida Retirement System.

3. The governing body of any city or special district complying with subparagraph 1. may elect to provide, or not provide, benefits based on past service of officers and employees as described in s. 121.081(1). However, if such employer elects to provide past service benefits, such benefits must be provided for all officers and employees of its covered group.

4. Once this election is made and approved it may not be revoked, except pursuant to subparagraphs 5. and 6., and all present officers and employees electing coverage under this chapter and all future officers and employees shall be compulsory members of the Florida Retirement System.

5. Subject to the conditions set forth in subparagraph 6., the governing body of any hospital licensed under chapter 395 which is governed by the board of a special district as defined in s. 189.403(1) or by the board of trustees of a public health trust created under s. 154.07, hereinafter referred to as "hospital district," and which participates in the system, may elect to cease participation in the system with regard to future employees in accordance with the following procedure:

a. No more than 30 days and at least 7 days before adopting a resolution to partially withdraw from the Florida Retirement System and establish an alternative retirement plan for future employees, a public hearing must be held on the proposed withdrawal and proposed alternative plan.

b. From 7 to 15 days before such hearing, notice of intent to withdraw, specifying the time and place of the hearing, must be provided in writing to employees of the hospital district proposing partial withdrawal and must be published in a newspaper of general circulation in the area affected, as provided by ss. 50.011-50.031. Proof of publication of such notice shall be submitted to the *Department of Management Services* ~~Division of Retirement~~.

c. The governing body of any hospital district seeking to partially withdraw from the system must, before such hearing, have an actuarial report prepared and certified by an enrolled actuary, as defined in s. 112.625(3), illustrating the cost to the hospital district of providing, through the retirement plan that the hospital district is to adopt, benefits for new employees comparable to those provided under the Florida Retirement System.

d. Upon meeting all applicable requirements of this subparagraph, and subject to the conditions set forth in subparagraph 6., partial withdrawal from the system and adoption of the alternative retirement plan may be accomplished by resolution duly adopted by the hospital district board. The hospital district board must provide written notice of such withdrawal to the division by mailing a copy of the resolution to the

division, postmarked no later than December 15, 1995. The withdrawal shall take effect January 1, 1996.

6. Following the adoption of a resolution under sub-subparagraph 5.d., all employees of the withdrawing hospital district who were participants in the Florida Retirement System prior to January 1, 1996, shall remain as participants in the system for as long as they are employees of the hospital district, and all rights, duties, and obligations between the hospital district, the system, and the employees shall remain in full force and effect. Any employee who is hired or appointed on or after January 1, 1996, may not participate in the Florida Retirement System, and the withdrawing hospital district shall have no obligation to the system with respect to such employees.

(f) Whenever an employer that participates in the Florida Retirement System undertakes the transfer, merger, or consolidation of governmental services or functions, the employer must notify the *department* ~~division~~ at least 60 days prior to such action and shall provide documentation as required by the *department* ~~division~~.

Section 30. Subsection (2) of section 121.0511, Florida Statutes, is amended to read:

121.0511 Revocation of election and alternative plan.—The governing body of any municipality or independent special district that has elected to participate in the Florida Retirement System may revoke its election in accordance with the following procedure:

(2) At least 7 days, but not more than 15 days, before the hearing, notice of intent to revoke, specifying the time and place of the hearing, must be published in a newspaper of general circulation in the area affected, as provided by ss. 50.011-50.031. Proof of publication of the notice must be submitted to the *Department of Management Services* ~~Division of Retirement~~.

Section 31. Paragraph (a) of subsection (3), subsection (4), and paragraph (c) of subsection (7) of section 121.0515, Florida Statutes, 1998 Supplement, are amended to read:

121.0515 Special risk membership; criteria; designation and removal of classification; credits for past service and prior service; retention of special risk normal retirement date.—

(3) PROCEDURE FOR DESIGNATING.—

(a) Any member of the Florida Retirement System employed by a county, city, or special district who feels that he or she meets the criteria set forth in this section for membership in the Special Risk Class may request that his or her employer submit an application to the *department* ~~division~~ requesting that the *department* ~~division~~ designate him or her as a special risk member. If the employer agrees that the member meets the requirements for special risk membership, the employer shall submit an application to the *department* ~~division~~ in behalf of the employee containing a certification that the member meets the criteria for special risk membership set forth in this section and such other supporting documentation as may be required by administrative rule. The *department* ~~division~~ shall, within 90 days, either designate or refuse to designate the member as a special risk member. If the employer declines to submit the member's application to the *department* ~~division~~ or if the *department* ~~division~~ does not designate the member as a special risk member, the member or the employer may appeal to the State Retirement Commission, as provided in s. 121.23, for designation as a special risk member. A member who receives a final affirmative ruling pursuant to such appeal for special risk membership shall have special risk membership retroactive to the date such member would have had special risk membership had such membership been approved by the employer and the *department* ~~division~~, as determined by the *department* ~~division~~, and the employer contributions shall be paid in full within 1 year after such final ruling.

(4) REMOVAL OF SPECIAL RISK MEMBERSHIP.—Any member who is a special risk member on October 1, 1978, and who fails to meet the criteria for special risk membership established by this section shall have his or her special risk designation removed and thereafter shall be a regular member and shall earn only regular membership credit. The *department* ~~division~~ shall have the authority to review the special risk designation of members to determine whether or not those members continue to meet the criteria for special risk membership.

(7) RETENTION OF SPECIAL RISK NORMAL RETIREMENT DATE.—

(c) The *department* ~~division~~ shall adopt such rules as are required to administer this subsection.

Section 32. Paragraph (e) of subsection (3) of section 121.052, Florida Statutes, 1998 Supplement, is amended to read:

121.052 Membership class of elected officers.—

(3) PARTICIPATION AND WITHDRAWAL, GENERALLY.—Effective July 1, 1990, participation in the Elected State and County Officers' Class shall be compulsory for elected officers listed in paragraphs (2)(a)-(d) and (f) assuming office on or after said date, unless the elected officer elects membership in another class or withdraws from the Florida Retirement System as provided in paragraphs (3)(a)-(d):

(e) Effective July 1, 1997, the governing body of a municipality or special district may, by majority vote, elect to designate all its elected positions for inclusion in the Elected State and County Officers' Class. Such election shall be made between July 1, 1997, and December 31, 1997, and shall be irrevocable. The designation of such positions shall be effective the first day of the month following receipt by the *department* ~~division~~ of the ordinance or resolution passed by the governing body.

Section 33. Paragraph (d) is added to subsection (5) of section 121.052, Florida Statutes, 1998 Supplement, and subsection (8) and paragraphs (b) and (c) of subsection (12) of that section are amended, to read:

121.052 Membership class of elected officers.—

(5) UPGRADED SERVICE; PURCHASE OF ADDITIONAL CREDIT.—

(d) Any member of the Florida Retirement System who serves as the elected mayor of a consolidated local government, which government by its charter has chosen status as a municipality rather than a county government for purposes of the state retirement system administered under this chapter, may elect membership in the Elected State and County Officers' Class established by this section for the duration of the term of office. Any such mayor or former mayor shall be eligible for membership in this class for the term of office, provided the member or the local government employer pays the retirement contributions that would have been paid had actual participation commenced at that time, plus interest at 6.5 percent compounded each June 30 from date of participation until date of payment. No retirement credit will be allowed under this subsection for any such service which is used to obtain a benefit under any local retirement system.

Section 34. Paragraphs (b) and (h) of subsection (1) and paragraphs (d) and (f) of subsection (6) of section 121.055, Florida Statutes, 1998 Supplement, are amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(1)

(b)1. Except as provided in subparagraph 2., effective January 1, 1990, participation in the Senior Management Service Class shall be compulsory for the president of each community college, the manager of each participating city or county, and all appointed district school superintendents. Effective January 1, 1994, additional positions may be designated for inclusion in the Senior Management Service Class of the Florida Retirement System, provided that:

a. Positions to be included in the class shall be designated by the local agency employer. Notice of intent to designate positions for inclusion in the class shall be published once a week for 2 consecutive weeks in a newspaper of general circulation published in the county or counties affected, as provided in chapter 50.

b. One nonelective full-time position may be designated for each local agency employer reporting to the *Department of Management Ser-*

vices ~~Division of Retirement~~; for local agencies with 100 or more regularly established positions, additional nonelective full-time positions may be designated, not to exceed 1 percent of the regularly established positions within the agency.

c. Each position added to the class must be a managerial or policymaking position filled by an employee who is not subject to continuing contract and serves at the pleasure of the local agency employer without civil service protection, and who:

(I) Heads an organizational unit; or

(II) Has responsibility to effect or recommend personnel, budget, expenditure, or policy decisions in his or her areas of responsibility.

2. In lieu of participation in the Senior Management Service Class, members of the Senior Management Service Class pursuant to the provisions of subparagraph 1. may withdraw from the Florida Retirement System altogether and participate in a lifetime monthly annuity program which may be provided by the employing agency. The cost to the employer for such annuity shall equal the normal cost portion of the contributions required in the Senior Management Service Class. The employer providing such annuity shall contribute an additional amount to the Florida Retirement System Trust Fund equal to the unfunded actuarial accrued liability portion of the Senior Management Service Class contribution rate. The decision to participate in such local government annuity shall be irrevocable for as long as the employee holds a position eligible for the annuity. Any service creditable under the Senior Management Service Class shall be retained after the member withdraws from the Florida Retirement System; however, additional service credit in the Senior Management Service Class shall not be earned after such withdrawal. Such members shall not be eligible to participate in the Senior Management Service Optional Annuity Program.

(h)1. Except as provided in subparagraph 3., effective January 1, 1994, participation in the Senior Management Service Class shall be compulsory for the State Courts Administrator and the Deputy State Courts Administrators, the Clerk of the Supreme Court, the Marshal of the Supreme Court, the Executive Director of the Justice Administrative Commission, the Capital Collateral Representative, the clerks of the district courts of appeals, the marshals of the district courts of appeals, and the trial court administrator in each judicial circuit. Effective January 1, 1994, additional positions in the offices of the state attorney and public defender in each judicial circuit may be designated for inclusion in the Senior Management Service Class of the Florida Retirement System, provided that:

a. Positions to be included in the class shall be designated by the state attorney or public defender, as appropriate. Notice of intent to designate positions for inclusion in the class shall be published once a week for 2 consecutive weeks in a newspaper of general circulation published in the county or counties affected, as provided in chapter 50.

b. One nonelective full-time position may be designated for each state attorney and public defender reporting to the *Department of Management Services* ~~Division of Retirement~~; for agencies with 200 or more regularly established positions under the state attorney or public defender, additional nonelective full-time positions may be designated, not to exceed 0.5 percent of the regularly established positions within the agency.

c. Each position added to the class must be a managerial or policymaking position filled by an employee who serves at the pleasure of the state attorney or public defender without civil service protection, and who:

(I) Heads an organizational unit; or

(II) Has responsibility to effect or recommend personnel, budget, expenditure, or policy decisions in his or her areas of responsibility.

2. Participation in this class shall be compulsory, except as provided in subparagraph 3., for any judicial employee who holds a position designated for coverage in the Senior Management Service Class and such participation shall continue until the employee terminates employment in a covered position.

3. In lieu of participation in the Senior Management Service Class, such members may participate in the Senior Management Service Optional Annuity Program as established in subsection (6).

(6)

(d) Contributions.—

1. Each employer shall contribute on behalf of each participant in the Senior Management Service Optional Annuity Program an amount equal to the normal cost portion of the employer retirement contribution which would be required if the participant were a Senior Management Service Class member of the Florida Retirement System, plus the portion of the contribution rate required in s. 112.363(8) that would otherwise be assigned to the Retiree Health Insurance Subsidy Trust Fund, less an amount approved by the Legislature which shall be deducted by the *department* ~~division~~ to provide for the administration of this program. The payment of the contributions to the optional program which is required by this subparagraph for each participant shall be made by the employer to the *department* ~~division~~ which shall forward the contributions to the designated company or companies contracting for payment of benefits for the participant under the program.

2. Each employer shall contribute on behalf of each participant in the Senior Management Service Optional Annuity Program an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required for members of the Senior Management Service Class in the Florida Retirement System. This contribution shall be paid to the *department* ~~division~~ for transfer to the Florida Retirement System Trust Fund.

3. An Optional Annuity Program Trust Fund shall be established in the State Treasury and administered by the *department* ~~division~~ to make payments to provider companies on behalf of the optional annuity program participants, and to transfer the unfunded liability portion of the state optional annuity program contributions to the Florida Retirement System Trust Fund.

4. Contributions required for social security by each employer and each participant, in the amount required for social security coverage as now or hereafter may be provided by the federal Social Security Act shall be maintained for each participant in the Senior Management Service retirement program and shall be in addition to the retirement contributions specified in this paragraph.

5. Each participant in the Senior Management Service Optional Annuity Program may contribute by way of salary reduction or deduction a percentage amount of the participant's gross compensation not to exceed the percentage amount contributed by the employer to the optional annuity program. Payment of the participant's contributions shall be made by the employer to the *department* ~~division~~ which shall forward the contributions to the designated company or companies contracting for payment of benefits for the participant under the program.

(f) Administration.—

1. The Senior Management Service Optional Annuity Program authorized by this section shall be administered by the *department* ~~Division of Retirement~~. The *department* ~~division~~ shall designate one or more provider companies from which annuity contracts may be purchased under the program and shall approve the form and content of the contracts. The *department* ~~division~~ shall sign a contract with each of the provider companies and shall evaluate the performance of the provider companies on a continuing basis. The *department* ~~division~~ may terminate the services of a provider company for reasons stated in the contract. The *department* ~~division~~ shall adopt rules establishing its responsibilities and the responsibilities of employers in administering the optional annuity program.

2. Effective July 1, 1997, the State Board of Administration shall review and make recommendations to the *department* ~~division~~ on the acceptability of all investment products proposed by provider companies of the optional annuity program before such products are offered through annuity contracts to the participants and may advise the *department* ~~division~~ of any changes deemed necessary to ensure that the optional annuity program offers an acceptable mix of investment products. The *department* ~~division~~ shall make the final determination as to whether an investment product will be approved for the program.

3. The provisions of each contract applicable to a participant in the Senior Management Service Optional Annuity Program shall be contained in a written program description which shall include a report of

pertinent financial and actuarial information on the solvency and actuarial soundness of the program and the benefits applicable to the participant. Such description shall be furnished by the company or companies to each participant in the program and to the *department* ~~division~~ upon commencement of participation in the program and annually thereafter.

4. The *department* ~~division~~ shall ensure that each participant in the Senior Management Service Optional Annuity Program is provided an accounting of the total contribution and the annual contribution made by and on behalf of such participants.

Section 35. Subsection (5) of section 121.071, Florida Statutes, 1998 Supplement, is amended to read:

121.071 Contributions.—Contributions to the system shall be made as follows:

(5) Contributions made in accordance with subsections (1), (2), (3), and (4) shall be paid by the employer into the system trust funds in accordance with rules adopted by the administrator pursuant to chapter 120. Such contributions are due and payable no later than the 25th day of the month immediately following the month during which the payroll period ended. The *department* ~~division~~ may, by rule, establish a different due date, which shall supersede the date specified herein; however, such due date may not be established earlier than the 20th day of the month immediately following the month during which the payroll period ended. Effective January 1, 1984, contributions made in accordance with subsection (3) shall be paid by the employer into the system trust fund in accordance with rules adopted by the administrator pursuant to chapter 120. For any payroll period ending any day of the month before the 16th day of the month, such contributions are due and payable no later than the 20th day of the month; and, for any payroll periods ending any day of the month after the 15th day of the month, such contributions are due and payable no later than the 5th day of the next month. Contributions received in the offices of the *department* ~~Division of Retirement~~ after the prescribed date shall be considered delinquent unless, in the opinion of the *department* ~~division~~, exceptional circumstances beyond an employer's control prevented remittance by the prescribed due date notwithstanding such employer's good faith efforts to effect delivery; and, with respect to retirement contributions due under subsections (1) and (4), each employer shall be assessed a delinquent fee of 1 percent of the contributions due for each calendar month or part thereof that the contributions are delinquent. Such a waiver of the delinquency fee by the *department* ~~division~~ may be granted an employer only one time each fiscal year. Delinquent social security contributions shall be assessed a delinquent fee as authorized by s. 650.05(4). The delinquent fee assessable for an employer's first delinquency after July 1, 1984, shall be as specified in s. 650.05(4), and, beginning with the second delinquency in any fiscal year by the employer subsequent to July 1, 1984, all subsequent delinquency fees shall be assessed against the employer at twice the applicable percentage rate specified in s. 650.05(4).

Section 36. Paragraph (h) of subsection (1) and paragraph (e) of subsection (2) of section 121.081, Florida Statutes, 1998 Supplement, are amended to read:

121.081 Past service; prior service; contributions.—Conditions under which past service or prior service may be claimed and credited are:

(1)

(h) The following provisions apply to the purchase of past service:

1. Notwithstanding any of the provisions of this subsection, past-service credit may not be purchased under this chapter for any service that is used to obtain a benefit from any local retirement system.

2. A member may not receive past service credit under paragraphs (a), (b), (e), or (f) for any leaves of absence without pay, except that credit for active military service leaves of absence may be claimed under paragraphs (a), (b), and (f), in accordance with s. 121.111(1).

3. If a member does not desire to receive credit for all of his or her past service, the period the member claims must be the most recent past service prior to his or her participation in the Florida Retirement System.

4. The cost of past service purchased by an employing agency for its employees may be amortized over such period of time as is provided in the agreement, but not to exceed 15 years, calculated in accordance with rule 60S-1.007(5)(f), Florida Administrative Code.

5. The retirement account of each member for whom past service is being provided by his or her employer shall be credited with all past service the employer agrees to purchase as soon as the agreement between the employer and the *department* ~~division~~ is executed. Pursuant thereto:

a. Each such member's account shall also be posted with the total contribution his or her employer agrees to make in the member's behalf for past service earned prior to October 1, 1975, excluding those contributions representing the employer's matching share and the compound interest calculation on the total contribution. However, a portion of any contributions paid by an employer for past service credit earned on and after October 1, 1975, may not be posted to a member's account.

b. A refund of contributions payable after an employer has made a written agreement to purchase past service for employees of the covered group shall include contributions for past service which are posted to a member's account. However, contributions for past service earned on and after October 1, 1975, are not refundable.

(2) Prior service, as defined in s. 121.021(19), may be claimed as creditable service under the Florida Retirement System after a member has been reemployed for 12 continuous months, except as provided in paragraph (c). Service performed as a participant of the optional retirement program for the State University System under s. 121.35 or the Senior Management Service Optional Annuity Program under s. 121.055 may be used to satisfy the 12-continuous-month requirement. The member shall not be permitted to make any contributions for prior service until after the 12-month period. The required contributions for claiming the various types of prior service are:

(e) For service performed under the Florida Retirement System after December 1, 1970, that was never reported to the division *or the department* due to error, retirement credit may be claimed by a member of the Florida Retirement System. The *department* ~~division~~ shall adopt rules establishing criteria for claiming such credit and detailing the documentation required to substantiate the error.

Section 37. Paragraph (b) of subsection (14) of section 121.091, Florida Statutes, 1998 Supplement, is amended to read:

121.091 Benefits payable under the system.—Benefits may not be paid under this section unless the member has terminated employment as provided in s. 121.021(39)(a) or begun participation in the Deferred Retirement Option Program as provided in subsection (13), and a proper application has been filed in the manner prescribed by the *department* ~~division~~. The *department* ~~division~~ may cancel an application for retirement benefits when the member or beneficiary fails to timely provide the information and documents required by this chapter and the *department's* ~~division's~~ rules. The *department* ~~division~~ shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application when the required information or documents are not received.

(14) PAYMENT OF BENEFITS.—This subsection applies to the payment of benefits to a payee (retiree or beneficiary) under the Florida Retirement System:

(b) Subject to approval by the division in accordance with rule 60S-4.015, Florida Administrative Code, a payee receiving retirement benefits under the Florida Retirement System may also have the following payments deducted from his or her monthly benefit:

1. Premiums for life and health-related insurance policies from approved companies.

2. Life insurance premiums for the State Group Life Insurance Plan, if authorized in writing by the payee and by the *Department of Management Services* ~~Division of State Group Insurance~~.

3. Repayment of overpayments from the Florida Retirement System Trust Fund, the State Employees' Health Insurance Trust Fund, or the State Employees' Life Insurance Trust Fund, upon notification of the payee.

4. Payments to an alternate payee for alimony, child support, or division of marital assets pursuant to a qualified domestic relations order under s. 222.21 or an income deduction order under s. 61.1301.

5. Payments to the Internal Revenue Service for federal income tax levies, upon notification of the division by the Internal Revenue Service.

Section 38. Paragraph (b) of subsection (7) of section 121.101, Florida Statutes, is amended to read:

121.101 Cost-of-living adjustment of benefits.—

(7) The purpose of this subsection is to establish a supplemental cost-of-living adjustment for certain retirees and beneficiaries who receive monthly retirement benefits under the provisions of this chapter and the existing systems consolidated therein, s. 112.05 for certain state officers and employees, and s. 238.171 for certain elderly incapacitated teachers.

(b) Application for the supplemental cost-of-living adjustment provided by this subsection shall include certification by the retiree or annuitant that he or she is not receiving, and is not eligible to receive, social security benefits and shall include written authorization for the *department* ~~division~~ to have access to information from the Social Security Administration concerning his or her entitlement to, or eligibility for, social security benefits. Such supplemental cost-of-living adjustment shall not be paid unless and until the application requirements of this paragraph are met.

Section 39. Paragraph (e) of subsection (2) of section 121.111, Florida Statutes, 1998 Supplement, is amended to read:

121.111 Credit for military service.—

(2) Any member whose initial date of employment is before January 1, 1987, who has military service as defined in s. 121.021(20)(b), and who does not claim such service under subsection (1) may receive creditable service for such military service if:

(e) Any member claiming credit under this subsection must certify on the form prescribed by the *department* ~~division~~ that credit for such service has not and will not be claimed for retirement purposes under any other federal, state, or local retirement or pension system where "length of service" is a factor in determining the amount of compensation received, except where credit for such service has been granted in a pension system providing retired pay for nonregular service as provided in paragraph (d). If the member dies prior to retirement, the member's beneficiary must make the required certification before credit may be claimed. If such certification is not made by the member or the member's beneficiary, credit for wartime military service shall not be allowed.

Section 40. Section 121.133, Florida Statutes, 1998 Supplement, is amended to read:

121.133 Cancellation of uncashed warrants.—Notwithstanding the provisions of s. 17.26 or s. 717.123 to the contrary, effective July 1, 1998, if any state warrant issued by the Comptroller for the payment of retirement benefits from the Florida Retirement System Trust Fund, or any other pension trust fund administered by the *department* ~~division~~, is not presented for payment within 1 year after the last day of the month in which it was originally issued, the Comptroller shall cancel the benefit warrant and credit the amount of the warrant to the Florida Retirement System Trust Fund or other pension trust fund administered by the *department* ~~division~~, as appropriate. The *department* ~~Division of Retirement~~ may provide for issuance of a replacement warrant when deemed appropriate.

Section 41. Section 121.135, Florida Statutes, is amended to read:

121.135 Annual report to Legislature concerning state-administered retirement systems.—The *department* ~~Division of Retirement~~ shall make to each regular session of the Legislature a written report on the operation and condition of the state-administered retirement systems.

Section 42. Section 121.136, Florida Statutes, is amended to read:

121.136 Annual benefit statement to members.—Beginning January 1, 1993, and each January thereafter, the *department* ~~Division of Retirement~~ shall provide each active member of the Florida Retirement System with 5 or more years of creditable service an annual statement of benefits. Such statement should provide the member with basic data about the member's retirement account. Minimally, it shall include the member's retirement plan, the amount of funds on deposit in the retirement account, and an estimate of retirement benefits.

Section 43. Section 121.1815, Florida Statutes, is amended to read:

121.1815 Special pensions to individuals; administration of laws by *Department of Management Services* ~~Division of Retirement~~.—All powers, duties, and functions related to the administration of laws providing special pensions to individuals, including chapter 18054, Laws of Florida, 1937; chapter 26788, Laws of Florida, 1951, as amended by chapter 57-871, Laws of Florida; chapter 26836, Laws of Florida, 1951; and chapter 63-953, Laws of Florida, are vested in the *department* ~~Division of Retirement~~. All laws hereinafter enacted by the Legislature pertaining to special pensions for individuals shall be administered by *the department* ~~said division~~, unless contrary provisions are contained in such law. Upon the death of any person receiving a monthly pension under this section, the monthly pension shall be paid through the last day of the month of death and shall terminate on that date, unless contrary provisions are contained in the special pension law.

Section 44. Section 121.1905, Florida Statutes, is amended to read:

121.1905 Division of Retirement; creation.—

(1) There is created the Division of Retirement within the Department of Management Services~~, to be headed by a director who shall be appointed by the Governor and confirmed by the Senate~~. ~~The division shall be a separate budget entity, and the director shall be its agency head for all purposes. The Department of Management Services shall provide administrative support and service to the division to the extent requested by the director. The division shall not be subject to control, supervision, or direction by the Department of Management Services in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters, except to the extent as provided in chapters 110, 216, 255, 282, and 287 for agencies of the executive branch.~~

(2) The mission of the Division of Retirement is to provide quality and cost-effective retirement services as measured by member satisfaction and by comparison with administrative costs of comparable retirement systems.

Section 45. Section 121.192, Florida Statutes, is amended to read:

121.192 State retirement actuary.—The *department* ~~Division of Retirement~~ may employ an actuary. Such actuary shall, together with such other duties as the *secretary* ~~director of retirement~~ may assign, be responsible for:

(1) Advising the *secretary* ~~director of retirement~~ on actuarial matters of the state retirement systems.

(2) Making periodic valuations of the retirement systems.

(3) Providing actuarial analyses to the Legislature concerning proposed changes in the retirement systems.

(4) Assisting the *secretary* ~~director of retirement~~ in developing a sound and modern retirement system.

Section 46. Section 121.193, Florida Statutes, 1998 Supplement, is amended to read:

121.193 External compliance audits.—

(1) The *department* ~~division~~ shall conduct audits of the payroll and personnel records of participating agencies. These audits shall be made to determine the accuracy of reports submitted to the *department* ~~division~~ and to assess the degree of compliance with applicable statutes, rules, and coverage agreements. Audits shall be scheduled on a regular basis, as the result of concerns known to exist at an agency, or as a followup to ensure agency action was taken to correct deficiencies found in an earlier audit.

(2) Upon request, participating agencies shall furnish the *department* ~~division~~ with information and documents that the *department* ~~division~~ requires to conduct the audit. The *department* ~~division~~ may prescribe by rule the documents that may be requested.

(3) The *department* ~~division~~ shall review the agency's operations concerning retirement and social security coverage. Preliminary findings shall be discussed with agency personnel at the close of the audit. An

audit report of findings and recommendations shall be submitted to *department* ~~division~~ management and an audit summary letter shall be submitted to the agency noting any concerns and necessary corrective action.

Section 47. Subsection (1) of section 121.22, Florida Statutes, is amended to read:

121.22 State Retirement Commission; creation; membership; compensation.—

(1) There is created within the *Department of Management Services* ~~Division of Retirement~~ a State Retirement Commission composed of seven members: One member who is retired under a state-supported retirement system administered by the *department* ~~Division of Retirement~~; two members from different occupational backgrounds who are active members in a state-supported retirement system *that* ~~which~~ is administered by the *department* ~~Division of Retirement~~; and four members who are not retirees, beneficiaries, or members of a state-supported retirement system *that* ~~which~~ is administered by the *department* ~~Division of Retirement~~.

Section 48. Subsection (1) of section 121.23, Florida Statutes, is amended to read:

121.23 Disability retirement and special risk membership applications; Retirement Commission; powers and duties; judicial review.—The provisions of this section apply to all proceedings in which the administrator has made a written final decision on the merits respecting applications for disability retirement, reexamination of retired members receiving disability benefits, applications for special risk membership, and reexamination of special risk members in the Florida Retirement System. The jurisdiction of the State Retirement Commission under this section shall be limited to written final decisions of the administrator on the merits.

(1) In accordance with the rules of procedure adopted by the *Department of Management Services* ~~Division of Retirement~~, the administrator shall:

(a) Give reasonable notice of his or her proposed action, or decision to refuse action, together with a summary of the factual, legal, and policy grounds therefor.

(b) Give affected members, or their counsel, an opportunity to present to the division written evidence in opposition to the proposed action or refusal to act or a written statement challenging the grounds upon which the administrator has chosen to justify his or her action or inaction.

(c) If the objections of the member are overruled, provide a written explanation within 21 days.

Section 49. Subsections (2), (3), and (4) of section 121.24, Florida Statutes, are amended to read:

121.24 Conduct of commission business; legal and other assistance; compensation.—

(2) Legal counsel for the commission may be provided by the Department of Legal Affairs or by the *Department of Management Services* ~~Division of Retirement~~, with the concurrence of the commission, and shall be paid by the *Department of Management Services* ~~Division of Retirement~~ from the appropriate funds.

(3) The *Department of Management Services* ~~Division of Retirement~~ shall provide timely and appropriate training for newly appointed members of the commission. Such training shall be designed to acquaint new members of the commission with the duties and responsibilities of the commission.

(4) The *Department of Management Services* ~~Division of Retirement~~ shall furnish administrative and secretarial assistance to the commission and shall provide a place where the commission may hold its meetings.

Section 50. Subsection (9) of section 121.30, Florida Statutes, 1998 Supplement, is amended to read:

121.30 Statements of purpose and intent and other provisions required for qualification under the Internal Revenue Code of the United States.—Any other provisions in this chapter to the contrary notwithstanding, it is specifically provided that:

(9) The *department* ~~division~~ may adopt any rule necessary to accomplish the purpose of the section which is not inconsistent with this chapter.

Section 51. Subsection (1), paragraphs (a) and (c) of subsection (2), paragraphs (c) and (e) of subsection (3), paragraphs (a), (b), and (c) of subsection (4), and subsection (6) of section 121.35, Florida Statutes, 1998 Supplement, are amended to read:

121.35 Optional retirement program for the State University System.—

(1) OPTIONAL RETIREMENT PROGRAM ESTABLISHED.—The *Department of Management Services* ~~Division of Retirement~~ shall establish an optional retirement program under which contracts providing retirement and death benefits may be purchased for eligible members of the State University System who elect to participate in the program. The benefits to be provided for or on behalf of participants in such optional retirement program shall be provided through individual contracts or individual certificates issued for group annuity contracts, which may be fixed, variable, or a combination thereof, in accordance with s. 403(b) of the Internal Revenue Code. Any individual contract or certificate shall state the annuity plan on its face page, and shall include, but not be limited to, a statement of ownership, the contract benefits, annuity income options, limitations, expense charges, and surrender charges, if any. The state shall contribute, as provided in this section, toward the purchase of such optional benefits.

(2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.—

(a) Participation in the optional retirement program provided by this section shall be limited to persons who are otherwise eligible for membership in the Florida Retirement System; who are employed or appointed for no less than one academic year; and who are employed in one of the following State University System positions:

1. Positions classified as instructional and research faculty which are exempt from the career service under the provisions of s. 110.205(2)(d).

2. Positions classified as administrative and professional which are exempt from the career service under the provisions of s. 110.205(2)(d), provided that only those positions that are included in the State University System Executive Service, or those which the *department* ~~division~~ determines meet the following criteria, shall be eligible to participate: The duties and responsibilities of the position shall include either the formulation, interpretation, or implementation of academic policies, or the performance of functions which are unique or specialized within higher education and which frequently involve the support of the academic mission of the university; and recruiting to fill vacancies in the position shall be conducted within the national or regional market. The employer shall submit an application, including a certification that the position meets the criteria for eligibility, to the *department* ~~division~~ for each administrative and professional position not in the Executive Service for which it seeks eligibility for the optional retirement program.

3. The Chancellor and the university presidents.

(c) For purposes of this section, the *Department of Management Services* ~~Division of Retirement~~ is referred to as the "*department.*" ~~"division."~~

(3) ELECTION OF OPTIONAL PROGRAM.—

(c) Any employee who becomes eligible to participate in the optional retirement program on or after January 1, 1993, shall be a compulsory participant of the program unless such employee elects membership in the Florida Retirement System. Such election shall be made in writing and filed with the personnel officer of the employer. Any eligible employee who fails to make such election within the prescribed time period shall be deemed to have elected to participate in the optional retirement program.

1. Any employee whose optional retirement program eligibility results from initial employment shall be enrolled in the program at the commencement of employment. If, within 90 days after commencement of employment, the employee elects membership in the Florida Retirement System, such membership shall be effective retroactive to the date of commencement of employment.

2. Any employee whose optional retirement program eligibility results from a change in status due to the subsequent designation of the employee's position as one of those specified in paragraph (2)(a) or due to the employee's appointment, promotion, transfer, or reclassification to a position specified in paragraph (2)(a) shall be enrolled in the optional retirement program upon such change in status and shall be notified by the employer of such action. If, within 90 days after the date of such notification, the employee elects to retain membership in the Florida Retirement System, such continuation of membership shall be retroactive to the date of the change in status.

3. Notwithstanding the provisions of this paragraph, effective July 1, 1997, any employee who is eligible to participate in the Optional Retirement Program and who fails to execute an annuity contract with one of the approved companies and to notify the *department* ~~division~~ in writing as provided in subsection (4) within 90 days of the date of eligibility shall be deemed to have elected membership in the Florida Retirement System, except as provided in s. 121.051(1)(a). This provision shall also apply to any employee who terminates employment in an eligible position before executing the required annuity contract and notifying the *department* ~~division~~. Such membership shall be retroactive to the date of eligibility, and all appropriate contributions shall be transferred to the Florida Retirement System Trust Fund and the Health Insurance Subsidy Trust Fund.

(e) The election by an eligible employee to participate in the optional retirement program shall be irrevocable for so long as the employee continues to meet the eligibility requirements specified in subsection (2), except as provided in paragraph (h). In the event that an employee participates in the optional retirement program for 90 days or more and is subsequently employed in an administrative or professional position which has been determined by the *department* ~~division~~, under subparagraph (2)(a)2., to be not otherwise eligible for participation in the optional retirement program, the employee shall continue participation in the optional program so long as the employee meets the other eligibility requirements for the program, except as provided in paragraph (h).

(4) CONTRIBUTIONS.—

(a) Each employer shall contribute on behalf of each participant in the optional retirement program an amount equal to the normal cost portion of the employer retirement contribution which would be required if the participant were a regular member of the Florida Retirement System, plus the portion of the contribution rate required in s. 112.363(8) that would otherwise be assigned to the Retiree Health Insurance Subsidy Trust Fund, less an amount approved by the Legislature which shall be deducted by the *department* ~~division~~ to provide for the administration of this program. The payment of the contributions to the optional program which is required by this paragraph for each participant shall be made by the employer to the *department* ~~division~~, which shall forward the contributions to the designated company or companies contracting for payment of benefits for the participant under the program. However, such contributions paid on behalf of an employee described in paragraph (3)(c) shall not be forwarded to a company and shall not begin to accrue interest until the employee has executed an annuity contract and notified the *department* ~~division~~.

(b) Each employer shall contribute on behalf of each participant in the optional retirement program an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required for members of the Florida Retirement System. This contribution shall be paid to the *department* ~~division~~ for transfer to the Florida Retirement System Trust Fund.

(c) An Optional Retirement Program Trust Fund shall be established in the State Treasury and administered by the *department* ~~Division of Retirement~~ to make payments to the provider companies on behalf of the optional retirement program participants, and to transfer the unfunded liability portion of the state optional retirement program contributions to the Florida Retirement System Trust Fund.

(6) ADMINISTRATION OF PROGRAM.—

(a) The optional retirement program authorized by this section shall be administered by the *department* ~~division~~. The *department* ~~division~~ shall adopt rules establishing the responsibilities of the Board of Regents and institutions in the State University System in administering the optional retirement program. The Board of Regents shall, no more than 90 days after July 1, 1983, submit to the *department* ~~division~~ its recommendations for the annuity contracts to be offered by the companies chosen by the *department* ~~division~~. The recommendations of the board shall include the following:

1. The nature and extent of the rights and benefits in relation to the required contributions; and

2. The suitability of the rights and benefits to the needs of the participants and the interests of the institutions in the recruitment and retention of eligible employees.

(b) After receiving and considering the recommendations of the Board of Regents, the *department* ~~division~~ shall designate no more than four companies from which annuity contracts may be purchased under the program and shall approve the form and content of the optional retirement program contracts. Upon application by a qualified Florida domestic company, the *department* ~~division~~ shall give reasonable notice to all other such companies that it intends to designate one of such companies as a fifth company from which annuity contracts may be purchased pursuant to this section and that they may apply for such designation prior to the deadline established by said notice. At least 60 days after giving such notice and upon receipt of the recommendation of the Board of Regents, the *department* ~~division~~ shall so designate one of such companies as the fifth company from which such contracts may be purchased.

(c) Effective July 1, 1997, the State Board of Administration shall review and make recommendations to the *department* ~~division~~ on the acceptability of all investment products proposed by provider companies of the optional retirement program before they are offered through annuity contracts to the participants and may advise the *department* ~~division~~ of any changes necessary to ensure that the optional retirement program offers an acceptable mix of investment products. The *department* ~~division~~ shall make the final determination as to whether an investment product will be approved for the program.

(d) The provisions of each contract applicable to a participant in the optional retirement program shall be contained in a written program description which shall include a report of pertinent financial and actuarial information on the solvency and actuarial soundness of the program and the benefits applicable to the participant. Such description shall be furnished by the companies to each participant in the program and to the *department* ~~division~~ upon commencement of participation in the program and annually thereafter.

(e) The *department* ~~division~~ shall ensure that each participant in the optional retirement program is provided an accounting of the total contribution and the annual contribution made by and on behalf of such participant.

Section 52. Paragraph (b) of subsection (3), paragraph (b) of subsection (11), and paragraphs (a) and (b) of subsection (14) of section 121.40, Florida Statutes, 1998 Supplement, are amended to read:

121.40 Cooperative extension personnel at the Institute of Food and Agricultural Sciences; supplemental retirement benefits.—

(3) DEFINITIONS.—The definitions provided in s. 121.021 shall not apply to this section except when specifically cited. For the purposes of this section, the following words or phrases have the respective meanings set forth:

(b) *"Department"* ~~"Division"~~ means the *Department of Management Services* ~~Division of Retirement~~.

(11) EMPLOYMENT AFTER RETIREMENT: LIMITATION.—

(b) Each person to whom the limitation in paragraph (a) applies who violates such reemployment limitation and who is reemployed with any agency participating in the Florida Retirement System prior to completion of the 12-month limitation period shall give timely notice of this fact

in writing to the employer and to the *department* ~~division~~ and shall have his or her supplemental retirement benefits suspended for the balance of the 12-month limitation period. Any person employed in violation of this subsection and any employing agency which knowingly employs or appoints such person without notifying the *department* ~~Division of Retirement~~ to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any supplemental retirement benefits received while reemployed during this reemployment limitation period shall be repaid to the trust fund, and supplemental retirement benefits shall remain suspended until such repayment has been made. Supplemental benefits suspended beyond the reemployment limitation shall apply toward repayment of supplemental benefits received in violation of the reemployment limitation.

(14) ADMINISTRATION OF SYSTEM.—

(a) The *department* ~~division~~ shall make such rules as are necessary for the effective and efficient administration of this system. The *secretary* ~~director~~ of the *department* ~~division~~ shall be the administrator of the system. The funds to pay the expenses for such administration shall be appropriated from the interest earned on investments made for the trust fund.

(b) The *department* ~~division~~ is authorized to require oaths, by affidavit or otherwise, and acknowledgments from persons in connection with the administration of its duties and responsibilities under this section.

Section 53. Subsection (3) of section 121.45, Florida Statutes, is amended to read:

121.45 Interstate compacts relating to pension portability.—

(3) ESTABLISHMENT OF COMPACTS.—

(a) The *Department of Management Services* ~~Division of Retirement~~ is authorized and directed to survey other state retirement systems to determine if such retirement systems are interested in developing an interstate compact with Florida.

(b) If any such state is interested in pursuing the matter, the *department* ~~division~~ shall confer with the other state and the consulting actuaries of both states, and shall present its findings to the committees having jurisdiction over retirement matters in the Legislature, and to representatives of affected certified bargaining units, in order to determine the feasibility of developing a portability compact, what groups should be covered, and the goals and priorities which should guide such development.

(c) Upon a determination that such a compact is feasible and upon request of the Legislature, the *department* ~~division~~, together with its consulting actuaries, shall, in accordance with said goals and priorities, develop a proposal under which retirement credit may be transferred to or from Florida in an actuarially sound manner.

(d) Once a proposal has been developed, the *department* ~~division~~ shall contract with its consulting actuaries to conduct an actuarial study of the proposal to determine the cost to the Florida Retirement System Trust Fund and the State of Florida.

(e) After the actuarial study has been completed, the *department* ~~division~~ shall present its findings and the actuarial study to the Legislature for consideration. If either house of the Legislature elects to enter into such a compact, it shall be introduced in the form of a proposed committee bill to the full Legislature during the same or next regular session.

Section 54. Subsections (1) and (6) of section 122.02, Florida Statutes, are amended to read:

122.02 Definitions.—The following words and phrases as used in this chapter shall have the following meaning unless a different meaning is plainly required by the context:

(1) "State and county officers and employees" shall include all full-time officers or employees who receive compensation for services rendered from state or county funds, or from funds of drainage districts or mosquito control districts of a county or counties, or from funds of the State Board of Administration or from funds of closed bank receivership accounts or from funds of any state institution or who receive compensation for employment or service from any agency, branch, department, institution or board of the state, or any county of the state, for service rendered the state or county from funds from any source provided for their employment or service regardless of whether the same is paid by state or county warrant or not; provided that such compensation in whatever form paid shall be specified in terms of fixed monthly salaries by the employing state or county agency or state or county official and shall not include amounts allowed for professional employees for special or particular service or for subsistence or travel expenses; provided further the *department* ~~division~~ shall prescribe appropriate procedure for contribution deduction out of such compensation in accordance with the provisions of this chapter, provided further that such officers and employees defined herein shall not include those officers and employees excepted from the provisions by s. 122.18 of this law.

(6) "*Department*" ~~"Division"~~ means the *Department of Management Services* ~~Division of Retirement~~.

Section 55. Paragraph (d) of subsection (6) and subsection (9) of section 122.03, Florida Statutes, are amended to read:

122.03 Contributions; participants; prior service credit.—

(6) Any officer or employee who held office or was employed by the state or a county of the state continuously from May 1, 1959, and who has not previously received credit for, or is not eligible to claim credit for, prior years of service under subsection (2); or any officer or employee who holds office or is employed by the state or a county of the state on June 1, 1961, and is continuously employed; or any officer or employee who holds office or is employed by the state or county of the state after June 1, 1961, and who is continuously employed for 3 years, during which period of time no back payments may be made:

(d) Prior service allowance may be made only for those periods in which state or county records of service and salary are available, or at least three affidavits and such other information as might be required by the *department* ~~division~~ to meet the provisions of this law.

(9) The surviving spouse or other dependent of any member whose employment is terminated by death shall, upon application to the *department* ~~director of the Division of Retirement~~, be permitted to pay the required contributions for any service performed by the member which could have been claimed by the member at the time of death. Such service shall be added to the creditable service of the member and shall be used in the calculation of any benefits which may be payable to the surviving spouse or other surviving dependent.

Section 56. Subsection (2) of section 122.05, Florida Statutes, is amended to read:

122.05 Legislator services included.—

(2) The *department* ~~division~~ and state officials administering said retirement system shall make the contribution deductions required by law from the compensation hereafter received by any of the said participating members of the Legislature for service rendered the State Legislature in the same manner as in the case of other state employment.

Section 57. Subsection (2) of section 122.06, Florida Statutes, is amended to read:

122.06 Legislative employee services included.—

(2) The *department* ~~division~~ and other state officials administering said retirement system shall make the contribution deductions required by law from the compensation hereafter received by any of the said participating attaches for service rendered the State Legislature in the same manner as in the case of other state employment.

Section 58. Subsection (2) of section 122.07, Florida Statutes, is amended to read:

122.07 Seasonal state employment included; time limit and procedure for claiming.—

(2) Any state employee as described in subsection (1) in the classification set forth in s. 122.01 may elect to receive credit as a state em-

ployee under the State and County Officers and Employees' Retirement System by providing to the *department* ~~division~~ a statement from the state in which he or she was employed, listing days employed and monthly earnings and such other information as may, in the opinion of the *department* ~~division~~, be necessary or appropriate in the carrying out of this section. Credit shall be granted upon payment to the *department* ~~division~~ by such employee of an amount equal to the total retirement contribution that would have been required had the member worked in this state during the period based on the salary drawn by such employee during his or her last full month of employment by the state or any department thereof for each month during said fiscal year for which such employee was not employed by the state or any department thereof, but was employed by some other state, plus interest compounded annually each June 30 from the date of the service in another state to the date of payment at the rate of 4 percent until July 1, 1975, and 6.5 percent thereafter. The member shall have until his or her date of retirement to claim and purchase credit for such employment in another state.

Section 59. Paragraph (a) of subsection (1), paragraph (b) of subsection (4), and subsections (5) and (9) of section 122.08, Florida Statutes, are amended to read:

122.08 Requirements for retirement; classifications.—There shall be two retirement classifications for all state and county officers and employees participating herein as hereafter provided in this section:

(1)(a) Any state or county officer or employee who has attained normal retirement age, which shall be age 60 for a person who had become a member prior to July 1, 1963, and age 62 for a person who had or shall become a member on or after July 1, 1963, and has accumulated at least 10 years' service in the aggregate within the contemplation of this law, and who has made or makes contributions to the State and County Officers and Employees' Retirement Trust Fund for 5 or more years as prescribed in this law, may voluntarily retire from office or employment and be entitled to receive retirement compensation, the amount of which shall be 2 percent for each year of service rendered, based upon the average final compensation, payable in equal monthly installments, upon his or her own requisition. Requisition requirements shall be set by the *department* ~~division~~.

(4)

(b) A member who elects an option in paragraph (a) shall on a form provided for that purpose designate his or her spouse as beneficiary to receive the benefits which continue to be payable upon the death of the member. After such benefits have commenced under an option in paragraph (a), the retired member may change the designation of his or her spouse as beneficiary only twice. If such a retired member remarries and wishes to make such a change, he or she may do so by filing with the *department* ~~division~~ a notarized change of spouse designation form and shall notify the former spouse in writing of such change. Upon receipt of a completed change of spouse designation form, the *department* ~~division~~ shall adjust the member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit. The consent of a retired member's formerly designated spouse as beneficiary to any such change shall not be required.

(5) Tables for computing the actuarial equivalent shall be approved by the *department* ~~division~~.

(9) Notwithstanding any other provision in this chapter to the contrary, the following provisions shall apply to any officer or employee who has accumulated at least 10 years of service and dies:

(a) If the deceased member's surviving spouse has previously received a refund of the member's contributions made to the retirement trust fund, such spouse may pay to the *department* ~~division~~ an amount equal to the sum of the amount of the deceased member's contributions previously refunded and interest at 3 percent compounded annually on the amount of such refunded contributions from the date of refund until July 1, 1975, and thereafter at the rate of 6.5 percent interest compounded annually to the date of payment to the *department* ~~division~~, and by so doing be entitled to receive the monthly retirement benefit provided in paragraph (c).

(b) If the deceased member's surviving spouse has not received a refund of the deceased member's contributions, such spouse shall, upon application to the *department* ~~division~~, receive the monthly retirement benefit provided in paragraph (c).

(c) The monthly benefit payable to the spouse described in paragraph (a) or paragraph (b) shall be the amount which would have been payable to the deceased member's spouse, assuming that the member retired on the date of death and had selected the option in subsection (4) which would afford the surviving spouse the greatest amount of benefits, such benefit to be based on the ages of the spouse and member as of the date of death of the member. Such benefit shall commence on the first day of the month following the payment of the aforesaid amount to the *department* ~~division~~, if paragraph (a) is applicable, or on the first day of the month following the receipt of the spouse's application by the *department* ~~division~~, if paragraph (b) is applicable.

Section 60. Subsection (4) of section 122.10, Florida Statutes, is amended to read:

122.10 Separation from service; refund of contributions.—

(4) Should any officer or employee elect to receive a refund as provided in this section, his or her application for refund shall be submitted in the manner prescribed by the regulations adopted by the *department* ~~division~~ and shall accompany the payroll certification, submitted to the *department* ~~division~~, on which he or she was last paid prior to termination. The *department* ~~division~~ shall pay the entire refund due within 45 days after the first day of the month subsequent to receipt of such application for refund and said payroll certification.

Section 61. Subsection (1) of section 122.12, Florida Statutes, is amended to read:

122.12 Designation of beneficiary; death of participant; forfeiture of contributions after benefits paid; survivor benefits.—

(1) Any officer or employee may file, in writing, a designation of beneficiary and it shall be the duty of the *department* ~~division~~ to refund 100 percent, without interest, of the contributions made to the retirement trust fund by such deceased officer or employee to such designated beneficiary. The officer or employee shall have the privilege of changing, in writing, the designated beneficiary at any time. Upon failure to designate a beneficiary, the refund shall be made to the persons in the same order as designated in s. 222.15, for wages due deceased employees. If the deceased officer or employee has received any benefits under this law, no refund shall be made unless such officer or employee has elected to accept benefits under s. 122.08(3) or (4).

Section 62. Section 122.13, Florida Statutes, is amended to read:

122.13 Administration of law; appropriation.—The *department* ~~Division of Retirement~~ shall make such rules ~~and regulations~~ as are necessary for the effective administration of this chapter, and the cost is hereby annually appropriated and shall be paid into the State and County Officers and Employees' Retirement Trust Fund out of the Intangible Tax Fund in the State Treasury in the amount necessary to administer efficiently the state and county retirement law. At the end of each fiscal year, beginning with fiscal year 1959-1960, the administrative cost of the state and county retirement system for the fiscal year just ended shall be refunded to the General Revenue Fund from interest earned on investments made subsequent to June 30, 1959.

Section 63. Subsection (2) of section 122.15, Florida Statutes, is amended to read:

122.15 Benefits exempt from taxes and execution.—

(2) This subsection shall have no effect upon this section except that the *department* ~~division~~ may, upon written request from the retired member, deduct premiums for group hospitalization insurance from the retirement benefit paid such retired member.

Section 64. Paragraph (b) of subsection (2) of section 122.16, Florida Statutes, is amended to read:

122.16 Employment after retirement.—

(2)

(b) Any person to whom the limitation in paragraph (a) applies who violates such reemployment limitation and is reemployed with any

agency participating in the Florida Retirement System prior to completion of the 12-month limitation period shall give timely notice of this fact in writing to his or her employer and to the *department* ~~division~~; and his or her retirement benefits shall be suspended for the balance of the 12-month limitation period. Any person employed in violation of this subsection and any employing agency which knowingly employs or appoints such person without notifying the *department* ~~Division of Retirement~~ to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by such person while he or she is reemployed during this reemployment limitation period shall be repaid to the retirement trust fund, and his or her retirement benefits shall remain suspended until such repayment has been made. Any benefits suspended beyond the reemployment limitation period shall apply toward the repayment of benefits received in violation of the reemployment limitation.

Section 65. Subsections (3) and (5) of section 122.23, Florida Statutes, are amended to read:

122.23 Definitions.—In addition to those definitions set forth in s. 122.02 the following words and phrases used in ss. 122.21-122.24, 122.26 to 122.321, inclusive, have the respective meanings set forth:

(3) *"Department"* ~~"Division"~~ means the *Department of Management Services* ~~Division of Retirement~~.

(5) "State agency" means the *Department of Management Services* ~~Division of Retirement~~ within the provisions and contemplation of chapter 650.

Section 66. Subsections (1) and (5) of section 122.30, Florida Statutes, are amended to read:

122.30 Appropriations.—

(1) There is hereby annually appropriated from the intangible tax fund of the state to the *department* ~~division~~ as the state agency designated in chapter 650, a sum not to exceed $10,000 to defray the expenses of such agency in connection with its continuing duties in relation to the social security coverage provided by this law.

(5) In addition to amounts appropriated by other provisions of this chapter or other laws to defray cost of administration of this system, there is hereby appropriated out of the Intangible Tax Fund of the state for use of the *department* ~~division~~ in its administration of the two divisions of this system, the sum of $100,000, or so much thereof as may be required for that purpose.

Section 67. Paragraphs (b) and (c) of subsection (1) of section 122.34, Florida Statutes, are amended to read:

122.34 Special provisions for certain sheriffs and full-time deputy sheriffs.—

(1)

(b) Only those members who are full-time criminal law enforcement officers or agents, as certified by the employing authority, who perform duties according to rule, order, or established custom as full-time criminal law enforcement officers or agents shall be certified to the *department* ~~division~~ as high hazard members, and only such members will be approved by the *department* ~~division~~.

(c) The *department* ~~Division of Retirement~~ shall make such rules ~~and regulations~~ as are necessary for the effective administration of the intent of this section.

Section 68. Section 122.351, Florida Statutes, is amended to read:

122.351 Funding by local agencies.—Commencing on July 1, 1969, all county and local agencies covered under the provisions of s. 122.35 shall accumulate and be responsible for the payment of social security and retirement matching costs as required under s. 122.35, from the intangible tax allocation of that county and any other source available to the local governmental units, except that all agencies, other than the school boards, shall be given credit for 50 percent of their 1967-1969 actual employer matching cost, actual cost being that cost in cash actually paid by the employer for matching retirement and social security into the fund by the agency for said biennium. The above credit of 50 percent shall be calculated by the *department* ~~director of the Division of Retirement~~.

Section 69. Subsection (1) of section 189.412, Florida Statutes, is amended to read:

189.412 Special District Information Program; duties and responsibilities.—The Special District Information Program of the Department of Community Affairs is created and has the following special duties:

(1) The collection and maintenance of special district compliance status reports from the Auditor General, the Department of Banking and Finance, the Division of Bond Finance of the State Board of Administration, the *Department of Management Services* ~~Division of Retirement~~, the Department of Revenue, and the Commission on Ethics for the reporting required in ss. 11.45, 112.3144, 112.3145, 112.3148, 112.3149, 112.63, 200.068, 218.32, 218.34, 218.38, and 280.17 and chapter 121 and from state agencies administering programs that distribute money to special districts. The special district compliance status reports must consist of a list of special districts used in that state agency and a list of which special districts did not comply with the reporting statutorily required by that agency.

Section 70. Paragraph (ii) of subsection (4) of section 215.20, Florida Statutes, 1998 Supplement, is amended to read:

215.20 Certain income and certain trust funds to contribute to the General Revenue Fund.—

(4) The income of a revenue nature deposited in the following described trust funds, by whatever name designated, is that from which the deductions authorized by subsection (3) shall be made:

(ii) The Police and Firefighters' Premium Tax Trust Fund established within the ~~Division of Retirement of the~~ Department of Management Services.

The enumeration of the foregoing moneys or trust funds shall not prohibit the applicability thereto of s. 215.24 should the Governor determine that for the reasons mentioned in s. 215.24 the money or trust funds should be exempt herefrom, as it is the purpose of this law to exempt income from its force and effect when, by the operation of this law, federal matching funds or contributions or private grants to any trust fund would be lost to the state.

Section 71. Subsection (3) of section 215.28, Florida Statutes, is amended to read:

215.28 United States securities, purchase by state and county officers and employees; deductions from salary.—

(3) All deductions so made by any such disbursing authority shall be deposited in a trust account separate and apart from the funds of the state, county, or subordinate agency. Such account will be subject to withdrawal only for the purchase of United States securities on behalf of officers and employees, or for refunds to such persons in accordance with the provisions of this law. Whenever the sum of $18.75 or the purchase price of the security requested to be purchased is accumulated from deductions so made from the salaries or wages of an officer or employee, such disbursing agent shall arrange the purchase of the bond or security applied for and have it registered in the name or names requested in the deduction authorization. Securities so purchased will be delivered in such manner as may be convenient for the issuing agent and the purchaser. Any interest earned on moneys in such account while awaiting the accumulation of the purchase price of the security shall be transferred to the Florida Retirement System Trust Fund as reimbursement for administrative costs incurred by the *Department of Management Services* ~~Division of Retirement~~ under this section.

Section 72. Subsection (3) of section 215.50, Florida Statutes, 1998 Supplement, is amended to read:

215.50 Custody of securities purchased; income.—

(3) The Treasurer, as custodian of securities owned by the Florida Retirement System Trust Fund and the Florida Survivor Benefit Trust

Fund, shall collect the interest, dividends, prepayments, maturities, proceeds from sales, and other income accruing from such assets. As such income is collected by the Treasurer, it shall be deposited directly into a commercial bank to the credit of the State Board of Administration. Such bank accounts as may be required for this purpose shall offer satisfactory collateral security as provided by chapter 280. In the event funds so deposited according to the provisions of this section are required for the purpose of paying benefits or other operational needs, the State Board of Administration shall remit to the Florida Retirement System Trust Fund in the State Treasury such amounts as may be requested by the *Department of Management Services* ~~director of the Division of Retirement~~.

Section 73. Subsections (2), (3), (11), and (13) of section 238.01, Florida Statutes, are amended to read:

238.01 Definitions.—The following words and phrases as used in this chapter shall have the following meanings unless a different meaning is plainly required by the context:

(2) "*Department*" ~~"Division"~~ means the *Department of Management Services* ~~Division of Retirement~~.

(3) "Teacher" means any member of the teaching or professional staff and any certificated employee of any public free school, of any district school system and vocational school, any member of the teaching or professional staff of the Florida School for the Deaf and Blind, child training schools of the Department of Health and Rehabilitative Services, the Department of Corrections, and any tax-supported institution of higher learning of the state, and any member and any certified employee of the Department of Education, any certified employee of the retirement system, any full-time employee of any nonprofit professional association or corporation of teachers functioning in Florida on a statewide basis, which seeks to protect and improve public school opportunities for children and advance the professional and welfare status of its members, any person now serving as superintendent, or who was serving as county superintendent of public instruction on July 1, 1939, and any hereafter duly elected or appointed superintendent, who holds a valid Florida teachers' certificate. In all cases of doubt the *Department of Management Services* ~~division~~ shall determine whether any person is a teacher as defined herein.

(11) "Regular interest" means interest at such rate as may be set from time to time by the *Department of Management Services* ~~division~~.

(13) "Earnable compensation" means the full compensation payable to a teacher working the full working time for his or her position. In respect to plans A, B, C, and D only, in cases where compensation includes maintenance, the *Department of Management Services* ~~division~~ shall fix the value of that part of the compensation not paid in money; provided that all members shall from July 1, 1955, make contributions to the retirement system on the basis of "earnable compensation" as defined herein and all persons who are members on July 1, 1955, may, upon application, have their "earnable compensation" for the time during which they have been members prior to that date determined on the basis of "earnable compensation" as defined in this law, upon paying to the retirement system, on or before the date of retirement, a sum equal to the additional contribution with accumulated regular interest thereon they would have made if "earnable compensation" had been defined, at the time they became members, as it is now defined. However, earnable compensation for all plan years beginning on or after July 1, 1990, shall not include any amounts in excess of the compensation limitation (originally $200,000) established by s. 401(a)(17) of the Internal Revenue Code prior to the Omnibus Budget Reconciliation Act of 1993, which limitation shall be adjusted for changes in the cost of living since 1989, in the manner provided by s. 401(a)(17) of the Internal Revenue Code of 1991. This limitation, which has been part of the Teachers' Retirement System since plan years beginning on or after July 1, 1990, shall be adjusted as required by federal law for qualified government plans.

Section 74. Section 238.02, Florida Statutes, is amended to read:

238.02 Name and date of establishment.—A retirement system is established and placed under the management of the *Department of Management Services* ~~Division of Retirement~~ for the purpose of providing retirement allowances and other benefits for teachers of the state. The retirement system shall begin operations on July 1, 1939. It has such powers and privileges of a corporation as may be necessary to carry out effectively the provisions of this chapter and shall be known as the "Teachers' Retirement System of the State," and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held in trust for the purpose for which received.

Section 75. Section 238.03, Florida Statutes, is amended to read:

238.03 Administration.—

(1) The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of this chapter are vested in the *Department of Management Services* ~~Division of Retirement~~. Subject to the limitation of this chapter, the *department* ~~division~~ shall, from time to time, establish rules and regulations for the administration and transaction of the business of the retirement system and shall perform such other functions as are required for the execution of this chapter.

(2) The *department* ~~division~~ shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds created by this chapter and for checking the experience of the retirement system.

(3) The Department of Legal Affairs shall be the legal adviser of the *department* ~~division~~.

(4) The *department* ~~division~~ shall employ such agents, servants and employees as in its judgment may be necessary to carry out the terms and provisions of this chapter and shall provide for their compensation. Among the employees of the *department* ~~division~~ shall be an actuary who shall be the technical adviser of the *department* ~~division~~ on matters regarding the operation of the funds created by the provisions of this chapter and who shall perform such other duties as are required in connection therewith.

(5) In the year 1943 and at least once in each 5-year period thereafter, the actuary shall make an actuarial investigation of the mortality, service and salary experience of the members and beneficiaries as defined in this chapter, and shall make a valuation of the various funds created by the chapter, and having regard to such investigation and valuation, the *department* ~~division~~ shall adopt such mortality and service tables as shall be deemed necessary, and shall certify the rates of contribution payable under the provisions of this chapter.

(6) The actuary shall make an annual valuation of the assets and liabilities of the funds of the retirement system on the basis of the tables adopted by the *department* ~~division~~ in accordance with the requirements of this section, and shall prepare an annual statement of the amounts to be contributed by the state in accordance with s. 238.09.

(7) The *department* ~~division~~ shall publish annually the valuation, as certified by the actuary, of the assets and liabilities of the various funds created by this chapter, a statement as to the receipts and disbursements of the funds, and a statement as to the accumulated cash and securities of the funds.

(8) The *department* ~~division~~ shall keep a record of all of its proceedings and such record shall be open to inspection by the public.

(9) The *department* ~~division~~ is authorized to photograph and reduce to microfilm as a permanent record, its ledger sheets showing the salary and contributions of members of the retirement system, also the records of deceased members of the system and thereupon to destroy the documents from which such films are photographed.

Section 76. Paragraph (b) of subsection (1), paragraphs (a) and (b) of subsection (3), and subsection (4) of section 238.05, Florida Statutes, are amended to read:

238.05 Membership.—

(1) The membership of the retirement system shall consist of the following:

(b) All persons who became or who become teachers on or after July 1, 1939, except as provided in paragraph (a) and subsection (5) hereof, shall become members of the retirement system by virtue of their appointment as teachers. However, employees who are not members of the teaching or professional staff shall only become members of the retirement system by filing a notice with the *department* ~~division~~ of their election to become members.

(3) Except as otherwise provided in s. 238.07(9), membership of any person in the retirement system will cease if he or she is continuously unemployed as a teacher for a period of more than 5 consecutive years, or upon the withdrawal by the member of his or her accumulated contributions as provided in s. 238.07(13), or upon retirement, or upon death; provided that the adjustments prescribed below are to be made for persons who enter the Armed Forces of the United States during a period of war or national emergency and for persons who are granted leaves of absence. Any member of the retirement system who within 1 year before the time of entering the Armed Forces of the United States was a teacher, as defined in s. 238.01, or was engaged in other public educational work within the state, and member of the Teachers' Retirement System at the time of induction, or who has been or is granted leave of absence, shall be permitted to elect to continue his or her membership in the Teachers' Retirement System; and membership service shall be allowed for the period covered by service in the Armed Forces of the United States or by leave of absence under the following conditions:

(a) A person who has been granted leave of absence shall file with the *department* ~~division~~ before his or her next contribution is due an application to continue his or her membership during the period covered by the person's leave of absence and, if such application is filed, shall make his or her contribution to the retirement system on the basis of his or her last previous annual salary as a teacher, and shall, prior to retirement, pay in full to the system such contributions with accumulated regular interest. Such contributions with interest may be paid at one time or in monthly, quarterly, semiannual, or annual payments in the person's discretion.

(b) A person who enters or who has entered the Armed Forces of the United States may either continue his or her membership according to the plan outlined under paragraph (a) or, in lieu thereof, may file with the *department* ~~division~~ at any time following the close of his or her military service an application that his or her membership be continued and that membership service be allowed for not more than 5 years of his or her period of service in the Armed Forces of the United States during any period of war or national emergency; provided that any such person shall, prior to retirement, pay in full his or her contributions with accumulated regular interest to the retirement system for the period for which he or she is entitled to membership service on the basis of his or her last previous annual salary as a teacher. Such contributions with interest may be paid to the *department* ~~division~~ at one time or in monthly, quarterly, semiannual, or annual payments in the person's discretion.

(4) The *department* ~~division~~ may in its discretion deny the right to become members to any class of teachers who are serving on a temporary or any other than a per annum basis, and it may also in its discretion make optional with members in any such class their individual entrance into membership.

Section 77. Subsections (3) and (10), paragraphs (a) and (b) of subsection (12), subsections (13) and (15A), and paragraphs (a) and (d) of subsection (16) of section 238.07, Florida Statutes, are amended to read:

238.07 Regular benefits; survivor benefits.—

(3) Any member who, prior to July 1, 1955, elected to retire under one of plans A, B, C, or D may elect, prior to retirement, to retire under plan E in accordance with the terms hereof. Any person who became a member on or after July 1, 1955, shall retire under plan E, except as provided for under s. 238.31. With respect to plans A, B, C, or D, any member shall have the right at any time to change to a plan of retirement requiring a lower rate of contribution. The *Department of Management Services* ~~Division of Retirement~~ shall also notify the member of the rate of contribution such member must make from and after selecting such plan of retirement. Any member in service may retire upon reaching the age of retirement formerly selected by him or her, upon the member's written application to the *department* ~~division~~ setting forth at which time, not more than 90 days subsequent to the execution and filing of such application, it is his or her desire to retire notwithstanding that during such period of notification he or she may have separated from service. Upon receipt of such application for retirement, the *department* ~~division~~ shall retire such member not more than 90 days thereafter. Before such member may retire he or she must file with the *department* ~~division~~ his or her written selection of one of the optional benefits provided in s. 238.08.

(10) Any member in service, who has 10 or more years of creditable service, may upon the application of his or her employer or upon his or her own application, be retired by the *department* ~~division~~ not less than 30 nor more than 90 days next following the date of filing such application, on a disability retirement allowance; provided that a physician licensed by this state examines and certifies that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired, and the *department* ~~division~~ concurs. In making the determination, the *department* ~~division~~ may require other evidence of disability as deemed appropriate.

(12)(a) Once each year during the first 5 years following the retirement of a member on a disability retirement allowance, and once in every 3-year period thereafter, the *department* ~~division~~ may require any disability beneficiary who has not yet attained his or her minimum service retirement age to undergo a medical examination by a physician licensed by this state and to submit any other evidence of disability as required by the *department* ~~division~~. Should a disability beneficiary who has not yet attained his or her minimum service retirement age refuse to submit to any such medical examination, his or her retirement allowance shall be discontinued until his or her withdrawal of such refusal, and should such refusal continue for 1 year, all of the disability beneficiary's rights in and to his or her pension shall be forfeited.

(b) If the *department* ~~division~~ finds that a disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his or her disability retirement allowance and his or her average final compensation, the amount of the beneficiary's pension shall be reduced to an amount which, together with his or her annuity and the amount earnable by him or her, shall equal the amount of his or her average final compensation. Should the beneficiary's earning capacity later be changed, the amount of his or her pension may be further modified; provided that the pension so modified shall not exceed the amount of the pension allowable under subsection (11), at the time of retirement, nor an amount which, when added to the amount earnable by the beneficiary, together with his or her annuity, equals the amount of his or her average final compensation. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which he or she was retired shall not become a member of the retirement system at that time.

(13) Should a member cease to be a teacher except by death or by retirement under the provisions of this chapter, the member shall be paid the amount of his or her accumulated contributions. Should a member die before retirement, the amount of his or her accumulated contributions shall be paid to such person, if any, as he or she shall have nominated by written designation duly executed and filed with the *department* ~~division~~; otherwise, to his or her executors or administrators.

(15A)(a) Any member of the Teachers' Retirement System who has heretofore, or who hereafter, retires with no less than 10 years of creditable service and who has passed his or her 65th birthday, may, upon application to the *department* ~~division~~, have his or her retirement allowance redetermined and thereupon shall be entitled to a monthly service retirement allowance which shall be equal to $4 multiplied by the number of years of the member's creditable service which shall be payable monthly during his or her retirement; provided, that the amount of retirement allowance as determined hereunder, shall be reduced by an amount equal to:

1. Any social security benefits received by the member, and

2. Any social security benefits that the member is eligible to receive by reason of his or her own right or through his or her spouse.

(b) No payment shall be made to a member of the Teachers' Retirement System under this act, until the *department* ~~division~~ has determined the social security status of such member.

(c) Eligibility of a member of the Teachers' Retirement System shall be determined under the social security laws and regulations; provided, however, that a member shall be considered eligible if the member or the member's spouse has reached 65 years of age and would draw social security if the member or the member's spouse were not engaged in activity that results in the member or the member's spouse receiving income that would make him or her ineligible to receive social security benefits. A member of the Teachers' Retirement System shall be deemed

to be eligible for social security benefits if the member has this eligibility in his or her own right or through his or her spouse.

(d) The *department* ~~division~~ shall review, at least annually, the social security status of all members of the Teachers' Retirement System receiving payment under this act and shall increase or decrease payments to such members as shall be necessary to carry out the intent of this act.

(e) No member of the Teachers' Retirement System shall have his or her retirement allowance reduced or any of his or her rights impaired by reason of this act.

(f) This subsection shall take effect on January 1, 1962.

(16)(a) Definitions under survivor benefits are:

1. A dependent is a child, widow, widower, or parent of the deceased member who was receiving not less than one-half of his or her support from the deceased member at the time of the death of such member.

2. A child is a natural or legally adopted child of a member, who:

a. Is under 18 years of age, or

b. Is over 18 years of age but not over 22 years of age and is enrolled as a student in an accredited educational institution, or

c. Is 18 years of age or older and is physically or mentally incapable of self-support, when such mental and physical incapacity occurred prior to such child obtaining the age of 18 years. Such person shall cease to be regarded as a child upon the termination of such physical or mental disability. The determination as to such physical or mental incapability shall be vested in the *department* ~~division~~.

No person shall be considered a child who has married or, except as provided in sub-subparagraph 2.b. or as to a child who is physically or mentally incapable of self-support as hereinbefore set forth, has become 18 years of age.

3. A parent is a natural parent of a member and includes a lawful spouse of a natural parent.

4. A beneficiary is a person who is entitled to benefits under this subsection by reason of his or her relation to a deceased member during the lifetime of such member.

(d) Limitations on rights of beneficiary are:

1. The person named as beneficiary in paragraph (b) shall, in no event, be entitled to receive the benefits set out in such paragraph unless the death of the member under whom such beneficiary claims occurs within the period of time after the member has served in Florida as follows:

Minimum number of years of service in Florida	Period after serving in Florida in which death of member occurs
3 to 5	2 years
6 to 9	5 years
10 or more	10 years

2. Upon the death of a member, the *department* ~~division~~ shall make a determination of the beneficiary or beneficiaries of the deceased member and shall pay survivor benefits to such beneficiary or beneficiaries beginning 1 month immediately following the death of the member except where the beneficiary has not reached the age required to receive benefits under paragraph (b), in which event the payment of survivor benefits shall begin as of the month immediately following the month in which the beneficiary reaches the required age. When required by the *department* ~~division~~, the beneficiary or beneficiaries shall file an application for survivor benefits upon forms prescribed by the *department* ~~division~~.

3. The beneficiaries of a member to receive survivor benefits are fixed by this subsection, and a member may not buy or otherwise change such benefits. He or she may, however, designate the beneficiary to receive the $500 death benefits. If a member fails to make this designation, the $500 death benefits shall be paid to his or her executor or administrator.

4. The beneficiary or beneficiaries of a member whose death occurs while he or she is in service or while he or she is receiving a disability allowance under subsection (11), shall receive survivor benefits under this subsection determined by the years of service in Florida of the deceased member as set out in paragraph (b). The requirement that the death of a member must occur within a certain period of time after service in Florida as set out in subparagraph (d)1. shall not apply to a member receiving a disability benefit at the time of his or her death.

Section 78. Subsection (2), paragraph (b) of subsection (5), and subsections (6) and (7) of section 238.08, Florida Statutes, are amended to read:

238.08 Optional benefits.—A member may elect to receive his or her benefits under the terms of this chapter according to the provisions of any one of the following options:

(2) Option two. A member may elect to receive on retirement the actuarial equivalent (at that time) of his or her retirement allowance in a reduced retirement allowance payable throughout life, with the provisions that if the member dies before he or she has received in payment of his or her annuity the amount of his or her accumulated contributions, as they were at the time of his or her retirement, the balance shall be paid to such person, if any, as he or she shall nominate by written designation duly acknowledged and filed with the *department* ~~division~~; otherwise, to his or her executors or administrators.

(5)

(b) A member who elects Option three or Option four shall, on a form provided for that purpose, designate his or her spouse as beneficiary to receive the benefits which continue to be payable upon the death of the member. After such benefits have commenced under Option three or Option four, the retired member may change the designation of his or her spouse as beneficiary only twice. If such a retired member remarries and wishes to make such a change, he or she may do so by filing with the *department* ~~division~~ a notarized change of spouse designation form and shall notify the former spouse in writing of such change. Upon receipt of a completed change of spouse designation form, the *department* ~~division~~ shall adjust the member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit. The consent of a retired member's formerly designated spouse as beneficiary to any such change shall not be required.

(6) Notwithstanding any provision in this chapter to the contrary, the following provisions shall apply to any member of the retirement system who has accumulated at least 10 years of service and dies prior to retirement:

(a) If the deceased member's surviving spouse has previously received a refund of the member's accumulated contributions made to the retirement system, such spouse may pay to the *department* ~~Division of Retirement~~ an amount equal to the sum of the amount of the deceased member's contributions previously refunded and regular interest compounded annually on the amount of such refunded contributions from the date of refund to the date of payment to the *department* ~~division~~, and by so doing be entitled to receive the monthly retirement benefit provided in paragraph (c).

(b) If the deceased member's surviving spouse has not received a refund of the deceased member's accumulated contributions, such spouse shall, upon application to the *department* ~~division~~ within 30 days of the death of the member, receive the monthly retirement benefit provided in paragraph (c).

(c) The monthly benefit payable to the spouse described in paragraph (a) or paragraph (b) shall be the amount which would have been payable to the deceased member's spouse, assuming that the member retired on the date of his or her death and had selected the option in subsection (3), such benefit to be based on the ages of the spouse and member as of the date of death of the member. The benefit shall commence on the first day of the month following the payment of the aforesaid amount to the *department* ~~division~~, if paragraph (a) is applicable,

or on the first day of the month following the receipt of the spouse's application by the *department* ~~division~~, if paragraph (b) is applicable.

(7) The surviving spouse or other dependent of any member whose employment is terminated by death shall, upon application to the *department* ~~director of the Division of Retirement~~, be permitted to pay the required contributions for any service performed by the member which could have been claimed by the member at the time of his or her death. Such service shall be added to the creditable service of the member and shall be used in the calculation of any benefits which may be payable to the surviving spouse or other surviving dependent.

Section 79. Paragraphs (a), (c), and (d) of subsection (1), paragraphs (b), (c), and (e) of subsection (3), and paragraph (b) of subsection (5) of section 238.09, Florida Statutes, are amended to read;

238.09 Method of financing.—All of the assets of the retirement system shall be credited, according to the purposes for which they are held, to one of four funds; namely, the Annuity Savings Trust Fund, the Pension Accumulation Trust Fund, the Expense Trust Fund, and the Survivors' Benefit Trust Fund.

(1) The Annuity Savings Trust Fund shall be a fund in which shall be accumulated contributions made from the salaries of members under the provisions of paragraph (c) or paragraph (f). Contribution to, payments from, the Annuity Savings Trust Fund shall be made as follows:

(a) With respect to plan A, B, C, or D, upon the basis of such tables as the *Department of Management Services* ~~Division of Retirement~~ shall adopt, and regular interest, the actuary of the retirement system shall determine for each member the proportion of earnable compensation which, when deducted from each payment of his or her prospective earnable annual compensation prior to his or her minimum service retirement age, and accumulated at regular interest until such age, shall be computed to provide at such age:

1. An annuity equal to one one-hundred-fortieth of his or her average final compensation multiplied by the number of his or her years of membership in the case of each member electing to retire under the provisions of plan A or B.

2. An annuity equal to one one-hundred-twentieth of his or her average final compensation multiplied by the number of his or her years of membership service in the case of each member electing to retire under the provisions of plan C.

3. An annuity equal to one one-hundredth of his or her average final compensation multiplied by the number of his or her years of membership service in the case of each member electing to retire under the provisions of plan D.

In the case of any member who has attained his or her minimum service retirement age prior to becoming a member, the proportion of salary applicable to such member, with respect to plan A, B, C, or D, shall be the proportion computed for the age 1 year younger than his or her minimum service retirement age.

(c) The *department* ~~Division of Retirement~~ shall certify to each employer the proportion of the earnable compensation of each member who is compensated by the employer, and the employer shall cause to be deducted from the salary of each member on each and every payroll for each and every payroll period an amount equal to the proportion of the member's earnable compensation so computed. With respect to plan A, B, C, or D, the employer shall not make any deduction for annuity purposes from the compensation of a member who has attained the age of 60 years, if such member elects not to contribute.

(d) In determining the amount earnable by a member in a payroll period, the *department* ~~division~~ may consider the rate of compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full payroll period if a teacher was not a member on the first day of the payroll period, and to facilitate the making of deductions, it may modify any deduction required of any member by such an amount as shall not exceed one-tenth of 1 percent of the annual salary from which said deduction is to be made.

(3) The Pension Accumulation Trust Fund shall be the fund in which shall be accumulated all reserves for the payment of all annuities or benefits in lieu of annuities on retired members and all pensions and other benefits payable from contributions made by the members and by the employers, from which annuities, pensions and benefits in lieu thereof shall be paid. Contributions to, and payments from, the Pension Accumulation Trust Fund, other than as set forth in subsections (2) and (3) herein, shall be made as follows:

(b) On the basis of regular interest and of such mortality and other tables as shall be adopted by the *department* ~~division~~, the actuary engaged by the *department* ~~division~~ to make each valuation required by this chapter shall, during the period over which the accrued liability contribution is payable, determine, immediately after making such valuation, the uniform and constant percentage of the earnable compensation of the average new entrant, which, if contributed on the basis of his or her compensation throughout his or her entire period of service, would be sufficient to provide for the payment of any pension payable by the state on his or her account. The rate percent so determined shall be known as the normal contribution rate. After the accrued liability contribution has ceased to be payable, the normal contribution rate shall be the rate percent of the earnable compensation of all members, obtained by deducting from the total liabilities of the Pension Accumulation Trust Fund the amount of the funds in hand to the credit of that fund and dividing the remainder by 1 percent of the present value of the prospective future salaries of all members as computed on the basis of the mortality and service tables adopted by the *department* ~~division~~ and on the basis of regular interest. The normal rate of contribution shall be determined and certified to the *department* ~~division~~ by the actuary after each valuation and shall continue in force until a new valuation and certification are made.

(c) Immediately succeeding the first valuation, the actuary engaged by the *department* ~~division~~ shall compute the rate percent of the total earnable compensation of all members which is equivalent to 4 percent of the amount of the total liability for pensions on account of all members and beneficiaries and not dischargeable by the present assets of the Pension Accumulation Trust Fund and by the aforesaid normal contribution if made on account of such members during the remainder of their active service. The rate percent, originally so determined, shall be known as the accrued liability contribution rate.

(e) The accrued liability contribution shall be discontinued as soon as the accumulated reserve in the Pension Accumulation Trust Fund shall equal the present value, as actuarially computed and approved by the *department* ~~division~~, of the total liability of such fund less the present value, computed on the basis of the normal contribution rate, then in force of the prospective normal contributions to be received on account of persons who are at that time members.

(5)

(b) The *department* ~~division~~ shall annually certify to each employer, at the time it makes the certification to the employer under paragraph (1)(c), the rate of twenty-five-hundredths percent to be applied by the employer to the salary of each member who is compensated by the employer, and the employer shall cause to be deducted from the salary of each member on each and every payroll for each and every payroll period an amount equal to twenty-five-hundredths percent of the member's salary paid by the employer and the employer shall remit monthly such deducted amounts to the *department* ~~division~~ which shall place the same in the Survivors' Benefit Trust Fund of the Teachers' Retirement System of the state. The amount of contributions by a member to the Survivors' Benefit Trust Fund shall, in no event, be refundable to the member or his or her beneficiaries.

Section 80. Section 238.10, Florida Statutes, is amended to read:

238.10 Management of funds.—The *Department of Management Services* ~~Division of Retirement~~, annually, shall allow regular interest on the amount for the preceding year to the credit of each of the funds of the retirement system, and to the credit of the individual account therein, if any, with the exception of the expense fund, from the interest and dividends earned from investments.

Section 81. Paragraph (b) of subsection (1), paragraph (b) of subsection (2), and subsection (3) of section 238.11, Florida Statutes, are amended to read:

238.11 Collection of contributions.—

(1) The collection of contributions shall be as follows:

(b) Each employer shall transmit monthly to the *Department of Management Services* ~~Division of Retirement~~ a warrant for the total amount of such deductions. Each employer shall also transmit monthly to the *department* ~~division~~ a warrant for such employer contribution set aside as provided for in paragraph (a) of this subsection. The *department* ~~division~~, after making records of all such warrants, shall transmit them to the Department of Banking and Finance for delivery to the Treasurer of the state who shall collect them.

(2) The collection of the state contribution shall be made as follows:

(b) The *Department of Management Services* ~~division~~ shall certify one-fourth of the amount so ascertained for each year to the Comptroller on or before the last day of July, October, January, and April of each year. The Comptroller shall, on or before the first day of August, November, February, and May of each year, draw his or her warrant or warrants on the Treasurer for the respective amounts due the several funds of the retirement system. On the receipt of the warrant or warrants of the Comptroller, the Treasurer shall immediately transfer to the several funds of the retirement system the amounts due.

(3) All collection of contributions of a nonprofit professional association or corporation of teachers as referred to in s. 238.01(3) and (5) shall be made by such association or corporation in the following manner:

(a) On April 1 of each year, the *Department of Management Services* ~~division~~ shall certify to any such nonprofit professional association or corporation of teachers the amounts which will become due and payable during the ensuing fiscal year to each of the funds of the retirement system to which such contributions are payable as set forth in this law.

(b) The *Department of Management Services* ~~division~~ shall certify one-fourth of the amount so ascertained for each year to the nonprofit professional association or corporation of teachers on or before the last day of July, October, January, and April of each year. The nonprofit professional association or corporation of teachers shall, on or before the first day of August, November, February, and May of each year, draw its check payable to the *department* ~~division~~ for the respective amounts due the several funds of the retirement system. Upon receipt of the check, the *department* ~~division~~ shall immediately transfer to the several funds of the retirement system the amounts due, provided, however, that the amounts due the several funds of the retirement system from any such association or corporation for creditable service accruing to any such member before July 1, 1947, shall be paid prior to the retirement of any such member.

Section 82. Section 238.12, Florida Statutes, is amended to read:

238.12 Duties of employers.—

(1) Each employer shall keep such records and, from time to time, shall furnish such information as the *Department of Management Services* ~~Division of Retirement~~ may require in the discharge of its duties. Upon the employment of any teacher to whom this chapter may apply, the teacher shall be informed by his or her employer of his or her duties and obligations in connection with the retirement system as a condition of his or her employment. Every teacher accepting employment shall be deemed to consent and agree to any deductions from his or her compensation required in this chapter and to all other provisions of this chapter.

(2) During September of each year, or at such other time as the *department* ~~division~~ shall approve, each employer shall certify to the *department* ~~division~~ the names of all teachers to whom this chapter applies.

(3) Each employer shall, on the first day of each calendar month, or at such less frequent intervals as the *department* ~~division~~ may approve, notify the *department* ~~division~~ of the employment of new teachers, removals, withdrawals and changes in salary of members that have occurred during the preceding month, or the period covered since the last notification.

Section 83. Section 238.14, Florida Statutes, is amended to read:

238.14 Protection against fraud.—Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system as a result of such act, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Should any change or error in records result in any member or beneficiary receiving from the retirement system more or less than he or she would have been entitled to receive had the records been correct, then on discovery of any such error the *department* ~~division~~ shall correct such error, and, as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit, to which such member or beneficiary was correctly entitled, shall be paid.

Section 84. Section 238.15, Florida Statutes, is amended to read:

238.15 Exemption of funds from taxation, execution, and assignment.—The pensions, annuities or any other benefits accrued or accruing to any person under the provisions of this chapter and the accumulated contributions and cash securities in the funds created under this chapter are exempted from any state, county or municipal tax of the state, and shall not be subject to execution or attachment or to any legal process whatsoever, and shall be unassignable, except:

(1) That any teacher who has retired shall have the right and power to authorize in writing the *Department of Management Services* ~~Division of Retirement~~ to deduct from his or her monthly retirement allowance money for the payment of the premiums on group insurance for hospital, medical and surgical benefits, under a plan or plans for such benefits approved in writing by the Insurance Commissioner and Treasurer of the state, and upon receipt of such request the *department* ~~division~~ shall make the monthly payments as directed; and

(2) As may be otherwise specifically provided for in this chapter.

Section 85. Paragraph (b) of subsection (3) of section 238.171, Florida Statutes, is amended to read:

238.171 Monthly allowance; when made.—

(3)

(b) On July 1, 1975, and each July 1 thereafter, the *Department of Management Services* ~~director~~ shall adjust the monthly allowance being paid on said date. The percentage of such adjustment shall be equal to the percentage change in the average cost-of-living index during the preceding 12-month period, April 1 through March 31, ignoring changes in the cost-of-living index which are greater than 3 percent during the preceding fiscal year.

Section 86. Paragraphs (b), (c), (d), (e), and (f) of subsection (2) of section 238.181, Florida Statutes, are amended to read:

238.181 Reemployment after retirement; conditions and limitations.—

(2)

(b) Any person to whom the limitation in paragraph (a) applies who violates such reemployment limitation and who is reemployed with any agency participating in the Florida Retirement System before completion of the 12-month limitation period shall give timely notice of this fact in writing to his or her employer and to the *Department of Management Services* ~~division~~ and shall have his or her retirement benefits suspended for the balance of the 12-month limitation period. Any person employed in violation of this paragraph and any employing agency which knowingly employs or appoints such person without notifying the *department* ~~Division of Retirement~~ to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received while reemployed during this reemployment limitation period shall be repaid to the retirement trust fund, and retirement benefits shall remain suspended until such repayment has been made. Benefits suspended beyond the reemployment limitation shall apply toward repayment of benefits received in violation of the reemployment limitation.

(c) A district school board may reemploy a retired member as a substitute or hourly teacher on a noncontractual basis after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after

retirement shall void his or her application for retirement benefits. District school boards reemploying such teachers are subject to the retirement contribution required by paragraph (g). Reemployment of a retired member as a substitute or hourly teacher is limited to 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during his or her first 12 months of retirement shall give timely notice in writing to his or her employer and to the *department* ~~division~~ of the date he or she will exceed the limitation. The *department* ~~division~~ shall suspend his or her retirement benefits for the remainder of his or her first 12 months of retirement. Any person employed in violation of this paragraph and any employing agency which knowingly employs or appoints such person without notifying the *department* ~~Division of Retirement~~ to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during his or her first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and his or her retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

(d) A community college board of trustees may reemploy a retired member as an adjunct instructor, that is, an instructor who is noncontractual and part time, or as a participant in a phased retirement program within a community college, after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. Boards of trustees reemploying such instructors are subject to the retirement contribution required in paragraph (g). A retired member may be reemployed as an adjunct instructor for no more than 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during his or her first 12 months of retirement shall give timely notice in writing to his or her employer and to the *department* ~~division~~ of the date he or she will exceed the limitation. The *department* ~~division~~ shall suspend his or her retirement benefits for the remainder of his or her first 12 months of retirement. Any person employed in violation of this paragraph and any employing agency which knowingly employs or appoints such person without notifying the *department* ~~Division of Retirement~~ to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during his or her first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

(e) The Board of Trustees of the Florida School for the Deaf and the Blind may reemploy a retired member as a substitute teacher, substitute residential instructor, or substitute nurse on a noncontractual basis after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The Board of Trustees of the Florida School for the Deaf and the Blind reemploying such teachers, residential instructors, or nurses is subject to the retirement contribution required by paragraph (g). Reemployment of a retired member as a substitute teacher, substitute residential instructor, or substitute nurse is limited to 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during his or her first 12 months of retirement shall give timely notice in writing to his or her employer and to the *department* ~~division~~ of the date he or she will exceed the limitation. The *department* ~~division~~ shall suspend his or her retirement benefits for the remainder of his or her first 12 months of retirement. Any person employed in violation of this paragraph and any employing agency which knowingly employs or appoints such person without notifying the *department* ~~Division of Retirement~~ to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during his or her first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and his or her retirement benefits shall remain suspended until payment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

(f) The State University System may reemploy a retired member as an adjunct faculty member or as a participant in a phased retirement program within the State University System after the retired member has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The State University System is subject to the retired contribution required in paragraph (g), as appropriate. A retired member may be reemployed as an adjunct faculty member or a participant in a phased retirement program for no more than 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during his or her first 12 months of retirement shall give timely notice in writing to his or her employer and to the *department* ~~division~~ of the date he or she will exceed the limitation. The *department* ~~division~~ shall suspend his or her retirement benefits for the remainder of his or her first 12 months of retirement. Any person employed in violation of this paragraph and any employing agency which knowingly employs or appoints such person without notifying the *department* ~~Division of Retirement~~ to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during his or her first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

Section 87. Section 238.32, Florida Statutes, is amended to read:

238.32 Service credit in disputed cases.—The *Department of Management Services* ~~Division of Retirement~~ may in its discretion allow or deny a member service credit in disputed or doubtful cases for employment in Florida and out-of-state schools in order to serve the best interests of the state and the member, subject to the membership dates set forth in s. 238.06(4).

Section 88. Paragraph (c) of subsection (1), paragraphs (a), (b), and (f) of subsection (3), paragraph (b) of subsection (4), and paragraph (b) of subsection (6) of section 240.3195, Florida Statutes, are amended to read:

240.3195 State Community College System Optional Retirement Program.—Each community college may implement an optional retirement program, if such program is established therefor pursuant to s. 240.319(3)(r), under which annuity contracts providing retirement and death benefits may be purchased by, and on behalf of, eligible employees who participate in the program. Except as otherwise provided herein, this retirement program, which shall be known as the State Community College System Optional Retirement Program, may be implemented and administered only by an individual community college or by a consortium of community colleges.

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

(c) "*Department*" ~~"Division"~~ means the ~~Division of Retirement of the~~ Department of Management Services.

(3)(a) With respect to any employee who is eligible to participate in the optional retirement program by reason of qualifying employment commencing before the program's activation:

1. The employee may elect to participate in the optional retirement program in lieu of participation in the Florida Retirement System. To

become a program participant, the employee must file with the personnel officer of the college, within 60 days after the program's activation, both a written election on a form provided by the *department* ~~division~~ and a completed application for an individual contract or certificate.

2. An employee's participation in the optional retirement program commences on the first day of the next full calendar month following the filing of the election and completed application with the program administrator and receipt of such election by the *department* ~~division~~. An employee's membership in the Florida Retirement System terminates on this same date.

3. Any such employee who fails to make an election to participate in the optional retirement program within 60 days after its activation has elected to retain membership in the Florida Retirement System.

(b) With respect to any employee who becomes eligible to participate in an optional retirement program by reason of qualifying employment commencing on or after the program's activation:

1. The employee may elect to participate in the optional retirement program in lieu of participation in the Florida Retirement System. To become a program participant, the employee must file with the personnel officer of the college, within 60 days after commencing qualifying employment, both a written election on a form provided by the *department* ~~division~~ and a completed application for an individual contract or certificate.

2. An employee's participation in the optional retirement program commences on the first day of the next full calendar month following the filing of the election and completed application with the program administrator and receipt of such election by the *department* ~~division~~. An employee's membership in the Florida Retirement System terminates on this same date.

3. If the employee makes an election to participate in the optional retirement program before the community college submits its initial payroll for the employee, participation in the optional retirement program commences on the first date of employment.

4. Any such employee who fails to make an election to participate in the optional retirement program within 60 days after commencing qualifying employment has elected to retain membership in the Florida Retirement System.

(f) If a program participant becomes ineligible to continue participating in the optional retirement program pursuant to the criteria referenced in subsection (2), the employee becomes a member of the Florida Retirement System if eligible. The college must notify the *department* ~~Division of Retirement~~ of an employee's change in eligibility status within 30 days after the event that makes the employee ineligible to continue participation in the optional retirement program.

(4)

(b) Each community college must contribute on behalf of each program participant an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required if the program participant were a member of the Regular Class of the Florida Retirement System. Payment of this contribution must be made directly by the college to the *department* ~~division~~ for deposit in the Florida Retirement System Trust Fund.

(6)

(b) The program administrator shall solicit competitive bids or issue a request for proposal and select no more than four companies from which annuity contracts may be purchased under the optional retirement program. In making these selections, the program administrator shall consider the following factors:

1. The financial soundness of the company.

2. The extent of the company's experience in providing annuity contracts to fund retirement programs.

3. The nature and extent of the rights and benefits provided to program participants in relation to the premiums paid.

4. The suitability of the rights and benefits provided to the needs of eligible employees and the interests of the college in the recruitment and retention of employees.

In lieu of soliciting competitive bids or issuing a request for proposals, the program administrator may authorize the purchase of annuity contracts under the optional retirement program from those companies currently selected by the *department* ~~Division of Retirement~~ to offer such contracts through the State University System Optional Retirement Program, as set forth in s. 121.35.

Section 89. Subsection (6) of section 250.22, Florida Statutes, is amended to read:

250.22 Retirement.—

(6) All powers, duties, and functions related to the administration of this section are vested in the *Department of Management Services* ~~Division of Retirement~~.

Section 90. Subsection (2) of section 321.17, Florida Statutes, is amended to read:

321.17 Contributions; leaving patrol; leave of absence; transferees.—

(2) Such members as are eligible for service credit as set forth under s. 321.19(1) may pay to the Treasurer to the credit of the Highway Patrol Pension Trust Fund, the sum of $5 for each month of such service credit. Satisfactory proof of former service must be furnished the *Department of Management Services* ~~Division of Retirement~~ in the form of a sworn, written statement from the member's former employer or other reliable person, or other documents of proof as may be required by them. Such money as becomes due by reason of this clause shall be paid by said employee in equal monthly payments over a period not to exceed 60 months after October 1, 1945. Employees who fail to take advantage of the benefits offered under s. 321.19(1) within 90 days after October 1, 1945, shall forfeit such service credits forever. New members who may hereafter enter the service of division of the Florida Highway Patrol who fail to take advantage of the benefits offered under s. 321.19(1) within 90 days after time of employment shall forfeit such service credits forever.

Section 91. Paragraph (d) of subsection (1) of section 321.19, Florida Statutes, is amended to read:

321.19 Computing length of service; definitions; examining committee.—

(1)

(d) The surviving spouse or other dependent of any member whose employment is terminated by death shall, upon application to the *Department of Management Services* ~~director of the Division of Retirement~~, be permitted to pay the required contributions for any service performed by the member which could have been claimed by the member at the time of his or her death. Such service shall be added to the creditable service of the member and used in the calculation of any benefits which may be payable to the surviving spouse or other surviving dependent.

Section 92. Subsections (1), (2), and (4) and paragraph (a) of subsection (6) of section 321.191, Florida Statutes, are amended to read:

321.191 Non-service-connected disability retirement.—

(1) A member who becomes totally and permanently disabled after completing 10 years of service shall be entitled to a disability benefit. The disability retirement date for such member shall be the first day of the month following the month during which the *Department of Management Services* ~~Division of Retirement~~ approved payment of disability retirement benefits.

(2) A member shall be considered totally and permanently disabled if, in the opinion of the *Department of Management Services* ~~Division of Retirement~~, he or she is prevented by physical or mental impairment from engaging in any gainful activity for which he or she is, or may reasonably become, fitted by education, training, or experience. The decision of the *Department of Management Services* ~~division~~ shall be final and binding.

(4) The *Department of Management Services* ~~division~~, before approving payment of any disability retirement benefit, may require proof, in such form as it may decide, that the member is disabled as defined herein.

(6)(a) If the *Department of Management Services* ~~Division of Retirement~~ finds that a member who is receiving disability benefits is, at any time prior to his or her normal retirement date, no longer disabled, it shall direct that the benefits be discontinued. The decision of the *department* ~~division~~ on this question shall be final and binding.

Section 93. Section 321.202, Florida Statutes, is amended to read:

321.202 Termination by death subsequent to normal retirement date but prior to actual retirement.—If the employment of a member is terminated by reason of his or her death subsequent to the member's normal retirement date but prior to his or her actual retirement, it shall be assumed that the member retired as of his or her date of death and that the member had elected the optional form of payment most favorable to his or her legal spouse as determined by the *Department of Management Services* ~~Division of Retirement~~. The benefits so determined shall be payable monthly to the spouse until the death of the spouse.

Section 94. Subsection (2) of section 321.203, Florida Statutes, is amended to read:

321.203 Reemployment after retirement; conditions and limitations.—

(2) Any person to whom the limitation in subsection (1) applies who violates such reemployment limitation and is reemployed with any agency participating in the Florida Retirement System prior to completion of the 12-month limitation period shall give timely notice of this fact in writing to his or her employer and to the division; and his or her retirement benefits shall be suspended for the balance of the 12-month limitation period. Any person employed in violation of this section and any employing agency which knowingly employs or appoints such person without notifying the *Department of Management Services* ~~Division of Retirement~~ to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by such person while he or she is reemployed during this reemployment limitation period shall be repaid to the trust fund, and his or her retirement benefits shall remain suspended until such repayment has been made. Any benefits suspended beyond the reemployment limitation period shall apply toward the repayment of benefits received in violation of the reemployment limitation.

Section 95. Section 321.2205, Florida Statutes, is amended to read:

321.2205 Surviving spouses' benefit options.—Notwithstanding any other provision in this chapter to the contrary, the following provisions shall apply to any member who has accumulated at least 10 years of service and dies:

(1) If the deceased member's surviving spouse has previously received a refund of the member's contributions made to the Highway Patrol Pension Trust Fund, such spouse may pay to the *Department of Management Services* ~~Division of Retirement~~ an amount equal to the sum of the amount of the deceased member's contributions previously refunded and interest at 3 percent compounded annually on the amount of such refunded contributions from the date of refund to the date of payment to the *Department of Management Services* ~~Division of Retirement~~, and receive the monthly retirement benefit provided in subsection (3).

(2) If the deceased member's surviving spouse has not received a refund of the deceased member's contribution, such spouse shall, upon application to the *Department of Management Services* ~~Division of Retirement~~, receive the monthly retirement benefit provided in subsection (3).

(3) The monthly benefit payable to the spouse described in subsection (1) or subsection (2) shall be the amount which would have been payable to the deceased member's spouse, assuming that the member had retired on the date of his or her death and had selected the option in s. 321.20 which would afford the surviving spouse the greatest amount of benefits, such benefit to be based on the ages of the spouse and member as of the date of death of the member. Such benefit shall commence on the first day of the month following the payment of the aforesaid amount to the *Department of Management Services* ~~Division of Retirement~~, if subsection (1) is applicable, or on the first day of the month following the receipt of the spouse's application by the *Department of Management Services* ~~Division of Retirement~~, if subsection (2) is applicable.

Section 96. Subsection (11) of section 413.051, Florida Statutes, 1998 Supplement, is amended to read:

413.051 Eligible blind persons; operation of vending stands.—

(11) Effective July 1, 1996, blind licensees who remain members of the Florida Retirement System pursuant to s. 121.051(6)(b)1. shall pay any unappropriated retirement costs from their net profits or from program income. Within 30 days after the effective date of this act, each blind licensee who is eligible to maintain membership in the Florida Retirement System under s. 121.051(6)(b)1., but who elects to withdraw from the system as provided in s. 121.051(6)(b)3., must, on or before July 31, 1996, notify the Division of Blind Services and the *Department of Management Services* ~~Division of Retirement~~ in writing of his or her election to withdraw. Failure to timely notify the divisions shall be deemed a decision to remain a compulsory member of the Florida Retirement System. However, if, at any time after July 1, 1996, sufficient funds are not paid by a blind licensee to cover the required contribution to the Florida Retirement System, that blind licensee shall become ineligible to participate in the Florida Retirement System on the last day of the first month for which no contribution is made or the amount contributed is insufficient to cover the required contribution. For any blind licensee who becomes ineligible to participate in the Florida Retirement System as described in this subsection, no creditable service shall be earned under the Florida Retirement System for any period following the month that retirement contributions ceased to be reported. However, any such person may participate in the Florida Retirement System in the future if employed by a participating employer in a covered position.

Section 97. Paragraph (c) of subsection (4) of section 633.382, Florida Statutes, is amended to read:

633.382 Firefighters; supplemental compensation.—

(4) FUNDING.—

(c) There is appropriated from the Police and Firefighter's Premium Tax Trust Fund to the Firefighters' Supplemental Compensation Trust Fund, which is hereby created under the Department of Revenue, all moneys which have not been distributed to municipalities and special fire control districts in accordance with s. 175.121 as a result of the limitation contained in s. 175.122 on the disbursement of revenues collected pursuant to chapter 175 or as a result of any municipality or special fire control district not having qualified in any given year, or portion thereof, for participation in the distribution of the revenues collected pursuant to chapter 175. The total required annual distribution from the Firefighters' Supplemental Compensation Trust Fund shall equal the amount necessary to pay supplemental compensation as provided in this section, provided that:

1. Any deficit in the total required annual distribution shall be made up from accrued surplus funds existing in the Firefighters' Supplemental Compensation Trust Fund on June 30, 1990, for as long as such funds last. If the accrued surplus is insufficient to cure the deficit in any given year, the proration of the appropriation among the counties, municipalities, and special fire service taxing districts shall equal the ratio of compensation paid in the prior year to county, municipal, and special fire service taxing district firefighters pursuant to this section. This ratio shall be provided annually to the Department of Revenue by the Division of State Fire Marshal. Surplus funds that have accrued or accrue on or after July 1, 1990, shall be redistributed to municipalities and special fire control districts as provided in subparagraph 2.

2. By October 1 of each year, any funds that have accrued or accrue on or after July 1, 1990, and remain in the Firefighters' Supplemental Compensation Trust Fund following the required annual distribution shall be redistributed by the Department of Revenue pro rata to those

municipalities and special fire control districts identified by the *Department of Management Services* ~~Division of Retirement~~ as being eligible for additional funds pursuant to s. 175.121(3)(b).

Section 98. Subsection (4) of section 650.02, Florida Statutes, is amended to read:

650.02 Definitions.—For the purpose of this chapter:

(4) The term "state agency" means the *Department of Management Services* ~~Division of Retirement~~.

Section 99. *Each department of the executive branch shall survey each board, commission, and other such entity under its jurisdiction and recommend whether the entity should be abolished, continued, or revised. This information shall be provided to the Department of Management Services in the electronic format provided by that department. The Department of Management Services shall report the findings from all departments to the Governor and the Legislature by December 1, 1999.*

Section 100. Paragraph (a) of subsection (5) of section 215.94, Florida Statutes, is amended to read:

215.94 Designation, duties, and responsibilities of functional owners.—

(5) The Department of Management Services shall be the functional owner of the Cooperative Personnel Employment Subsystem. The department shall design, implement, and operate the subsystem in accordance with the provisions of ss. 110.116 and 215.90-215.96. The subsystem shall include, but shall not be limited to, functions for:

(a) Maintenance of employee and position data, including funding sources and percentages and salary lapse. The employee data shall include, but not be limited to, information to meet the payroll system requirements of the Department of Banking and Finance and to meet the employee benefit system requirements of ~~the Division of State Employees Insurance in~~ the Department of Management Services.

Section 101. This act shall take effect July 1, 1999.

And the title is amended as follows:

On page 1, line 2 through page 2, line 22, remove from the title of the bill: all of said lines and insert in lieu thereof: An act relating to the Department of Management Services; amending s. 20.22, F.S.; transferring functions of the Divisions of State Group Insurance and Retirement to the department; abolishing the Florida State Group Insurance Council; repealing s. 20.37(3), F.S., which provides for the location of the headquarters of the Department of Veterans' Affairs; amending s. 110.1082, F.S.; providing conditions for utilization of a voice mail system; amending s. 110.1238, F.S.; providing for recovery of overcharges by health care providers; amending ss. 110.1227, 110.123, 110.12315, 110.1232, 110.1234, 110.161, 112.05, 112.3173, 112.352, 112.354, 112.356, 112.358, 112.361, 112.362, 112.363, 112.63, 112.64, 112.658, 112.665, 121.021, 121.025, 121.027, 121.031, 121.051, 121.0511, 121.0515, 121.052, 121.055, 121.071, 121.081, 121.091, 121.101, 121.111, 121.133, 121.135, 121.136, 121.1815, 121.1905, 121.192, 121.193, 121.22, 121.23, 121.24, 121.30, 121.35, 121.40, 121.45, 122.02, 122.03, 122.05, 122.06, 122.07, 122.08, 122.10, 122.12, 122.13, 122.15, 122.16, 122.23, 122.30, 122.34, 122.351, 189.412, 215.20, 215.28, 215.50, 238.01, 238.02, 238.03, 238.05, 238.07, 238.08, 238.09, 238.10, 238.11, 238.12, 238.14, 238.15, 238.171, 238.181, 238.32, 240.3195, 250.22, 321.17, 321.19, 321.191, 321.202, 321.203, 321.2205, 413.051, 633.382, 650.02, F.S., to conform to the restructuring of the department by this act; requiring executive departments to report information on boards, commissions, and similar entities to the department, along with recommendations for continuance, abolition, or revision; requiring the department to report that information to the Governor and the Legislature; amending s. 215.94, F.S.; providing cross-referencing changes; providing an effective date.

On motion by Senator Campbell, the Senate concurred in the House amendment.

CS for SB 2280 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment 1, concurred in same as amended, and passed CS for HB 121 as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

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.

Technical House Amendment 1 (902973) to Senate Amendment 1—On page 17, line 20, remove from the bill: *"only be"* and insert in lieu thereof: *only by*

House Amendment 2 (982453)(with title amendment) to Senate Amendment 1—On page 17, lines 22-24 remove from the amendment: all of said lines and insert in lieu thereof: *release, or any form of early release.*

And the title is amended as follows:

On page 75, lines 8-10, of the amendment remove: all of said lines and insert in lieu thereof: construction; providing for

House Amendment 3 (292749)(with title amendment) to Senate Amendment 1—On page 29, lines 30-31; page 31, lines 30-31; and page 36, lines 29- 30, remove from the amendment: *not eligible for any form of gain time under s. 944.275 or* ~~ineligible for~~ and insert in lieu thereof: ineligible for
and, on page 37, line 31, through page 38, line 1, remove from the amendment: *any form of gain time under s. 944.275 or*

And the title is amended as follows:

On page 76, line 29, of the amendment remove: gain time or

On motion by Senator Lee, the Senate concurred in the House amendments to the Senate amendment.

CS for HB 121 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has recalled from the Senate, reconsidered, and concurred in Senate Amendments 1, 3, and 4, refused to concur in Senate Amendment 2 and requests the Senate to recede therefrom, and passed CS for HB 1707 as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for HB 1707—A bill to be entitled An act relating to the Department of Management Services; amending s. 20.22, F.S.; revising the organizational structure of the department relating to labor organizations; amending s. 110.1099, F.S.; providing conditions for the reimbursement of training expenses by an employee; amending s. 110.112, F.S.; revising reporting requirements; amending s. 110.1245, F.S.; revising reporting requirements; increasing the cap on meritorious service awards; amending s. 110.131, F.S.; authorizing the designee of an agency head to extend the other-personal-services employment of a health care practitioner; amending s. 110.151, F.S.; modifying duties of state agencies for child care programs sponsored by the agencies; amending s. 110.181, F.S.; providing that the fiscal agent for the Florida State Employees' Charitable Campaign need not reimburse costs under specified conditions; amending s. 110.201, F.S.; providing for adoption of rules; providing for a workforce report; amending s. 110.205, F.S.; authorizing the Department of Management Services to designate specified employees within the Governor's Office to have salaries and benefits in accordance with the rules of Senior Management Service; authorizing specified employees to have benefits comparable to legislative employees; conforming provisions to changes made by the act; providing for the designation of Senior Management Service exempt positions; repealing s. 110.207(1)(g), F.S., relating to statewide planning of career service broadbanding compensation and classification; amending s. 110.209, F.S.; adding critical market pay to the list of pay additives; requiring certain pay implementations to be subject to review and recommendation by the Department of Management Services and approval by the Office of Planning and Budgeting; amending s. 110.235, F.S.; deleting a requirement for a report; amending s. 110.503, F.S.; allowing agencies to incur expenses to recognize the service of volunteers; amending s. 110.504, F.S.; providing a limitation on volunteer awards; amending s. 110.605, F.S.; providing a uniform appraisal system for employees and positions in the Selected Exempt Service; amending s. 112.061, F.S.; authorizing the designee of an agency head to approve specified expenses for employees; amending s. 112.3145, F.S.; redefining the terms "local officer" and "specified state employee" for purposes of financial disclosure requirements; amending s. 215.196, F.S.; revising the organizational structure of the department relating to the Architects Incidental Trust Fund; amending s. 215.422, F.S.; deleting a vendor's right to the name of an ombudsman; amending s. 216.011, F.S.; redefining the term "operating capital outlay"; amending s. 255.25, F.S.; exempting certain leases from the competitive bidding process; amending ss. 255.249 and 255.257, F.S.; revising the threshold for leased space facility requirements; amending s. 267.075, F.S.; revising the membership of The Grove Advisory Council; amending s. 272.18, F.S.; revising the membership of the Governor's Mansion Commission; amending s. 272.185, F.S.; revising the organizational structure of the department relating to maintenance of the Governor's Mansion; amending s. 273.02, F.S.; increasing the value of property required to be inventoried by custodians; amending s. 273.055, F.S.; providing for the disbursement of moneys received from disposition of state-owned tangible personal property; amending ss. 281.02, 281.03, 281.04, 281.05, 281.06, and 281.08, F.S.; including reference to the Florida Capitol Police; amending s. 281.07, F.S.; revising the organizational structure of the department relating to the capitol police; amending s. 282.105, F.S., relating to use of State Suncom Network by nonprofit schools; amending s. 282.1095, F.S.; authorizing the Department of Management Services to acquire a state agency law enforcement radio system; authorizing the Joint Task

Force on State Agency Law Enforcement Communications to advise the department regarding the system; deleting obsolete provisions; amending ss. 320.0802 and 327.25, F.S.; removing the time limits on the surcharges used to fund the system; removing obsolete provisions; amending s. 282.322, F.S.; amending the requirements for written reports on designated information resources management projects; amending s. 282.3091, F.S.; revising the membership of the State Technology Council; amending s. 282.111, F.S.; revising the organizational structure of the department relating to the statewide system of regional law enforcement communications; amending s. 287.017, F.S.; increasing purchasing category threshold amounts; amending s. 287.042, F.S.; revising the organizational structure of the department relating to the purchasing of goods and services; amending s. 287.057, F.S.; revising the organizational structure of the department relating to the procurement of insurance; amending s. 287.151, F.S.; revising purchasing requirements for certain state motor vehicles; amending ss. 287.16 and 287.18, F.S.; revising the organizational structure of the department relating to motor vehicles, watercraft, and aircraft; requiring a report on break-even mileage to be submitted biennially to agency inspectors general; amending s. 287.17, F.S.; providing definitions; providing criteria to be followed by an agency head in assigning a state-owned motor vehicle to an employee; requiring a report from agency heads on employee use of state motor vehicles; amending s. 365.171, F.S.; designating the director of the statewide emergency telephone number "911"; amending ss. 401.021 and 401.027, F.S.; designating the director of the statewide telecommunications system of the regional emergency medical service; amending s. 446.604, F.S.; providing for Government Services Direct to be included in the plan for One-Stop Career Centers; amending s. 447.208, F.S.; providing for the determination of attorney's fees in certain cases; repealing ch. 98-310, Laws of Florida, relating to evaluation of the state contract for air carrier service; authorizing the department to negotiate air services to and from Tallahassee and other cities; repealing ss. 110.407 and 110.607, F.S., which provide for performance audits; providing an effective date.

On motion by Senator Webster, the Senate receded from **Senate Amendment 2**.

CS for HB 1707 passed and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment 1, concurred in same as amended, and passed HB 1883 as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

HB 1883—A bill to be entitled An act relating to state-administered retirement systems; amending s. 112.63, F.S.; providing for review and comment on local government retirement system actuarial valuation reports and impact statements on a triennial basis; clarifying the basis of required payments; amending s. 112.65, F.S.; modifying the limitation on benefits for service under more than one retirement system or plan; amending s. 121.011, F.S.; clarifying requirements related to consolidation of existing retirement systems and preservation of rights; amending s. 121.021, F.S.; redefining "creditable service" to conform the definition to existing law; clarifying creditable service provisions for certain school board employees; amending s. 121.031, F.S.; authorizing the Division of Retirement to adopt rules; creating the Florida Retirement System Actuarial Assumption Conference; providing for duties and members; reenacting s. 121.051(6), F.S., relating to Florida Retirement System membership status of blind vending facility operators; reenacting ss. 121.052(7)(a), 121.055(3)(a), and 121.071(1), F.S., relating to contribution rates; amending ss. 121.052, 121.055, and 121.071, F.S., changing contribution rates for specified classes and subclasses of the system; correcting an error; conforming provisions relating to de minimis accounts to federal law; amending s. 121.081, F.S.; clarifying provisions relating to past service and prior service; amending s. 121.091, F.S.; clarifying proof of disability requirements; modifying provisions relating to death benefits to permit purchase of certain retirement credit by joint annuitants; clarifying the contribution rate and interest required to be paid for such purchases; increasing the age at which a Special Risk Class Member must elect whether to participate in the Deferred Retirement Option Program; updating and correcting references; amending s. 121.122, F.S.,; correcting a reference; amending 121.24, F.S.; authorizing the State Retirement Commission to adopt rules; amending s. 121.35, F.S.; conforming provisions relating to de minimis accounts to federal law; amending s. 121.40, F.S., to remove reemployment limitations and reenacting subsection (12), relating to contribution rates for the supplemental retirement program for the Institute of Food and Agricultural Sciences at the University of Florida; reenacting s. 413.051(11) and (12), F.S., relating to Florida Retirement System membership eligibility and retirement contribution payments for blind vending facility operators; amending ss. 175.071 and 185.06, F.S.; providing, with respect to the board of trustees for municipal firefighters' pension trust funds and municipal police officers' retirement trust funds that the board may invest in corporations on the National Market System of the Nasdaq Stock Market; repealing s. 121.027, F.S., amending s. 112.18, F.S.; providing presumptions that certain illnesses incurred by law enforcement officers are done so in the line of duty; relating to rulemaking authority for that act; requiring the Board of Trustees of the State Board of Administration to review the actuarial valuation of the Florida Retirement System; requiring the Board to review the process of retirement contribution rates and comment to the legislature; providing an effective date.

House Amendment 1 (455017)(with title amendment) to Senate Amendment 1—On page 44, line 24 through page 85, line 2, remove from the amendment: all of said lines

And the title is amended as follows:

On page 92, line 19 through page 94, line 1, of the amendment remove: all of said lines and insert in lieu thereof: the legislature;

House Amendment 2 (312835) to Senate Amendment 1—On page 89, lines 14 through 30, remove from the amendment: all of said lines and insert in lieu thereof:

Section 43. *It is the intent of the legislature to review the current benefits provided under the Florida Retirement System during the 2000 Legislative Session. To this end, prior to February 1, 2000, the Senate Fiscal Policy Committee, the Senate Governmental Oversight and Productivity Committee, the House Governmental Operations Committee and the House General Appropriations Committee will review the current Florida Retirement System and make recommendations to the presiding officers regarding the costs and benefits of alternative retirement plan options on both the employers and employees. Recommendations shall include a defined contribution plan.*

Section 44. This act shall take effect upon becoming law, except that the reenactment of subsection (6) of section 121.051, paragraph (a) of subsection (7) of section 121.052, paragraph (a) of subsection (3) of section 121.055, subsection (1) of section 121.071, subsection (12) of section 121.40, and subsections (11) and (12) of section 413.051, Florida Statutes, shall operate retroactively to June 7, 1996, and except that the amendments to paragraph (c) of subsection (15) of section 121.021, and subsections (1) and (2) and paragraph (a) of subsection (7) of section 121.0515, Florida Statutes, shall take effect October 1, 1999.

On motion by Senator Webster, the Senate concurred in the House amendments to the Senate amendment.

HB 1883 passed as amended and 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	Grant	Laurent	Silver
Casas	Gutman	Lee	Sullivan
Childers	Hargrett	McKay	Thomas
Clary	Horne	Meek	Webster
Cowin	Jones	Mitchell	

Nays—1

Holzendorf

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed SB 656, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 656—A bill to be entitled An act relating to trust funds; declaring the findings of the Legislature that specified trust funds are exempt from the termination requirements of s. 19(f), Art. III of the State Constitution; amending s. 11.2423, F.S.; providing that acts declaring trust funds exempt from such requirements are not repealed by the adoption of the Florida Statutes; providing an effective date.

House Amendment 1 (403823)(with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. *(1) The following trust funds within the following departments are terminated:*

(a) Within the Department of Agriculture and Consumer Services, the Hurricane Andrew Disaster Relief Trust Fund, FLAIR number 42-2-200.

(b) Within the Department of Environmental Protection:

1. The Hurricane Andrew Disaster Relief Trust Fund, FLAIR number 37-2-200.

2. The Hurricane Andrew Recovery and Rebuilding Trust Fund, FLAIR number 37-2-205.

3. The Youth Conservation Corps Trust Fund, FLAIR number 37-2-803.

4. The Cross Florida Barge Canal Trust Fund, FLAIR number 37-2-888. The remaining balance and revenues in this fund shall be deposited in the Land Acquisition Trust Fund, FLAIR number 37-2-423.

(c) Within the Department of Insurance:

1. The Fire College Trust Fund, FLAIR number 46-2-288. The remaining balance and revenues in this fund shall be deposited in the Insurance Commissioner's Regulatory Trust Fund, FLAIR number 46-2-393.

2. The Home Equity Conversion Mortgage Guaranty Fund, FLAIR number 46-2-369. The remaining balance and revenues in this fund shall be deposited in the Treasurer's Administrative and Investment Trust Fund, FLAIR number 46-2-725.

(d) Within the Department of Revenue:

1. The Child Support Depository Trust Fund, FLAIR number 73-2-080.

2. The Child Support Trust Fund, FLAIR number 73-2-084.

3. The Minerals Trust Fund, FLAIR number 73-2-484.

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

(3) For each trust fund terminated by this act, 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 Agriculture and Consumer Services, the Florida Preservation 2000 Trust Fund, FLAIR number 42-2-332.

(2) Within the Department of Banking and Finance:

(a) The Child Support Clearing Trust Fund, FLAIR number 44-2-081.

(b) The Collections Internal Revenue Clearing Trust Fund, FLAIR number 44-2-101.

(c) The Consolidated Miscellaneous Deductions Clearing Trust Fund, FLAIR number 44-2-139.

(d) The Electronic Funds Transfer Clearing Trust Fund, FLAIR number 44-2-188.

(e) The Employee Refund Clearing Trust Fund, FLAIR number 44-2-194.

(f) The Federal Tax Levy Clearing Trust Fund, FLAIR number 44-2-274.

(g) The Florida Retirement Clearing Trust Fund, FLAIR number 44-2-323.

(h) The Hospital Insurance Tax Clearing Trust Fund, FLAIR number 44-2-370.

(i) The Social Security Clearing Trust Fund, FLAIR number 44-2-643.

(3) Within the Department of Environmental Protection:

(a) The Florida Preservation 2000 Trust Fund, FLAIR number 37-2-332.

(b) The Land Acquisition Trust Fund, FLAIR number 37-2-423.

(c) The Project Construction Trust Fund, FLAIR number 37-2-549.

(4) Within the Department of Insurance:

(a) The Agents and Solicitors County Tax Trust Fund, FLAIR number 46-2-024.

(b) The Government Employees Deferred Compensation Trust Fund, FLAIR number 46-2-155.

(c) The State Treasurer Escrow Trust Fund, FLAIR number 46-2-622.

(d) The Treasury Cash Deposit Trust Fund, FLAIR number 46-2-720.

(e) The Treasurer Investment Trust Fund, FLAIR number 46-2-728.

(5) Within the Department of Revenue:

(a) The Additional Court Costs Clearing Trust Fund, FLAIR number 73-2-013.

(b) The Apalachicola Bay Oyster Surcharge Clearing Trust Fund, FLAIR number 73-2-028.

(c) The Child Support Clearing Trust Fund, FLAIR number 73-2-081.

(d) The Convention Development Tax Clearing Trust Fund, FLAIR number 73-2-132.

(e) The Revenue Sharing Trust Fund for Counties, FLAIR number 73-2-144.

(f) The Documentary Stamp Tax Clearing Trust Fund, FLAIR number 73-2-166.

(g) The Revenue-Fuel Tax Refund Payments Trust Fund, FLAIR number 73-2-317.

(h) The Fuel Tax Collection Trust Fund, FLAIR number 73-2-319.

(i) The Local Option Fuel Tax Trust Fund, FLAIR number 73-2-448.

(j) The Local Alternative Fuel User Fee Clearing Trust Fund, FLAIR number 73-2-449.

(k) The Local Government Half-cent Sales Tax Clearing Trust Fund, FLAIR number 73-2-455.

(l) The Discretionary Sales Surtax Clearing Trust Fund, FLAIR number 73-2-459.

(m) The Local Option Tourist Development Trust Fund, FLAIR number 73-2-460.

(n) The Mail Order Sales Tax Clearing Trust Fund, FLAIR number 73-2-465.

(o) The Motor Vehicle Warranty Trust Fund, FLAIR number 73-2-492.

(p) The Municipal Financial Assistance Trust Fund, FLAIR number 73-2-493.

(q) The Motor Vehicle Rental Surcharge Clearing Trust Fund, FLAIR number 73-2-494.

(r) The Revenue Sharing Trust Fund for Municipalities, FLAIR number 73-2-501.

(s) The Oil and Gas Tax Trust Fund, FLAIR number 73-2-508.

(t) The Pollutant Tax Clearing Trust Fund, FLAIR number 73-2-544.

(u) The Railroad and Private Car Tax Collection Clearing Trust Fund, FLAIR number 73-2-571.

(v) The Sales Tax Security Deposit Trust Fund, FLAIR number 73-2-607.

(w) The Secondhand Dealer and Secondary Metals Recycler Clearing Trust Fund, FLAIR number 73-2-617.

(x) The State Alternative Fuel User Fee Clearing Trust Fund, FLAIR number 73-2-618.

(y) The Highway Safety-Admin. Div. Security Deposits Trust Fund, FLAIR number 73-2-625.

(z) The Severance Tax Solid Mineral Trust Fund, FLAIR number 73-2-636.

(aa) The Solid Waste Management Clearing Trust Fund, FLAIR number 73-2-645.

(bb) The Department of Revenue Premium Tax Clearing Trust Fund, FLAIR number 73-2-733.

(cc) The Ninth-cent Fuel Tax Trust Fund, FLAIR number 73-2-777.

Section 3. *(1) The following trust funds are renamed:*

(a) Within the Department of Banking and Finance:

1. The Abandoned Property Trust Fund, FLAIR number 44-2-007, is renamed the Unclaimed Property Trust Fund.

2. The National Forest Trust Fund, FLAIR number 44-2-307, is renamed the Federal Use of State Lands Trust Fund.

(b) Within the Department of Environmental Protection:

1. The Aquatic Plant Control Trust Fund, FLAIR number 37-2-030, is renamed the Invasive Plant Control Trust Fund.

2. The Sewage Treatment Revolving Loan Fund, FLAIR number 37-2-661, is renamed the Wastewater Treatment and Stormwater Management Revolving Trust Fund.

(2) This section shall take effect July 1, 1999.

Section 4. *Effective upon this act becoming a law, section 3 of chapter 95-114, section 3 of chapter 95-115, section 2 of chapter 95-249, and section 3 of chapter 95-371, Laws of Florida, are repealed.*

Section 5. 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 6. Subsection (3) of section 253.781, Florida Statutes, is amended to read:

253.781 Retention of state-owned lands along former Cross Florida Barge Canal route; creation of Cross Florida Greenways State Recreation and Conservation Area; authorizing transfer to the Federal Government for inclusion in Ocala National Forest.—

(3) The Board of Trustees of the Internal Improvement Trust Fund may acquire by purchase, exchange of other state lands, or the exercise of the power of eminent domain the fee title to lands acquired in less-than-fee title and to privately owned lands that break the continuity of publicly owned lands within the original canal corridor as specified in the University Planning Team Greenway Management Plan along the canal route, using canal authority assets transferred to the department *or*~~;~~ using state, local, or federal funds dedicated to acquiring lands for conservation and recreation~~; or using funds from the Cross Florida Barge Canal Trust Fund~~. The Legislature finds that such exercise of the power of eminent domain to accomplish the purposes of this section is necessary and for a public purpose. Such power of eminent domain must be exercised pursuant to chapter 73.

Section 7. Section 253.7824, Florida Statutes, is amended to read:

253.7824 Sale of products; proceeds.—The department may authorize the removal and sale of products from the land where environmentally appropriate, the proceeds from which shall be deposited in the *Land Acquisition* ~~Cross Florida Barge Canal~~ Trust Fund.

Section 8. Subsection (1) 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.—

(1) It is declared to be in the public interest that the department shall do and is hereby authorized to do any and all things and incur and pay from ~~the Cross Florida Barge Canal Trust Fund or from~~ the canal authority assets, for the public purposes described herein, any and all expenses necessary, convenient, and proper to:

(a) Develop a management plan for the retention or disposition of lands acquired for the Cross Florida Barge Canal to be submitted to the Governor and Cabinet no later than 2 years after the date of enactment of the Cross Florida Barge Canal deauthorization act, which plan shall reflect a consideration of alternatives for disposition as provided in this section of all lands in fee or less than fee owned by the Board of Trustees of the Internal Improvement Trust Fund, including those lands previously owned by the canal authority and the United States Army Corps of Engineers, and lands to be transferred to the state by the United States Army Corps of Engineers. The management plan shall establish a plan for delineating the specific boundaries of the Cross Florida Greenways State Recreation and Conservation Area. The Legislature intends that such boundaries include, at a minimum, a 300-yard-wide corridor, except where the original corridor is a lesser width or except in areas where bridges and roads cross the canal corridor, on former canal lands within the original canal corridor extending from the St. Johns River to the Gulf of Mexico, including all of the Oklawaha River Valley and Rodman Reservoir, and all canal works in all areas whether completed and in use or not, but excluding all parts of Lake Rousseau. Such boundaries may include other former canal lands according to the following criteria:

1. The proximity of the lands to former canal corridor lands.

2. The environmental sensitivity or importance of the lands or its characteristics as a unique or significant wildlife habitat.

3. The proximity of the lands to existing state or federal land which is maintained, at least in part, as natural wildlife habitat, so that the addition of the parcel would function as a wildlife corridor, or as additional habitat.

4. The potential of the lands to be developed as outdoor recreation lands.

Commercially valuable parcels, including those parcels near road crossings, within the canal corridor which do not meet the criteria of subparagraphs 1.-4. and other former canal lands which are not included within the boundaries of the Cross Florida Greenways State Recreation and Conservation Area under the criteria of subparagraphs 1.-4., may be disposed of as surplus lands pursuant to s. 253.783(2)(a)-(d). Such alternatives for disposition will include retention by the state or any agency thereof for the specific public purposes outlined in this paragraph or by the counties or adjacent municipalities for recreational or conservation purposes, and a declaration of lands not to be retained as surplus lands to be disposed of pursuant to s. 253.783(2)(a)-(d). The management plan shall also address any remedial measures necessary to correct any environmental or economic damage caused by works constructed as a part of or as a result of the Cross Florida Barge Canal.

(b) Operate and maintain existing lands and interests in lands, appurtenances, structures, and facilities. Operation and maintenance of water control structures may be delegated by the department to the St. Johns River Water Management District or the Southwest Florida Water Management District, as necessary. Rights-of-way necessary for the construction and maintenance of electric transmission lines may be authorized.

Section 9. Subsection (2) of section 253.783, Florida Statutes, is amended to read:

253.783 Additional powers and duties of the department; disposition of surplus lands; payments to counties.—

(2) It is declared to be in the public interest that the department shall do and is hereby authorized to do any and all things and incur and pay ~~from the Cross Florida Barge Canal Trust Fund~~, for the public purposes described herein, any and all expenses necessary, convenient, and proper to:

(a) Offer any land declared to be surplus, at current appraised value, to the counties in which the surplus land lies, for acquisition for specific public purposes. Any county, at its option, may elect to acquire any lands so offered without monetary payment. The fair market value of any parcels so transferred shall be subtracted from the county's reimbursement under paragraph (e). These offers will be made within 3 calendar months after the date the management plan is adopted and will be valid for 180 days after the date of the offer.

(b) Extend the second right of refusal, at current appraised value, to the original owner from whom the Canal Authority of the State of Florida or the United States Army Corps of Engineers acquired the land or the original owner's heirs. These offers shall be made by public advertisement in not fewer than three newspapers of general circulation within the area of the canal route, one of which shall be a newspaper in the county in which the lands declared to be surplus are located. The public advertisements shall be run for a period of 14 days. These offers will be valid for 30 days after the expiration date of any offers made under paragraph (a), or 30 days after the date publication begins, whichever is later.

(c) Extend the third right of refusal, at current appraised value, to any person having a leasehold interest in the land from the canal authority. These offers shall be advertised as provided in paragraph (b) and will be valid for 30 days after the expiration date of the offers made under paragraph (b), or 30 days after the date publication begins, whichever is later.

(d) Offer surplus lands not purchased or transferred under paragraphs (a)-(c) to the highest bidder at public sale. Such surplus lands and the public sale shall be described and advertised in a newspaper of general circulation within the county in which the lands are located not less than 14 calendar days prior to the date on which the public sale is to be held. The current appraised value of such surplus lands will be the minimum acceptable bid.

(e) Refund to the counties of the Cross Florida Canal Navigation District moneys pursuant to this paragraph ~~from the funds remaining in the Cross Florida Barge Canal Trust Fund~~ from the funds derived from the conveyance of lands of the project to the Federal Government or any agency thereof, pursuant to s. 253.781, and from the sales of surplus lands pursuant to this section. Following federal deauthorization of the project, such refunds shall consist of the $9,340,720 principal in ad valorem taxes contributed by the counties and the interest which had accrued on that amount from the time of payment to June 30, 1985. In no event shall the counties be paid less than the aggregate sum of $32 million in cash or the appraised values of the surplus lands. Such refunds shall be in proportion to the ad valorem tax share paid to the Cross Florida Canal Navigation District by the respective counties. Should ~~the remaining funds in the Cross Florida Barge Canal Trust Fund and~~ the funds derived from the conveyance of lands of the project to the Federal Government for payment or from the sale of surplus land be inadequate to pay the total of the principal plus interest, first priority shall be given to repaying the principal and second priority shall be given to repaying the interest. Interest to be refunded to the counties shall be compounded annually at the following rates: 1937-1950, 4 percent; 1951-1960, 5 percent; 1961-1970, 6 percent; 1971-1975, 7 percent; 1976-June 30, 1985, 8 percent. In computing interest, amounts already repaid to the counties shall not be subject to further assessments of interest. Any partial repayments provided to the counties under this act shall be considered as contributing to the total repayment owed to the counties. Should the funds generated by conveyance to the Federal Government and sales of surplus lands be more than sufficient to repay said counties in accordance with this section, such excess funds may be used for the maintenance of the greenways corridor.

(f) Carry out the purposes of this act.

Section 10. Section 624.516, Florida Statutes, is amended to read:

624.516 State Fire Marshal regulatory assessment and surcharge; deposit and use of funds.—

(1) The regulatory assessment imposed under s. 624.515(1) *and the surcharge imposed under s. 624.515(2)* shall be deposited by the Department of Revenue, when received and audited, into the Insurance Commissioner's Regulatory Trust Fund. ~~The surcharge imposed under s. 624.515(2) shall be deposited by the Department of Revenue, when received and audited, into the Fire College Trust Fund.~~

(2) The moneys ~~so~~ received and deposited in the funds, as provided in subsection (1), are ~~hereby~~ appropriated for use by the State Treasurer as ex officio State Fire Marshal, hereinafter referred to as "State Fire Marshal," to defray the expenses of the State Fire Marshal in the discharge of her or his administrative and regulatory powers and duties as prescribed by law, including the maintaining of offices and necessary supplies therefor, essential equipment and other materials, salaries and expenses of required personnel, and all other legitimate expenses relating to the discharge of the administrative and regulatory powers and duties imposed in and charged to her or him under such laws.

(3) If, at the end of any fiscal year, a balance of funds remains in the Insurance Commissioner's Regulatory Trust Fund ~~or the Fire College Trust Fund, respectively~~, such balance shall not revert to the general fund of the state, but shall be retained in the Insurance Commissioner's Regulatory Trust Fund ~~or the Fire College Trust Fund~~ to be used for the purposes for which the *moneys are* ~~same is~~ appropriated as set forth *in subsection (2)* ~~above~~.

Section 11. Subsections (1), (2), (3), (9), and (10) of section 633.445, Florida Statutes, are amended to read:

633.445 State Fire Marshal Scholarship Grant Program.—

(1) All payments, gifts, or grants received pursuant to this section shall be deposited in the State Treasury to the credit of the *Insurance Commissioner's Regulatory* ~~Fire College~~ Trust Fund for the State Fire Marshal Scholarship Grant Program. Such funds shall provide, from grants to the state from moneys raised from public and private sources, scholarships for qualified applicants to the Florida State Fire College as created by s. 633.43.

(2) The Comptroller shall authorize expenditures from the *Insurance Commissioner's Regulatory* ~~Fire College~~ Trust Fund upon receipt of vouchers approved by the State Fire Marshal. All moneys collected from public and private sources pursuant to this section shall be deposited into the trust fund. Any balance in the trust fund at the end of any fiscal year shall remain therein and shall be available for carrying out the purposes of the fund in the ensuing year.

(3) All funds deposited into the *Insurance Commissioner's Regulatory* ~~Fire College~~ Trust Fund shall be invested pursuant to ~~the provisions of~~ s. 18.125. Interest income accruing to moneys so invested shall increase the total funds available for the purposes for which the trust fund is created.

(9) After selection and approval of an applicant for a grant by the council, payment in the applicant's name for scholarship funds shall be transmitted from the *Insurance Commissioner's Regulatory* ~~Fire College~~ Trust Fund by the Comptroller upon receipt of vouchers authorized by the State Fire Marshal. If a recipient terminates her or his enrollment during the course of her or his curriculum at the State Fire College, unless excused by the council and allowed to resume training at a later time, any unused portion of the scholarship funds shall be refunded to the trust fund. A recipient who terminates her or his enrollment is not liable for any portion of a scholarship.

(10) The council may accept payments, gifts, and grants of money from any federal agency, private agency, county, city, town, corporation, partnership, or individual for deposit in the *Insurance Commissioner's Regulatory* ~~Fire College~~ Trust Fund to implement this section and for authorized expenses incurred by the council in performing its duties.

Section 12. *Paragraph (r) of subsection (1) of section 633.45, Florida Statutes, is repealed.*

Section 13. Section 633.46, Florida Statutes, is amended to read:

633.46 Fees.—The division may fix and collect admission fees and other fees which it deems necessary to be charged for training given. All fees so collected shall be deposited in the *Insurance Commissioner's Regulatory* ~~Fire College~~ Trust Fund.

Section 14. Section 633.461, Florida Statutes, is amended to read:

633.461 *Insurance Commissioner's Regulatory* ~~Fire College~~ Trust Fund.—The funds received from the *Insurance Commissioner's Regulatory* ~~Fire College~~ Trust Fund shall be *used* ~~utilized~~ by the staff of the Florida State Fire College to provide all necessary services, training, equipment, and supplies to carry out the college's responsibilities, including, but not limited to, the State Fire Marshal Scholarship Grant Program and the procurement of training films, videotapes, audiovisual equipment, and other useful information on fire, firefighting, and fire prevention, including public fire service information packages.

Section 15. Subsection (2) of section 633.50, Florida Statutes, is amended to read:

633.50 Division powers and duties; Florida State Fire College.—

(2) Funds generated by the formula per full-time equivalent student may not exceed the level of state funding per full-time equivalent student generated through the Florida Education Finance Program or the State Community College Program Fund for students enrolled in comparable education programs provided by public school districts and community colleges. Funds appropriated for education and operational costs shall be deposited in the *Insurance Commissioner's Regulatory* ~~Fire College~~ Trust Fund to be used solely for purposes specified in s. 633.461 and may not be transferred to any other budget entity for purposes other than education.

Section 16. *Section 697.203, Florida Statutes, is repealed.*

Section 17. Section 697.205, Florida Statutes, is amended to read:

697.205 Recoveries from the trust fund.—

(1)(a) Any person is eligible to seek recovery from the *Treasurer's Administrative and Investment Trust* ~~Home Equity Conversion Mortgage Guaranty~~ Fund if:

1. Such person was the mortgagee of a home equity conversion mortgage which was foreclosed upon termination, and the proceeds from the foreclosure sale were insufficient to repay the full loan amount due;

2. Such person has caused to be issued a writ of execution upon a decree rendered pursuant to chapter 702, and the officer executing the writ has made a return showing that no real or personal property of the judgment debtor can be found which is liable to be levied upon in satisfaction of the decree or that the amount realized on the sale of the judgment debtor's property pursuant to such execution was insufficient to satisfy the judgment;

3. Such person has made all searches and inquiries which are reasonable to ascertain whether the judgment debtor possesses real or personal property or other assets subject to being sold or applied in satisfaction of the judgment, and such person through her or his search has discovered no property or assets or has discovered property and assets and taken all necessary action and proceedings for the application of such property and assets in satisfaction of the judgment but the amounts thereby realized were insufficient to satisfy the judgment;

4. Such person has applied any amounts recovered from the judgment debtor, or from any other source, to the deficiency decree; or

5. The mortgage on which recovery is sought was insured pursuant to s. 697.204 prior to July 1, 1993.

(b) Any person who meets all of the conditions prescribed in subsection (1) may apply to the department for payment to be made to such person from the *Treasurer's Administrative and Investment Trust* ~~Home Equity Conversion Mortgage Guaranty~~ Fund in an amount equal to the unsatisfied portion of such person's deficiency decree. ~~In no event shall~~ Such amount *may not* exceed the difference between the amount of the proceeds from a foreclosure sale and the loan amount due, including principal and interest.

(c) Upon receipt by the mortgagee of the payment from the *Treasurer's Administrative and Investment Trust* ~~Home Equity Conversion~~

~~Mortgage Guaranty~~ Fund, the mortgagee shall assign to the department any additional right, title, and interest in the judgment, to the extent of such payment.

(2)

(a) *If* ~~In the event that~~ a search is made by the mortgagee to determine all of the debtor's real and personal property which may be applied towards payment of the debt and it is determined that foreclosure of the home equity conversion mortgage would not result in recovering any significant additional assets of the debtor which may be used to satisfy the mortgage, the mortgagee may still be able to recover from the fund without having to foreclose, provided that such mortgage was insured pursuant to s. 697.204 prior to July 1, 1993.

~~1. Such recovery shall be provided for by rule promulgated pursuant to s. 697.203; shall be conditioned on the mortgagee acquiring the mortgaged property by deed; and shall be based on a reasonable appraised value of the property. The rules promulgated for such recovery shall include provisions for requiring the mortgagee to determine the total assets of the debtor; provisions for determining whether foreclosure would result in recovering any additional assets of the debtor which may be used to satisfy the mortgage; and provisions for determining what constitutes a reasonable appraised value of the property.~~

~~2. The maximum recovery to be allowed by this section shall be the difference between the loan amount due, including principal and interest, and the appraised value of the property.~~

(b) Any person who meets all of the conditions set by rule for recovery under this subsection may apply to the department for payment to be made to such person from the *Treasurer's Administrative and Investment Trust* ~~Home Equity Conversion Mortgage Guaranty~~ Fund in an amount equal to the maximum recovery as provided herein.

Section 18. *Section 61.182, Florida Statutes, is repealed.*

Section 19. Effective July 1, 1999, paragraph (a) of subsection (1) of section 206.606, Florida Statutes, 1998 Supplement, as amended by chapters 98-114, 96-321, 95-417, and 94-146, 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) $7.55 million shall be transferred to the Department of Environmental Protection in each fiscal year. 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 *Invasive* ~~Aquatic~~ Plant Control Trust Fund 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.

Section 20. Effective July 1, 1999, paragraphs (c) and (e) of subsection (1) of section 327.28, Florida Statutes, are amended to read:

327.28 Marine Resources Conservation Trust Fund; vessel registration funds; appropriation and distribution.—

(1) Except as otherwise specified and less any administrative costs, all funds collected from the registration of vessels through the Department of Highway Safety and Motor Vehicles and the tax collectors of the state shall be deposited in the Marine Resources Conservation Trust Fund for recreational channel marking; public launching facilities; law enforcement and quality control programs; aquatic weed control; manatee protection, recovery, rescue, rehabilitation, and release; and marine mammal protection and recovery. The funds collected pursuant to s. 327.25(1) shall be transferred as follows:

(c) Two dollars from each noncommercial vessel registration fee, except that for class A-1 vessels, shall be transferred to the *Invasive* ~~Aquatic~~ Plant Control Trust Fund for aquatic weed research and control.

(e) Forty percent of the registration fees from commercial vessels shall be transferred to the *Invasive* ~~Aquatic~~ Plant Control Trust Fund for aquatic plant research and control.

Section 21. Effective July 1, 1999, section 369.252, Florida Statutes, is amended to read:

369.252 Invasive exotic plant control on public lands.—The department shall establish a program to:

(1) Achieve eradication or maintenance control of invasive exotic plants on public lands when the scientific data indicate that they are detrimental to the state's natural environment or when the Commissioner of Agriculture finds that such plants or specific populations thereof are a threat to the agricultural productivity of the state;

(2) Assist state and local government agencies in the development and implementation of coordinated management plans for the eradication or maintenance control of invasive exotic plant species on public lands;

(3) Contract, or enter into agreements, with entities in the State University System or other governmental or private sector entities for research concerning control agents; production and growth of biological control agents; and development of workable methods for the eradication or maintenance control of invasive exotic plants on public lands; and

(4) Use funds in the *Invasive* ~~Aquatic~~ Plant Control Trust Fund as authorized by the Legislature for carrying out activities under this section on public lands.

Section 22. Effective July 1, 1999, section 215.551, Florida Statutes, is amended to read:

215.551 *Federal Use of State Lands* ~~National Forest~~ Trust Fund; county distribution.—

(1) The Comptroller may make distribution of the *Federal Use of State Lands* ~~National Forest~~ Trust Fund, when so requested by the counties in interest, of such amounts as may be accumulated in that fund.

(2) The Comptroller shall ascertain, from the records of the General Land Office or other departments in Washington, D.C., the number of acres of land situated in the several counties in which the Apalachicola, Choctawhatchee, Ocala, and Osceola Forest Reserves are located, the number of acres of land of such forest reserve embraced in each of the counties in each of the reserves, and, also, the amount of money received by the United States Government from each of the reserves, respectively. The Comptroller shall apportion the money on hand to each county in each reserve, respectively and separately; such distribution shall be based upon the number of acres of land embraced in the Apalachicola Forest, Choctawhatchee Forest, Ocala Forest, and Osceola Forest, respectively, in each county and shall be further based upon the amount collected by the United States from each of such forests, so that such distribution, when made, will include for each county the amount due each county, based upon the receipts for the particular forest and the acreage in the particular county in which such forest is located. The Comptroller shall issue two warrants on the Treasurer in each case, the sum of which shall be the amount due each of such counties from the fund. One warrant shall be payable to the county for the county general road fund, and one warrant, of equal amount, shall be payable to such county's district school board for the district school fund.

(3) In the event that actual figures of receipts from different reserves cannot be obtained by counties, so as to fully comply with subsections (1) and (2), the Comptroller may adjust the matter according to the United States statutes, or as may appear to him or her to be just and fair, and with the approval of all counties in interest.

(4) The moneys that may be received and credited to the *Federal Use of State Lands* ~~National Forest~~ Trust Fund are appropriated for the payment of the warrants of the Comptroller drawn on the Treasurer in pursuance of this section.

Section 23. Effective July 1, 1999, paragraph (a) of subsection (9) and subsection (10) of section 403.1835, Florida Statutes, 1998 Supplement, are amended to read:

403.1835 Sewage treatment facilities revolving loan program.—

(9) Funds for the loans and grants authorized under this section must be managed as follows:

(a) A nonlapsing trust fund with revolving loan provisions to be known as the "*Wastewater* ~~Sewage~~ Treatment *and Stormwater Management* Revolving Loan *Trust* Fund" is ~~hereby~~ established in the State Treasury to be used as a revolving fund by the department to carry out the purpose of this section. Any funds therein which are not needed on an immediate basis for loans may be invested pursuant to s. 215.49. The cost of administering the program shall be paid from federal funds, from reasonable service fees that may be imposed upon loans, and from proceeds from the sale of loans as permitted by federal law so as to enhance program perpetuity. Grants awarded by the Federal Government, state matching funds, and investment earnings thereon shall be deposited into the fund. Proceeds from the sale of loans must be deposited into the fund. All moneys available in the fund, including investment earnings, are hereby designated to carry out the purpose of this section. The principal and interest payments of all loans held by the fund shall be deposited into this fund.

(10) Because the Legislature has experienced revenue shortfalls in recent years and has been unable to provide enough funds to fully match available federal funds to help capitalize the *Wastewater* ~~Sewage~~ Treatment *and Stormwater Management* Revolving Loan *Trust* Fund, it is necessary for innovative approaches to be considered to help capitalize the revolving loan fund. The department shall evaluate potential innovative approaches that can generate funds to match available federal funds. The department may adopt approaches that will help ensure the continuing viability of the *Wastewater* ~~Sewage~~ Treatment *and Stormwater Management* Revolving Loan *Trust* Fund. The department shall consider, among other possible alternatives, the option of implementing by rule a program to allow local governments to offer funds voluntarily to the state for use as a match to available federal funds to capitalize the *Wastewater* ~~state sewage~~ Treatment *and Stormwater Management* Revolving Loan *Trust* Fund.

Section 24. Effective July 1, 1999, section 403.1836, Florida Statutes, is amended to read:

403.1836 *Wastewater* ~~Sewage~~ Treatment *and Stormwater Management* Revolving Loan *Trust* Fund; stormwater management system construction.—*Each* ~~Beginning in~~ fiscal year ~~1998-1999~~, the Department of Environmental Protection shall make available up to 10 percent of the annual revenue received in the *Wastewater* ~~Sewage~~ Treatment *and Stormwater Management* Revolving Loan *Trust* Fund for loans to local governmental agencies for constructing stormwater management systems authorized pursuant to s. 403.1835. During this period of time, if the department does not receive requests for projects to use the funds available for stormwater management systems, such funds shall be used for constructing sewage treatment facilities and other activities authorized by s. 403.1835.

Section 25. Except as otherwise provided herein, this act shall take effect July 1, 2000.

And the title is amended as follows: remove from the title of the bill: everything before the enacting clause and insert in lieu thereof: A bill to be entitled An act relating to trust funds; terminating specified trust funds within the Department of Agriculture and Consumer Services, Department of Environmental Protection, Department of Insurance, and Department of Revenue; 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 Agriculture and Consumer Services, Department of Banking and Finance, Department of Environmental Protection, Department of Insurance, and Department of Revenue are exempt from the termination requirements of s. 19(f), Art. III of the State Constitution; renaming specified trust funds within the Department of Banking and Finance and the Department of Environmental Protection; repealing s. 3, ch. 95-114, s. 3, ch. 95-115, s. 2, ch. 95-249, and s. 3, ch. 95-371, Laws of Florida; abrogating provisions relating to the termination of certain trust funds that are exempt from termination; 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. 253.781, 253.7824, 253.7829, and 253.783, F.S.; removing reference to the Cross Florida Barge Canal Trust Fund; providing for deposit of certain proceeds in the Land Acquisition Trust Fund; amending ss. 624.516, 633.445, 633.46, 633.461, and 633.50, F.S., and repealing s. 633.45(1)(r), F.S., relating to the Fire College Trust Fund, to abolish the trust fund and transfer its balance and responsibilities to the Insurance Commissioner's Regulatory Trust Fund; repealing s. 697.203, F.S., relating to the Home Equity Conversion Mortgage Guaranty Fund, and amending s. 697.205, F.S., to abolish the fund and transfer its balance and responsibilities to the Treasurer's Administrative and Investment Trust Fund; deleting obsolete provisions; repealing s. 61.182, F.S., relating to the Child Support Depository Trust Fund, to abolish the trust fund; amending ss. 206.606, 327.28, and 369.252, F.S.; renaming the Aquatic Plant Control Trust Fund; amending s. 215.551, F.S.; renaming the National Forest Trust Fund; amending ss. 403.1835 and 403.1836, F.S.; renaming the Sewage Treatment Revolving Loan Fund; providing effective dates.

On motion by Senator Casas, the Senate concurred in the House amendment.

SB 656 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	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 SB 2350, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 2350—A bill to be entitled An act relating to public records; providing an exemption from public records requirements for business records of a business owner subject to a governmental condemning authority in an eminent domain proceeding; providing an expiration date; providing a finding of public necessity; providing a contingent effective date.

House Amendment 1 (051727)—On page 1, line 18 remove from the bill: all of said line and insert in lieu thereof: *119.07(1), Florida Statutes, if the disclosure of such records would be likely to cause substantial harm to the competitive position of the person providing such records and if the person providing such records requests that such records be held exempt. Nothing in this section shall be construed to prevent inspection of such records by the Attorney General, members of the Legislature, and interested state agencies; however, such records shall remain exempt from further disclosure. This exemption is subject to the*

On motion by Senator Carlton, the Senate concurred in the House amendment.

SB 2350 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 SB 2540, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 2540—A bill to be entitled An act relating to the commercial space industry; amending s. 330.30, F.S.; exempting certain spaceports from a provision of law relating to the approval of airport sites and the licensing of airports; amending s. 331.303, F.S.; revising definitions with respect to the Spaceport Florida Authority Act; amending s. 331.304, F.S.; revising the boundaries of spaceport territory; amending s. 331.360, F.S.; providing for the development of a spaceport master plan; creating s. 332.008, F.S.; providing limitation on the application of chapter 332, F.S.; amending s. 334.03, F.S.; redefining the term "transportation facility"; amending s. 334.30, F.S.; authorizing a fixed guideway transportation system operating within the Department of Transportation's right-of-way to operate at any safe speed; amending s. 339.155, F.S.; revising a provision of law governing transportation planning to include reference to spaceport master plans; amending s. 339.175, F.S.; including reference to spaceports and aerospace development with respect to metropolitan planning organizations; creating the Commission on the Future of Aeronautics and Space in Florida; providing for qualifications and appointment of members; directing the commission to study and make recommendations regarding specified areas relating to aeronautics and aerospace in the state; requiring reports; amending s. 196.012, F.S.; redefining the term "governmental purpose"; amending s. 212.08, F.S.; providing an exemption from the tax on sales, use, and other transactions; revising the application of the sales tax exemption for machinery and equipment used to increase productive output with respect to such machinery and equipment used in connection with spaceport activities; amending s. 288.063, F.S.; authorizing the Spaceport Florida Authority to enter into contracts for transportation projects; amending s. 288.075, F.S.; adding the Office of Tourism, Trade, and Economic Development and the Spaceport Florida Authority to a list of economic development agencies whose records are confidential; amending s. 288.35, F.S.; redefining the term "government agency"; amending s. 288.9415, F.S.; authorizing the Spaceport Florida Authority to apply for international trade grants; amending s. 331.309, F.S.; providing that funds of the authority may be deposited with the Florida Commercial Space Financing Corporation; creating part III of ch. 331, F.S., the Florida Commercial Space Financing Corporation Act; providing findings and intent; providing definitions; creating the Florida Commercial Space Financing Corporation; specifying the functions the corporation is authorized to carry out; providing for a board of directors of the corporation and for qualifications and appointment of members; providing powers of the corporation and the board; providing for fees; providing for rules; providing for insurance, coinsurance, loan guarantees, and loans for eligible space-related transactions; directing the board to establish an account to receive specified resources; providing for deposits in the account and for allocation of the account's resources; providing for appointment of a president of the corporation; providing powers and duties of the president; requiring an annual report; providing for development of a research design to evaluate the corporation; providing for a review and evaluation of the corporation by the Office of Program Policy Analysis and Government Accountability; providing for periodic reviews and reports by the Division of Banking; creating s. 331.367, F.S.; creating the Spaceport Management Council within the Spaceport Florida Authority; providing that the council shall make recommendations regarding specified areas; providing for an executive board and the membership thereof; providing duties of the council; providing duties with respect to a spaceport master plan; providing for development of a Spaceport Economic Development Plan; creating the Florida Space Research Institute; prescribing the purposes of the institute; providing for management and operation of the institute; requiring a report; amending s. 196.1994, F.S.; providing that cargo carriers are exempt from ad valorem taxes; providing intent; providing legislative findings and declarations with respect to the global competition that is encountered by the state in attracting commercial space business facilities; providing severability; providing an appropriation; providing an effective date.

House Amendment 1 (275477)(with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Paragraph (d) of subsection (3) of section 330.30, Florida Statutes, 1998 Supplement, is amended to read:

330.30 Approval of airport sites and licensing of airports; fees.—

(3) EXEMPTIONS.—The provisions of this section do not apply to:

(d) An airport under the jurisdiction or control of a county or municipal aviation authority or a county or municipal port authority *or the Spaceport Florida Authority*; however, the department shall license any such airport if such authority does not elect to exercise its exemption under this subsection.

Section 2. Subsection (25) is added to section 331.303, Florida Statutes, to read:

331.303 Definitions.—

(25) "Spaceport discretionary capacity improvement projects" means capacity improvements that enhance space transportation capacity at spaceports that have had one or more orbital or suborbital flights during the previous calendar year or have an agreement in writing for installation of one or more regularly scheduled orbital or suborbital flights upon the commitment of funds for stipulated spaceport capital improvements.

Section 3. Section 331.304, Florida Statutes, is amended to read:

331.304 Spaceport territory.—The following property shall constitute spaceport territory:

(1) Certain real property located in Brevard County *that is included within the 1998 boundaries of Patrick Air Force Base, Cape Canaveral Air Station, John F. Kennedy Space Center.* ~~with the following boundaries:~~

~~(a) Northern boundary—Latitude 28°32′30″ North.~~

~~(b) Eastern boundary—The mean high water line of the shore along the Atlantic Ocean.~~

~~(c) Western boundary—Cape Road (State Road 401).~~

~~(d) Southern boundary—Latitude 28°26′ North.~~

(2) Certain real property located in Gulf County with the following boundaries:

(a) Northern boundary—Latitude 29°40′45″ North from longitude 85°20′ West in a westerly direction to the mean high water line of the Gulf of Mexico.

(b) Eastern boundary—Longitude 85°20′ West.

(c) Western boundary—The mean high water line of the shore along the Gulf of Mexico.

(d) Southern boundary—The mean high water line of the shore along the Gulf of Mexico.

(3) Certain real property located in Santa Rosa, Okaloosa, and Walton Counties which is included within the 1997 boundaries of Eglin Air Force Base.

Section 4. Section 331.360, Florida Statutes, is amended to read:

331.360 Joint project agreement or assistance.—

(1) It shall be the duty, function, and responsibility of the Department of Transportation to promote the further development and improvement of aerospace transportation facilities, to address intermodal requirements and impacts of the launch ranges, spaceports, and other space transportation facilities, to assist in the development of joint-use facilities and technology that support aviation and aerospace operations, and to facilitate and promote cooperative efforts between federal and state government entities to improve space transportation capacity and efficiency. In carrying out this duty and responsibility, the department may assist and advise, cooperate with, and coordinate with federal, state, local, or private organizations and individuals. The department may administratively house its space transportation responsibilities within an existing division or office.

(2) Notwithstanding any other provision of law, the Department of Transportation may enter into a joint project agreement with, or otherwise assist, the Spaceport Florida Authority as necessary to effectuate the provisions of this chapter and may allocate funds for such purposes in its 5-year work program. However, the department may not fund the administrative or operational costs of the authority.

(3) The authority shall develop a spaceport master plan for expansion and modernization of space transportation facilities within spaceport territories as defined in s. 331.303(22). The plan shall contain recommended projects to meet current and future commercial, national, and state space transportation requirements. The authority shall submit the plan to any appropriate M.P.O. for review of intermodal impacts. The authority shall submit the spaceport master plan to the Department of Transportation and such plan may be included within the department's 5-year work program of qualifying aerospace discretionary capacity improvement under s. 331.360(4). The plan shall identify appropriate funding levels and include recommendations on appropriate sources of revenue that may be developed to contribute to the State Transportation Trust Fund.

(4) Subject to the availability of appropriated funds, the department may participate in the capital cost of eligible spaceport discretionary capacity improvement projects. The annual legislative budget request shall be based on the proposed funding requested for approved spaceport discretionary capacity improvement projects.

Section 5. Section 332.008, Florida Statutes, is created to read:

332.008 Limitation on operation of chapter.—Nothing in this chapter shall be construed to authorize expenditure of aviation fuel tax revenues on space transportation projects. Nothing in this chapter shall be construed to limit the department's authority under s. 331.360.

Section 6. Subsection (31) of section 334.03, Florida Statutes, is amended to read:

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

(31) "Transportation facility" means any means for the transportation of people *or* ~~and~~ property from place to place which is constructed, operated, or maintained in whole or in part from public funds. The term includes the property or property rights, both real and personal, which have been or may be established by public bodies for the transportation of people *or* ~~and~~ property from place to place.

Section 7. Subsection (6) is added to section 334.30, Florida Statutes, to read:

334.30 Private transportation facilities.—The Legislature hereby finds and declares that there is a public need for rapid construction of safe and efficient transportation facilities for the purpose of travel within the state, and that it is in the public's interest to provide for the construction of additional safe, convenient, and economical transportation facilities.

(6) Notwithstanding s. 341.327, a fixed-guideway transportation system authorized by the department to be wholly or partially within the department's right-of-way pursuant to a lease granted under s. 337.251 may operate at any safe speed.

Section 8. Paragraph (d) of subsection (2) of section 339.155, Florida Statutes, is amended, present paragraphs (w) and (x) of that subsection are redesignated as paragraphs (x) and (y), respectively, and a new paragraph (w) is added to that subsection, to read:

339.155 Transportation planning.—The department shall develop and annually update a statewide transportation plan, to be known as the Florida Transportation Plan. The plan shall be designed so as to be easily read and understood by the general public.

(2) DEVELOPMENT CRITERIA.—The Florida Transportation Plan shall consider the needs of the entire state transportation system, examine the use of all modes of transportation to effectively and efficiently meet such needs, and provide for the interconnection of all types of modes in a comprehensive intermodal transportation system. In developing the Florida Transportation Plan, the department shall consider the following:

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

(w) The spaceport master plan approved by the Spaceport Florida Authority.

Section 9. Paragraph (a) of subsection (2), paragraph (b) of subsection (5), paragraph (a) of subsection (6), paragraphs (a) and (c) of subsection (7), and paragraph (a) of subsection (9) of section 339.175, Florida Statutes, 1998 Supplement, are amended to read:

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

(2) VOTING MEMBERSHIP.—

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

(5) POWERS, DUTIES, AND RESPONSIBILITIES.—The powers, privileges, and authority of an M.P.O. are those specified in this section

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

(b) In developing the long-range transportation plan and the transportation improvement program required under paragraph (a), each M.P.O. must, at a minimum, consider:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Identify transportation facilities, including, but not limited to, major roadways, airports, seaports, *spaceports*, commuter rail systems, transit systems, and intermodal or multimodal terminals that will function as an integrated metropolitan transportation system. The long-range plan must give emphasis to those transportation facilities that serve national, statewide, or regional functions, and must consider the goals and objectives identified in the Florida Transportation Plan as provided in s. 339.155.

In the development of its long-range plan, each M.P.O. must provide affected public agencies, representatives of transportation agency employees, private providers of transportation, other interested parties, and members of the general public with a reasonable opportunity to comment on the long-range plan. The long-range plan must be approved by the M.P.O.

(7) TRANSPORTATION IMPROVEMENT PROGRAM.—Each M.P.O. shall, in cooperation with the state and affected public transportation operators, develop a transportation improvement program for the area within the jurisdiction of the M.P.O. In the development of the transportation improvement program, each M.P.O. must provide affected public transit agencies, representatives of transportation agency employees, private providers of transportation, other interested parties, and members of the general public with a reasonable opportunity to comment on the transportation improvement program.

(a) Each M.P.O. is responsible for developing, annually, a list of project priorities and a transportation improvement program. The transportation improvement program will be used to initiate federally aided transportation facilities and improvements as well as other transportation facilities and improvements including transit, rail, aviation, *spaceport*, and port facilities to be funded from the State Transportation Trust Fund within its metropolitan area in accordance with existing and subsequent federal and state laws and rules and regulations related thereto. The transportation improvement program shall be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of the M.P.O.

(c) The transportation improvement program must, at a minimum:

1. Include projects and project phases to be funded with state or federal funds within the time period of the transportation improvement program and which are recommended for advancement during the next fiscal year and 4 subsequent fiscal years. Such projects and project phases must be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government located within the jurisdiction of the M.P.O. For informational purposes, the transportation improvement program shall also include a list of projects to be funded from local or private revenues.

2. Include projects within the metropolitan area which are proposed for funding under 23 U.S.C. s. 134 of the Federal Transit Act and which are consistent with the long-range plan developed under subsection (6).

3. Provide a financial plan that demonstrates how the transportation improvement program can be implemented; indicates the resources, both public and private, that are reasonably expected to be available to accomplish the program; and recommends any innovative financing techniques that may be used to fund needed projects and programs. Such techniques may include the assessment of tolls, the use of value capture financing, or the use of congestion pricing. The transportation improvement program may include a project or project phase only if full funding can reasonably be anticipated to be available for the project or project phase within the time period contemplated for completion of the project or project phase.

4. Group projects and project phases of similar urgency and anticipated staging into appropriate staging periods.

5. Indicate how the transportation improvement program relates to the long-range plan developed under subsection (6), including providing examples of specific projects or project phases that further the goals and policies of the long-range plan.

6. Indicate whether any project or project phase is inconsistent with an approved comprehensive plan of a unit of local government located within the jurisdiction of the M.P.O. If a project is inconsistent with an affected comprehensive plan, the M.P.O. must provide justification for including the project in the transportation improvement program.

7. Indicate how the improvements are consistent, to the maximum extent feasible, with affected seaport, ~~and~~ airport, *and spaceport* master plans and with public transit development plans of the units of local government located within the jurisdiction of the M.P.O.

(9) AGREEMENTS.—

(a) Each M.P.O. shall execute the following written agreements, which shall be reviewed, and updated as necessary, every 5 years:

1. An agreement with the department clearly establishing the cooperative relationship essential to accomplish the transportation planning requirements of state and federal law.

2. An agreement with the metropolitan and regional intergovernmental coordination and review agencies serving the metropolitan areas, specifying the means by which activities will be coordinated and how transportation planning and programming will be part of the comprehensive planned development of the area.

3. An agreement with operators of public transportation systems, including transit systems, commuter rail systems, airports, ~~and~~ seaports, *and spaceports,* describing the means by which activities will be coordinated and specifying how public transit, commuter rail, aviation, ~~and~~ seaport, *and aerospace* planning and programming will be part of the comprehensive planned development of the metropolitan area.

Section 10. *Commission on the Future of Aeronautics and Space in Florida.—*

(1) The Legislature finds that the aviation and aerospace industries comprise an important segment of Florida's present and future economy. Yet, there exists intense nationwide competition for future development of these industries. The state has the resources to help these industries meet the challenges and opportunities of competition and to establish itself as a prime location for aviation and aerospace industries, thus creating a prime environment for economic development and employment opportunities. However, effective action and the necessary coordination of resources must be based on a reliable assessment of the present climate for such industries in the state. Further, the various options available for legislative action should be carefully considered.

(2) There is created the Commission on the Future of Aeronautics and Space in Florida. The commission shall be composed of the following 11 members:

(a) The chairs of the Transportation Committees of the Senate and the House of Representatives.

(b) A representative of the Aviation Office of the Department of Transportation, appointed by the Secretary of Transportation.

(c) A representative of the Spaceport Florida Authority, appointed by the board of supervisors of the authority.

(d) Two members appointed by the Governor who are not members of the Legislature.

(e) Two members appointed by the President of the Senate.

(f) Two members appointed by the Speaker of the House of Representatives.

(g) An active manager of an airport in Florida appointed by the Florida Airport Manager's Association.

(3) The members appointed pursuant to paragraphs (2)(d), (e), and (f), shall be selected so as to equitably provide knowledge concerning and experience in the following areas: commercial aviation; aviation manufacturing; aviation operations and maintenance; aerospace manufacturing; aerospace operations and maintenance; and aeronautics-related education.

(4) The members of the commission shall be appointed within 30 days after the effective date of this act. The commission shall serve until adjournment sine die of the 2001 Regular Session of the Legislature. Vacancies on the commission shall be filled in the same manner as the original appointment.

(5) Upon appointment of its members, the commission shall meet to organize and select a chair and vice chair. Meetings shall be held upon the call of the chair, but not less frequently than quarterly.

(6) The members of the commission shall serve without compensation but shall be entitled to be reimbursed for per diem and travel expenses as provided in section 112.061, Florida Statutes. The Department of Transportation shall provide administrative staff support and travel and per diem expenses for the commission.

(7) The commission shall:

(a) Survey current state and local laws, ordinances, and rules that affect the development and regulation of the aviation and aerospace industries in Florida and recommend ways in which these regulations can be streamlined and revised to operate more efficiently. The commission should also consider whether regulation and oversight in the fields of aviation and aerospace should be centralized under one governmental agency.

(b) Examine the ways in which aviation and aerospace industries, including the component elements of manufacturing, assembly, marketing, servicing, maintenance, logistical support, human resources, and related research and development, can be attracted to locate permanently in the state, and recommend actions that can be taken by state and local governments to accomplish this goal.

(c) Review existing studies to evaluate the availability of commercial air services in Florida, identify underserved locations, and recommend actions that can be taken to improve the availability, efficiency, and economy of the state's commercial air services.

(d) Identify the advances that can be expected in the future in aeronautics and aerospace operations, air transport, aeronautical education, and other aeronautical areas, and make recommendations regarding how the state can anticipate, encourage, and accommodate such advances.

(e) Identify aid that is available at the federal level to assist in efforts to improve Florida's aeronautical and aerospace competitive position, and recommend ways in which the state can be most effective in obtaining that aid.

(f) Determine whether Florida's secondary and postsecondary schools are producing a highly qualified workforce in sufficient numbers to meet the needs of the aviation and aerospace industries.

(8) The commission shall prepare a preliminary report of its findings and recommendations by December 1, 2000, and a final report by January 15, 2001. Copies of the reports shall be submitted to the Governor, the President and the Minority Leader of the Senate, and the Speaker and the Minority Leader of the House of Representatives. After submission of the final report, members of the commission may, with the approval of the chair, receive reimbursement pursuant to subsection (6) for travel necessary to consult with the Legislature concerning issues raised by, and implementation of, the final report, until termination of the commission.

Section 11. Subsection (6) of section 196.012, Florida Statutes, is amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(6) Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the lessee under any leasehold interest created in property of the United States, the state or any of its political subdivisions, or any municipality, agency, special district, authority, or other public body corporate of the state is demonstrated to perform a function or serve a governmental purpose which could properly be performed or served by an appropriate governmental unit or which is demonstrated to perform a function or serve a purpose which would otherwise be a valid subject for the allocation of public funds. For purposes of the preceding sentence, an activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as an aviation area on an airport layout plan which has been approved by the Federal Aviation Administration and which real property is used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an

aircraft full service fixed base operation which provides goods and services to the general aviation public in the promotion of air commerce shall be deemed an activity which serves a governmental, municipal, or public purpose or function. Any activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as a public airport as defined in s. 332.004(14) by municipalities, agencies, special districts, authorities, or other public bodies corporate and public bodies politic of the state, *a spaceport as defined in s. 331.303(19),* or which is located in a deepwater port identified in s. 403.021(9)(b) and owned by one of the foregoing governmental units, subject to a leasehold or other possessory interest of a nongovernmental lessee that is deemed to perform an aviation, ~~or~~ airport, *aerospace,* ~~or~~ maritime, or port purpose or operation shall be deemed an activity that serves a governmental, municipal, or public purpose. The use by a lessee, licensee, or management company of real property or a portion thereof as a convention center, visitor center, sports facility with permanent seating, concert hall, arena, stadium, park, or beach is deemed a use that serves a governmental, municipal, or public purpose or function when access to the property is open to the general public with or without a charge for admission. If property deeded to a municipality by the United States is subject to a requirement that the Federal Government, through a schedule established by the Secretary of the Interior, determine that the property is being maintained for public historic preservation, park, or recreational purposes and if those conditions are not met the property will revert back to the Federal Government, then such property shall be deemed to serve a municipal or public purpose. The term "governmental purpose" also includes a direct use of property on federal lands in connection with the Federal Government's Space Exploration Program *or spaceport activities as defined in s. 212.02(22).* Real property and tangible personal property owned by the Federal Government *or the Spaceport Florida Authority* and used for defense and space exploration purposes or which is put to a use in support thereof shall be deemed to perform an essential national governmental purpose and shall be exempt. "Owned by the lessee" as used in this chapter does not include personal property, buildings, or other real property improvements used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed based operation which provides goods and services to the general aviation public in the promotion of air commerce provided that the real property is designated as an aviation area on an airport layout plan approved by the Federal Aviation Administration. For purposes of determination of "ownership," buildings and other real property improvements which will revert to the airport authority or other governmental unit upon expiration of the term of the lease shall be deemed "owned" by the governmental unit and not the lessee. Providing two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(13), and for which a certificate is required under chapter 364 does not constitute an exempt use for purposes of s. 196.199, unless the telecommunications services are provided by the operator of a public-use airport, as defined in s. 332.004, for the operator's provision of telecommunications services for the airport or its tenants, concessionaires, or licensees, or unless the telecommunications services are provided by a public hospital. However, property that is being used to provide such telecommunications services on or before October 1, 1997, shall remain exempt, but such exemption expires October 1, 2004.

Section 12. Paragraph (b) 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.—

(b) Machinery and equipment used to increase productive output.—

1. Industrial machinery and equipment purchased for *exclusive use by a new business in spaceport activities as defined by s. 212.02 or for* use in new businesses which manufacture, process, compound, or produce for sale~~, or for exclusive use in spaceport activities as defined in s. 212.02,~~ items of tangible personal property at fixed locations are exempt from the tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used in a new business in this state. Such purchases must be made prior to the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

2.a. Industrial machinery and equipment purchased for *exclusive use by an expanding facility which is engaged in spaceport activities as defined by s. 212.02 or for* use in expanding manufacturing facilities or plant units which manufacture, process, compound, or produce for sale~~, or for exclusive use in spaceport activities as defined in s. 212.02,~~ items of tangible personal property at fixed locations in this state are exempt from any amount of tax imposed by this chapter in excess of $50,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such expanded *facility or* business by not less than 10 percent.

b. Notwithstanding any other provision of this section, industrial machinery and equipment purchased for use in expanding printing manufacturing facilities or plant units that manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state are exempt from any amount of tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such an expanded business by not less than 10 percent.

3.a. To receive an exemption provided by subparagraph 1. or subparagraph 2., a qualifying business entity shall apply to the department for a temporary tax exemption permit. The application shall state that a new business exemption or expanded business exemption is being sought. Upon a tentative affirmative determination by the department pursuant to subparagraph 1. or subparagraph 2., the department shall issue such permit.

b. The applicant shall be required to maintain all necessary books and records to support the exemption. Upon completion of purchases of qualified machinery and equipment pursuant to subparagraph 1. or subparagraph 2., the temporary tax permit shall be delivered to the department or returned to the department by certified or registered mail.

c. If, in a subsequent audit conducted by the department, it is determined that the machinery and equipment purchased as exempt under subparagraph 1. or subparagraph 2. did not meet the criteria mandated by this paragraph or if commencement of production did not occur, the amount of taxes exempted at the time of purchase shall immediately be due and payable to the department by the business entity, together with the appropriate interest and penalty, computed from the date of purchase, in the manner prescribed by this chapter.

d. In the event a qualifying business entity fails to apply for a temporary exemption permit or if the tentative determination by the department required to obtain a temporary exemption permit is negative, a qualifying business entity shall receive the exemption provided in subparagraph 1. or subparagraph 2. through a refund of previously paid taxes. No refund may be made for such taxes unless the criteria mandated by subparagraph 1. or subparagraph 2. have been met and commencement of production has occurred.

4. The department shall promulgate rules governing applications for, issuance of, and the form of temporary tax exemption permits; provisions for recapture of taxes; and the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of increased productive output, commencement of production, and qualification for exemption.

5. The exemptions provided in subparagraphs 1. and 2. do not apply to machinery or equipment purchased or used by electric utility companies, communications companies, phosphate or other solid minerals severance, mining, or processing operations, oil or gas exploration or production operations, publishing firms that do not export at least 50 percent of their finished product out of the state, any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, or any firm which does not manufacture, process, compound, or produce for sale~~, or for exclusive use in spaceport activities as defined in s. 212.02,~~ items of tangible personal property *or which does not use such machinery and equipment in spaceport activities as required by this paragraph.*

6. For the purposes of the exemptions provided in subparagraphs 1. and 2., these terms have the following meanings:

a. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided "industrial machinery and equipment" shall be construed by regulations adopted by the Department of Revenue to mean tangible property used as an integral part of *spaceport activities or of* the manufacturing, processing, compounding, or producing for sale~~, or for exclusive use in spaceport activities as defined in s. 212.02,~~ of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.

b. "Productive output" means the number of units actually produced by a single plant or operation in a single continuous 12-month period, irrespective of sales. Increases in productive output shall be measured by the output for 12 continuous months immediately following the completion of installation of such machinery or equipment over the output for the 12 continuous months immediately preceding such installation. However, if a different 12-month continuous period of time would more accurately reflect the increase in productive output of machinery and equipment purchased to facilitate an expansion, the increase in productive output may be measured during that 12-month continuous period of time if such time period is mutually agreed upon by the Department of Revenue and the expanding business prior to the commencement of production; provided, however, in no case may such time period begin later than 2 years following the completion of installation of the new machinery and equipment. The units used to measure productive output shall be physically comparable between the two periods, irrespective of sales.

7. Notwithstanding any other provision in this paragraph to the contrary, in order to receive the exemption provided in this paragraph a taxpayer must 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.

Section 13. Subsection (4) of section 288.063, Florida Statutes, 1998 Supplement, is amended, present subsections (7), (8), and (9) are redesignated as subsections (8), (9), and (10), respectively, and a new subsections (7) is added to that section, to read:

288.063 Contracts for transportation projects.—

(4) The Office of Tourism, Trade, and Economic Development may adopt criteria by which transportation projects are to be specified and identified. In approving transportation projects for funding, the Office of Tourism, Trade, and Economic Development shall consider factors including, but not limited to, the cost per job created or retained considering the amount of transportation funds requested; the average hourly rate of wages for jobs created; the reliance on the program as an inducement for the project's location decision; the amount of capital investment to be made by the business; the demonstrated local commitment; the location of the project in an enterprise zone designated pursuant to s. 290.0055; the location of the project in a community development corporation service area as defined in s. 290.035(2); *the location of the project in a spaceport territory as defined in s. 331.304;* the unemployment rate of the surrounding area; the poverty rate of the community; and the adoption of an economic element as part of its local comprehensive plan in accordance with s. 163.3177(7)(j). The Office of Tourism, Trade, and Economic Development may contact any agency it deems appropriate for additional input regarding the approval of projects.

(7) For the purpose of this section, the Spaceport Florida Authority may serve as the local government or as the contracting agency for transportation projects within spaceport territory as defined by s. 331.304.

Section 14. Subsection (1) of section 288.075, Florida Statutes, is amended to read:

288.075 Confidentiality of records.—

(1) As used in this section, the term "economic development agency" means the *Office of Tourism, Trade, and Economic Development* ~~Division of Economic Development of the Department of Commerce~~, any industrial development authority created in accordance with part III of chapter 159 or by special law, *the Spaceport Florida Authority created in part II of chapter 331,* the public economic development agency that advises the county commission on the issuance of industrial revenue bonds of a county that does not have an industrial development authority created in accordance with part III of chapter 159 or by special law, or any research and development authority created in accordance with part V of chapter 159. The term also includes any private agency, person, partnership, corporation, or business entity when authorized by the state, a municipality, or a county to promote the general business interests or industrial interests of the state or that municipality or county.

Section 15. Subsection (2) of section 288.35, Florida Statutes, is amended to read:

288.35 Definitions.—The following terms, wherever used or referred to in this part, shall have the following meanings:

(2) "Government agency" means the state or any county or political subdivision thereof; any state agency; any consolidated government of a county, and some or all of the municipalities located within said county; any chartered municipality in the state; and any of the institutions of such consolidated governments, counties, or municipalities. Specifically included are airports, port authorities, ~~and~~ industrial authorities, *and the Spaceport Florida Authority.*

Section 16. Subsection (2) of section 288.9415, Florida Statutes, is amended to read:

288.9415 International Trade Grants.—

(2) A county, municipality, economic development council, *the Spaceport Florida Authority,* or a not-for-profit association of businesses organized to assist in the promotion of international trade may apply for a grant of state funds for the promotion of international trade.

Section 17. Subsection (2) of section 331.309, Florida Statutes, 1998 Supplement, is amended to read:

331.309 Treasurer; depositories; fiscal agent.—

(2) The board is authorized to select as depositories in which the funds of the board and of the authority shall be deposited any qualified public depository as defined in s. 280.02, upon such terms and conditions as to the payment of interest by such depository upon the funds so deposited as the board may deem just and reasonable. *Funds of the authority may also be deposited with the Florida Commercial Space Financing Corporation created by s. 331.407.* The funds of the authority may be kept in or removed from the State Treasury upon written notification from the chair of the board to the State Comptroller.

Section 18. Part III of chapter 331, Florida Statutes, consisting of sections 331.401, 331.403, 331.405, 331.407, 331.409, 331.411, 331.415, 331.417, 331.419, and 331.421, is created to read:

331.401 Short title.—Sections 331.401-331.421 may be cited as the "Florida Commercial Space Financing Corporation Act."

331.403 Legislative findings and intent.—The Legislature finds that the expansion of state and federal support for the aerospace industry in Florida is critical to the continued development of a viable commercial space industry and the technical and scientific job base for its citizens. This development of commercial opportunities in Florida is slowed by the lack of traditional business financing tools such as securitization for industrial development. Florida's launch industry is also being challenged by the provision of such industry assistance by other countries. Florida's aerospace industry could be assisted by a corporation established to work with the United States Export-Import Bank, the Small Business Administration, the National Aeronautics and Space Administration, and other federal, state, and private sources to provide information, technical assistance, and financial support. It is the intention of the Legislature to retain and expand job opportunities for Florida citizens through this mechanism.

331.405 Definitions.—As used in this part:

(1) "Account" means the account established pursuant to s. 331.415.

(2) "Authority" means the Spaceport Florida Authority created by s. 331.302.

(3) "Board" means the governing body of the corporation.

(4) "Corporation" means the Florida Commercial Space Financing Corporation.

(5) "Domiciled in this state" means registered to do business in Florida.

(6) "Financing agreement" has the same meaning as in s. 331.303(10).

(7) "Financial institution" has the same meaning as in s. 655.005(1)(h).

(8) "Member" means an individual appointed to be a member of the board.

(9) "President" means the chief executive officer of the corporation.

331.407 Florida Commercial Space Financing Corporation.—

(1) The Florida Commercial Space Financing Corporation is created as a corporation not for profit. The corporation shall have all the powers, rights, privileges, and authority as provided under chapter 617 and this part. The corporation shall be organized on a nonstock basis. The purpose of the corporation is to expand employment and income opportunities for residents of this state by providing businesses domiciled in this state with information, technical assistance, and financial assistance to support space-related transactions, in order to increase the development within the state of commercial aerospace products, activities, services, and facilities.

(2) The corporation shall have the power and authority to carry out the following functions:

(a) To coordinate its efforts with programs and goals of the United States Air Force, the National Aeronautics and Space Administration, the Export-Import Bank, the International Trade Administration of the United States Department of Commerce, the Foreign Credit Insurance Association, Enterprise Florida, Inc., and its boards, and other private and public programs and organizations, domestic and foreign.

(b) To establish a network of contacts among those domestic and foreign public and private organizations which provide information, technical assistance, and financial support to the aerospace industry.

(c) To assemble, publish, and disseminate information on financing opportunities and techniques of financing aerospace projects, programs, and activities; sources of public and private aerospace financing assistance; and sources of space-related financing.

(d) To organize, host, and participate in seminars and other forums designed to disseminate information and technical assistance regarding space-related financing.

(e) To insure, coinsure, lend, and guarantee loans, and to originate for sale direct space-related loans, pursuant to criteria, bylaws, policies, and procedures adopted by the board.

(f) To capitalize, underwrite, and secure funding for aerospace infrastructure, satellites, launch vehicles, and any service which supports aerospace launches.

(g) To construct, lease, or sell aerospace infrastructure, satellites, launch vehicles, and any other related activities and services.

(h) To acquire property, including real, personal, tangible, intangible, or mixed, under such conditions as the board may deem necessary or desirable, and sell or otherwise dispose of the same.

(i) To make and exercise any and all contracts or other instruments necessary or convenient to the exercise of its powers, including financing agreements.

331.409 Powers and limitations.—

(1) The corporation may charge fees to help defray the operating expenses of its programs. The amount of fees shall be determined by the board.

(2) The total of loans, guarantees, direct loan originations for sale, and insured transactions outstanding shall not be more than five times the balance of the account. The board may elect to require a higher reserve.

(3) The board shall adopt rules with respect to the terms and limits for loans, guarantees, and direct loan originations, but a loan guarantee or a direct loan origination shall not exceed 90 percent of the transaction contract.

(4) In providing assistance, the board shall create a fiscal strategy for Florida which will guide and facilitate the successful expansion of space-related jobs.

(5) The board shall explore the possibility of organizing financial institutions and international bank syndicates for the purpose of offering nonrecourse financing to the Florida aerospace industry.

(6) The board may exercise all powers granted to not-for-profit corporations under chapter 617.

(7) The board shall manage all funds in its possession and invest in permissible securities.

331.411 Board of directors; powers and duties.—

(1) There is created a board of directors of the corporation, which shall consist of up to 7 voting members as follows:

(a) One representative appointed by each of the following:

1. The board of supervisors of the Spaceport Florida Authority.

2. The board of directors of the Florida Export Finance Corporation.

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

4. The board of directors of Enterprise Florida, Inc.

5. The Secretary of Transportation.

(b) The Governor shall appoint the following members:

1. A member representing the investment banking industry.

2. An attorney at law in private practice.

The board shall also include two ex officio nonvoting members, a member of the House of Representatives selected by the Speaker of the House of Representatives, and a member of the Senate selected by the President of the Senate, both of whom shall serve 2-year terms.

(2) Each voting member shall serve a 3-year term, beginning on July 1. Members appointed pursuant to paragraph (1)(a) shall serve at the pleasure of the appointing authority. Members appointed pursuant to paragraph (1)(b) shall serve at the pleasure of the Governor. Initial appointments shall be made no later than 60 days after the effective date of this act.

(3)(a) No person appointed pursuant to paragraph (1)(a) may be employed full time by any entity that applies for financial support.

(b) The members of the board who are federal employees shall not vote on any financial matter, but may vote on all corporate policies and procedures.

(c) All board members must be residents of the state.

(4) The board shall hold its initial meeting no later than 30 days after the members have been appointed.

(5) At its first meeting, the board shall appoint a president of the corporation from qualified candidates who have been screened and interviewed by the Spaceport Florida Authority.

(6) Board members shall serve without compensation but may be reimbursed for all necessary expenses in the performance of their duties, including attending board meetings and conducting board business.

(7) The board shall:

(a) Prior to the expenditure of funds from the account, adopt bylaws, rules, and policies necessary to carry out its responsibilities under this part, particularly with respect to the implementation of the corporation's programs to insure, coinsure, lend, provide loan guarantees, and make direct, guaranteed, or collateralized loans to support space-related transactions.

(b) Hold regularly scheduled meetings, at least quarterly, in order to carry out the objectives and responsibilities of the board.

(c) Adopt policies, including criteria, establishing which space-related transactions shall be eligible for insurance, coinsurance, loan guarantees, and direct, guaranteed, or collateralized loans which may be extended by the corporation. To implement this paragraph, the board shall adopt rules which include the following criteria:

1. Any individual signing any corporation loan application and loan or guarantee agreement must have an equity interest in the business applying for financial assistance.

2. Applicants must be domiciled in this state and will be contractually obligated to use Florida launch facilities to the maximum extent possible.

(d) Adopt requirements to ensure the full repayment of loans and loan guarantees, plus accrued interest, full-recourse claims, and indemnities on direct loan originations sold by the corporation, and the solvency of any insurance and coinsurance program extended under this part.

(e) Approve any extension of insurance, coinsurance, loans, loan guarantees, or direct loan originations for sale under this part.

(f) Consult with Enterprise Florida, Inc., and its boards, or any state or federal agency, to ensure that their respective loan guarantee or working capital loan origination programs are not duplicative and that each program makes full use, to the extent practicable, of the resources of the other.

(g) Work to secure a delegated line of authority from the United States Export-Import Bank or other appropriate federal or state agency or private sector entity in order to take advantage of possible funding or guarantee sources.

(h) Develop a streamlined application and review process.

331.415 Authority to create account.—

(1) The board shall create an account for the purposes of this part to receive state, federal, and private financial resources, and the return from investments of those resources. The account shall be under the exclusive control of the board.

(2) Resources in the account shall be allocated for operating expenses of the corporation and for other purposes authorized by this part.

(3)(a) Appropriations for the corporation shall be deposited into the account.

(b) The board may deposit the resources of the account with state or federally chartered financial institutions in this state and may invest the remaining portion in permissible securities.

(c) At all times, the board shall attempt to maximize the returns on funds in the account.

(d) All funds received from the activities of the corporation shall be redeposited in the account to be used to support the purposes of this part.

(4) Any claims against the account shall be paid solely from the account. Under no circumstances shall the credit of the state be pledged other than funds appropriated by law to the account, nor shall the state be liable or obligated in any way for claims on the account or against the corporation.

331.417 President.—

(1) The board shall appoint a president. The president shall be knowledgeable about the aerospace industry and its financing programs.

(2) The president shall serve at the pleasure of the board and shall receive a salary and benefits as fixed by the board.

(3) The president shall administer the programs of the corporation and perform such duties as are delegated by the board.

(4) The president may, upon approval of the board:

(a) Contract for services.

(b) Hold public hearings.

(c) Call upon and reimburse for services any state agency or department for assistance in carrying out the objectives of this part.

(d) Participate with government or private industry in programs for technical assistance, loans, technology transfer, or any other programs related to this part.

(e) Undertake or commission studies on methods to increase financial resources to expand the financial assistance to aerospace-related industries in this state.

(f) Hire staff and provide training for them and other individuals involved in finance assistance, including such training sessions as may be provided by the United States Export-Import Bank and other organizations.

(g) Exercise any other powers as may be necessary to carry out the purposes of this part.

(5) The president shall provide staff to the board as requested.

(6) The president shall submit an annual budget to be approved by the board.

331.419 Reports and audits.—

(1) By December 31 of each year, the corporation shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader a complete and detailed report setting forth:

(a) An evaluation of its activities and recommendations for change.

(b) The corporation's impact on the participation of private banks and other private organizations and individuals in the corporation's financing programs, and other economic and social benefits to businesses in this state.

(c) Its assets and liabilities at the end of its most recent fiscal year.

(2) By September 1, 2000, the corporation, in cooperation with the Office of Program Policy Analysis and Government Accountability, shall develop a research design, including goals and measurable objectives for the corporation, which will provide the Legislature with a quantitative evaluation of the corporation. The corporation shall utilize the monitoring mechanisms and reports developed in the designs and provide these reports to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability.

(3) Prior to the 2001 Regular Session of the Legislature, the Office of Program Policy Analysis and Government Accountability shall perform a review and evaluation of the corporation using the research design promulgated pursuant to subsection (2). The report shall critique the corporation. A report of the findings and recommendations of the Office of Program Policy Analysis and Government Accountability shall be submitted to the President of the Senate and the Speaker of the House of Representatives prior to the 2001 Regular Session.

(4) The Division of Banking of the Department of Banking and Finance shall review the corporation's activities once every 24 months to determine compliance with this part and related laws and rules and to evaluate the corporation's operations. The division shall prepare a report based on its review and evaluation with recommendation for any corrective action. The president shall submit to the division regular reports on the corporation's activities. The content and frequency of such reports shall be determined by the division. The division may charge a fee for conducting the review and evaluation and preparing the related report,

which fee shall not be in excess of the examination fee paid by chartered or licensed financial institutions.

Section 19. Section 331.367, Florida Statutes, is created to read:

331.367 Spaceport Management Council.—

(1) The Spaceport Management Council is created within the Spaceport Florida Authority to provide coordination and recommendations on projects and activities that will increase the operability and capabilities of Florida's space launch facilities, increase statewide space-related industry and opportunities, and promote space education and research within the state. The council shall work to develop integrated facility and programmatic development plans to address commercial, state, and federal requirements and to identify appropriate private, state, and federal resources to implement these plans.

(2) The council shall make recommendations regarding:

(a) The development of a spaceport master plan.

(b) The projects and levels of commercial financing required from the Florida Commercial Space Financing Corporation created by s. 331.407.

(c) Development and expansion of space-related education and research programs within Florida, including recommendations to be provided to the State University System, the Division of Community Colleges, and the Department of Education.

(d) The regulation of spaceports and federal and state policy.

(e) Florida's approach to the Federal Government regarding requests for funding of space development.

(3)(a) The council shall consist of an executive board, which shall consist of representatives of governmental organizations with responsibilities for developing or operating space transportation facilities, and a Space Industry Committee, which shall consist of representatives of Florida's space industry.

(b) The following individuals shall serve on the executive board:

1. The executive director of the Spaceport Florida Authority or his or her designee.

2. The director of the John F. Kennedy Space Center or his or her designee.

3. The Commander of the United States Air Force 45th Space Wing or his or her designee.

4. The Commander of the Naval Ordnance Test Unit or his or her designee.

5. The Secretary of Transportation or his or her designee.

6. The president of Enterprise Florida, Inc., or his or her designee, as an ex officio nonvoting member.

7. The director of the Office of Tourism, Trade, and Economic Development or his or her designee, as an ex officio nonvoting member.

(4) Each member shall be appointed to serve for a 3-year term, beginning July 1. Initial appointments shall be made no later than 60 days after the effective date of this act.

(5) The executive board shall hold its initial meeting no later than 30 days after the members have been appointed. The Space Industry Committee shall hold its initial meeting no later than 60 days after the members have been appointed.

(6) All council members must be residents of the state.

(7) The council shall adopt bylaws governing the manner in which the business of the council shall be conducted. The bylaws shall specify the procedure by which the chairperson of the council is elected.

(8) The council shall provide infrastructure and program requirements and develop other information to be utilized in a 5-year spaceport master plan. The council shall define goals and objectives concerning the development of spaceport facilities and an intermodal transportation system consistent with the goals of the Florida Transportation Plan developed pursuant to s. 339.155.

(9) The council shall provide requirements and other information to be utilized in the development of a 5-year Spaceport Economic Development Plan, defining the goals and objectives of the council concerning the development of space manufacturing, research and development, and educational facilities.

(10) The council shall meet at the call of its chairperson, at the request of a majority of its membership, or at such times as may be prescribed in its bylaws. However, the council must meet at least semiannually. A majority of voting members of the council constitutes a quorum for the purpose of transacting the business of the council. A vote of the majority of the voting members present is sufficient for any action of the council, unless the bylaws of the council require a greater vote for a particular action.

Section 20. *(1) There is created the Florida Space Research Institute the purpose of which is to serve as an industry-driven center for research, leveraging the state's resources in a collaborative effort to support Florida's space industry and its transition to commercialization.*

(2) The institute shall operate as a public/private partnership under the direction of a board comprised of representatives of the Spaceport Florida Authority, Enterprise Florida, Inc., the Florida Aviation and Aerospace Alliance, and four additional space industry representatives selected by the core membership of the board.

(3) The board of the Florida Space Research Institute shall:

(a) Set the strategic direction for the institute including research priorities, the scope of research projects, and the timeframes for completion.

(b) Invite the participation of public and private universities including, but not limited to, the University of Central Florida, the University of Florida, the University of South Florida, Florida State University, Florida Institute of Technology, and the University of Miami.

(c) Select a lead university to serve as coordinator of research and as the administrative entity of the institute.

(4) By December 1 of each year, the institute shall submit a report of its activities and accomplishments for the prior fiscal year to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report shall also include recommendations regarding actions the state should take to enhance the development of space-related businesses, including:

(a) Future research activities.

(b) The development of capital and technology assistance to new and expanding industries.

(c) The removal of regulatory impediments.

(d) The establishment of business development incentives.

(e) The initiation of education and training programs to ensure a skilled workforce.

Section 21. *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 22. Section 196.1994, Florida Statutes, is amended to read:

196.1994 Space laboratories *and carriers* exemption.—

(1) Notwithstanding other provisions of this chapter, modules, *pallets,* racks, lockers, and their necessary *associated hardware and* subsystems owned by any person and intended for use as space laboratories launched into space aboard the space shuttle for the primary purpose of conducting scientific research in space *or as cargo carriers launched into space aboard the space shuttle for the primary purpose of transporting or storing cargo* are deemed to carry out a scientific purpose and are exempt from ad valorem taxation.

(2) This section is repealed July 1, 2004.

Section 23. *It is the intent of the Legislature that the amendment to section 196.1994, Florida Statutes, by this section clarifies and confirms existing law with respect to the tax exemption provided for herein.*

Section 24. *The sum of $1 million is appropriated from the General Revenue Fund to the Florida Commercial Space Financing Corporation for the purpose of implementing sections 331.401-331.419, Florida Statutes, during the 1999-2000 fiscal year. The sum of $500,000 is appropriated from the General Revenue Fund to the Florida Commercial Space Financing Corporation for corporate operations for the 1999-2000 fiscal year.*

Section 25. 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 commercial space industry; amending s. 330.30, F.S.; exempting certain spaceports from a provision of law relating to the approval of airport sites and the licensing of airports; amending s. 331.303, F.S.; revising definitions with respect to the Spaceport Florida Authority Act; amending s. 331.304, F.S.; revising the boundaries of spaceport territory; amending s. 331.360, F.S.; providing for the development of a spaceport master plan; creating s. 332.008, F.S.; providing limitation on the application of chapter 332, F.S.; amending s. 334.03, F.S.; redefining the term "transportation facility"; amending s. 334.30, F.S.; authorizing a fixed guideway transportation system operating within the Department of Transportation's right-of-way to operate at any safe speed; amending s. 339.155, F.S.; revising a provision of law governing transportation planning to include reference to spaceport master plans; amending s. 339.175, F.S.; including reference to spaceports and aerospace development with respect to metropolitan planning organizations; creating the Commission on the Future of Aeronautics and Space in Florida; providing for qualifications and appointment of members; directing the commission to study and make recommendations regarding specified areas relating to aeronautics and aerospace in the state; requiring reports; amending s. 196.012, F.S.; redefining the term "governmental purpose"; amending s. 212.08, F.S.; providing an exemption from the tax on sales, use, and other transactions; revising the application of the sales tax exemption for machinery and equipment used to increase productive output with respect to such machinery and equipment used in connection with spaceport activities; amending s. 288.063, F.S.; authorizing the Spaceport Florida Authority to enter into contracts for transportation projects; amending s. 288.075, F.S.; adding the Office of Tourism, Trade, and Economic Development and the Spaceport Florida Authority to a list of economic development agencies whose records are confidential; amending s. 288.35, F.S.; redefining the term "government agency"; amending s. 288.9415, F.S.; authorizing the Spaceport Florida Authority to apply for international trade grants; amending s. 331.309, F.S.; providing that funds of the authority may be deposited with the Florida Commercial Space Financing Corporation; creating part III of ch. 331, F.S., the Florida Commercial Space Financing Corporation Act; providing findings and intent; providing definitions; creating the Florida Commercial Space Financing Corporation; specifying the functions the corporation is authorized to carry out; providing for a board of directors of the corporation and for qualifications and appointment of members; providing powers of the corporation and the board; providing for fees; providing for rules; providing for insurance, coinsurance, loan guarantees, and loans for eligible space-related transactions; directing the board to establish an account to receive specified resources; providing for deposits in the account and for allocation of the account's resources; providing for appointment of a president of the corporation; providing powers and duties of the president; requiring an annual report; providing for development of a research design to evaluate the corporation; providing for a review and evaluation of the corporation by the Office of Program Policy Analysis and Government Accountability; providing for periodic reviews and reports by the Division of Banking; creating s. 331.367, F.S.; creating the Spaceport Management Council within the Spaceport Florida Authority; providing that the council shall make recommendations regarding specified areas; providing for an executive board and the membership thereof; providing duties of the council; providing duties with respect to a spaceport master plan; providing for development of a Spaceport Economic Development Plan; creating the Florida Space Research Institute; prescribing the purposes of the institute; providing for management and operation of the institute; requiring a report; amending s. 196.1994, F.S.; providing that cargo carriers are exempt from ad valorem taxes; providing intent; providing legislative findings and declarations with respect to the global competition that is encountered by the state in attracting commercial space business facilities; providing severability; providing an appropriation; providing an effective date.

On motion by Senator Bronson, the Senate concurred in the House amendment.

CS for SB 2540 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	Saunders
Bronson	Dyer	Klein	Scott
Brown-Waite	Forman	Kurth	Sebesta
Burt	Geller	Latvala	Silver
Campbell	Grant	Laurent	Sullivan
Carlton	Gutman	Lee	Thomas
Casas	Hargrett	McKay	Webster
Clary	Horne	Mitchell	
Cowin	Jones	Myers	
Dawson-White	King	Rossin	

Nays—2

Holzendorf	Meek

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB 230, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 230—A bill to be entitled An act relating to the Department of Labor and Employment Security; amending s. 20.171, F.S.; providing that the department shall operate its programs in a decentralized fashion; providing for the appointment of assistant secretaries; providing for the powers and duties of such secretaries; providing for the creation of field offices; amending s. 110.205, F.S.; providing that certain employees of the department shall be in the Senior Management Service; providing that certain actions contemplated by the act shall be done within the available resources of the department; amending ss. 393.11, 410.0245, 627.212, 627.311, F.S., to conform; amending s. 442.006, F.S.; limiting the authority of the division to the public sector; amending s. 442.008, F.S.; prescribing duties of the division; amending s. 442.013, F.S.; authorizing penalties for public-sector employers; amending s. 442.019, F.S.; authorizing the division to seek compliance in circuit court against public-sector employers; creating s. 443.012, F.S.; recreating the Unemployment Appeals Commission; describing its duties; providing for the future repeal of ch. 442, F.S.; requiring the department to provide a report relating to the Division of Safety; transferring the brain and spinal cord injury program and the Office of Disability Determinations to the Department of Health; amending s. 400.805, F.S., to conform; transferring, renumbering, and amending ss. 413.465, 413.48, 413.49, 413.507, 413.604, 413.605, 413.613, F.S. to conform to the transfer of duties to the Department of Health; requiring the Division of Vocational Rehabilitation to enter into partnerships; providing legislative intent; providing definitions; creating the Occupational Access and Opportunity Commission; providing for membership; providing for appointment and terms; providing for reimbursement; providing for financial disclosure; providing powers and duties; directing the commission to develop and implement the federally required state vocational rehabilitation plan and to fulfill specified administrative functions; requiring the commission to contract with an administrative entity; providing for the assignment of staff; providing for the Occupational Access and Opportunity Corporation; providing powers and duties; providing for the use of property; providing for a board of directors; providing for an annual audit; providing for an annual report of the Occupational Access and Opportunity Commission; authorizing the commission to prepare the state plan, serve as the governing authority, and receive federal funds; requiring the Division of Vocational Rehabilitation to comply with transitional directives of the plan and, under certain circumstances, to transfer its powers, duties, functions, property, and funds to the commission; providing for quality assurance; providing remedies for conflict with federal law; designating the commission as the

official state agency; providing for review by the Office of Program Policy Analysis and Government Accountability; transferring the Division of Blind Services to the Department of Education; repealing s. 440.05(8)(a), F.S., relating to fees charged by the Division of Workers' Compensation for nonconstruction elections; providing an effective date.

House Amendment 1 (600413)(with title amendment)—On page 3, line 17, insert:

Section 1. Section 443.1716, Florida Statutes, is created to read:

443.1716 Authorized electronic access to employer information.—

(1) Notwithstanding any other provisions of this chapter, the Department of Labor and Employment Security shall contract with one or more consumer-reporting agencies to provide creditors with secured electronic access to employer-provided information relating to the quarterly wages report submitted in accordance with the state's unemployment compensation law. Such access is limited to the wage reports for the preceding 16 calendar quarters.

(2) Creditors must obtain written consent from the credit applicant. Any such written consent from the credit applicant must be signed and must include the following:

(a) Specific notice that the individual's wage and employment history information will be released to a consumer–reporting agency;

(b) Notice that such release is made for the sole purpose of reviewing a specific application for credit made by the individual;

(c) Notice that the files of the Department of Labor and Employment Security containing wage and employment history information submitted by the individual or his or her employers may be accessed; and

(d) A listing of the parties authorized to receive the released information.

(3) Consumer–reporting agencies and creditors accessing information under this section must safeguard the confidentiality of such information and shall use the information only to support a single consumer credit transaction for the creditor to satisfy standard financial underwriting requirements or other requirements imposed upon the creditor, and to satisfy the creditor's obligations under applicable state or federal Fair Credit Reporting laws and rules governing this section.

(4) Should any consumer-reporting agency or creditor violate any provision of this section, the Department of Labor and Employment Security shall, upon thirty days written notice to the consumer-reporting agency, terminate the contract established between the department and the consumer-reporting agency resulting from this section.

(5) For purposes of this section, "creditor" has the same meaning as set forth in the federal Fair Debt Collection Practices Act, 15 U.S.C. s. 1692 et seq.

(6) The Department of Labor and Employment Security shall establish minimum audit, security, net-worth, and liability-insurance standards, technical requirements, and any other terms and conditions considered necessary in the discretion of the state agency to safeguard the confidentiality of the information released under this section and to otherwise serve the public interest. The Department of Labor and Employment Security shall also include, in coordination with any necessary state agencies, necessary audit procedures to ensure that these rules are followed.

(7) In contracting with one or more consumer-reporting agencies under this section, any revenues generated by such contract must be used to pay the entire cost of providing access to the information. Further, in accordance with federal regulations, any additional revenues generated by the department or the state under this section must be paid into the department's trust fund for the administration of the unemployment compensation system.

(8) The department may not provide wage and employment history information to any consumer-reporting agency before the consumer-reporting agency or agencies under contract with the department pay all development and other startup costs incurred by the state in connection with the design, installation, and administration of technological systems and procedures for the electronic-access program.

(9) The release of any information under this section must be for a purpose authorized by and in the manner permitted by the United States Department of Labor and any subsequent rules or regulations adopted by that department.

(10) As used in this section, the term "consumer-reporting agency" has the same meaning as that set forth in the Federal Fair Credit Reporting Act, 15 U.S.C. s. 1681a.

And the title is amended as follows:

On page 1, line 3, after Security; insert: unemployment compensation; creating s. 443.1716, F.S.; requiring the Department of Labor and Employment Security to contract with consumer-reporting agencies to provide creditors with secured electronic access to employer-provided information relating to the quarterly wages reports; providing conditions; requiring consent from the credit applicant; prescribing information that must be included in the written consent; providing for confidentiality; limiting use of the information released; providing for termination of contracts under certain circumstances; defining the term "creditor"; requiring the department to establish minimum audit, security, net worth, and liability insurance standards and other requirements it considers necessary; providing that any revenues generated from a contract with a consumer reporting agency must be used to pay the entire cost of providing access to the information; providing that any additional revenues generated must be paid into the department's trust fund for the administration of the unemployment compensation system; providing restrictions on the release of information under the act; defining the term "consumer-reporting" agency;

House Amendment 2 (060065)—On page 5, line 26 remove from the bill: all of said lines and insert in lieu thereof: *Management and Budget, and the Office of Information Systems are*

House Amendment 3 (710783)—On page 7, line 30, through page 8, line 10, remove from the bill: all of said lines

House Amendment 4 (981377)—On page 28, line 22, remove from the bill: "*The*" and insert in lieu thereof: *Effective January 1, 2000, the*

House Amendment 5 (593375)—On page 46, lines 9 and 10 remove from the bill: *Executive Office of the Governor* and insert in lieu thereof: *Department of Education*

House Amendment 6 (980995)—On page 46, line 12, through page 47, line 13 remove from the bill: all of said lines and insert in lieu thereof:

(2) The commission shall consist of 16 members appointed, as provided herein, by the Governor, the President of the Senate, and the Speaker of the House of Representatives. The commission must contain a minimum of 50 percent representation from the private-sector. The members of the commission shall include:

(a) The Commissioner of Education, or his or her designee, who shall serve as chair;

(b) The chair of the Florida Rehabilitation Council;

(c) The chair of the Council for Independent Living;

(d) The chair of the Commission for the Purchase from the Blind or Other Severely Handicapped;

(e) A community rehabilitation provider who contracts to provide vocational rehabilitation services to individuals who qualify for the program, who shall be appointed by the Governor for a term of 4 years;

(f) A representative from the Advocacy Center for Persons With Disabilities, who shall be appointed by the President of the Senate for a term of 4 years;

(g) A consumer of vocational rehabilitation services, who shall be appointed by the Speaker of the House of Representatives for a term of 4 years; and

(h) Other individuals with disabilities and representatives of business, workforce development, education, state government, local govern-

ment, consumer advocate groups, employers of individuals with disabilities, or community organizations.

(3) Initially, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall each appoint as members meeting the qualifications contained in paragraph (h) of subsection (2), one member for a term of 3 years, one member for a term of 2 years, and one member for a term of 1 year. Thereafter, after receiving recommendations from the commission, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall appoint all members for terms of 4 years. Any vacancy shall be filled by appointment by the original appointing authority for the unexpired portion of the term by a person who possesses the proper qualifications for the vacancy.

House Amendment 7 (820091)(with title amendment)—On page 57, line 18 remove from the bill: *For* and insert in lieu thereof: *Effective July 1, 2000, for*

And the title is amended as follows:

On page 3, line 14 remove from the title of the bill: an effective date and insert in lieu thereof: effective dates

Substitute House Amendment 8 (033233)(with title amendment)—On page 56, between lines 16 & 17, after the word "*plan.*" insert:

Section 33. *(1) The Department of Labor and Employment Security may offer, subject to the provisions of this section, active employees with 30 or more years of creditable service in a state-administered retirement system, or who are at least 62 years of age and are eligible for retirement in a state-administered retirement system, a one-time voluntary reduction-in-force payment during the 1999-2000 fiscal year. Such payment shall represent a payment of insurance costs and shall be paid as an annuity to be purchased by the department within funds appropriated for salary and benefits in the General Appropriations Act for fiscal year 1999-2000, which shall include funds derived from eliminating vacated positions. There shall be no annualization costs associated with this plan. The Secretary of Labor and Employment Security shall be deemed to be the public employer for purposes of negotiating the terms and conditions related to the reduction-in-force payments authorized by this section. All persons retiring under this program shall do so no later than January 1, 2000.*

(2) The department, in consultation with the Department of Management Services, shall prepare a plan to implement the reduction-in-force payment authority for approval by the Office of Planning and Budgeting. Such plan must meet all applicable federal requirements regarding the expenditure of federal funds; all applicable federal tax laws; and all other federal and state laws regarding special compensation to employees, including the Age Discrimination in Employment Act and the Older Workers' Benefit Protection Act. The plan must specify the savings created through the payment mechanism and the reduction-in-force, specify the source of funding of the payments, and delineate a timetable for implementation.

(3) If approved by the Office of Planning and Budgeting, such plan shall be submitted to the Legislature subject to the notice, review, and objection process authorized in s. 216.177, Florida Statutes.

(4) This section shall take effect upon becoming law.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 3, line 14 after the semicolon, insert: authorizing the department to offer voluntary reduction-in-force payment to certain employees; requiring the plan to meet specified criteria; requiring legislative review;

House Amendment 9 (864459)—On page 58, line 24, remove from the bill: This and insert in lieu thereof: Except as otherwise provided herein, this

House Amendment 10 (220395)(with title amendment)—On page 58, between lines 23 & 24, insert:

Section 39. *There is hereby appropriated $500,000 from the General Revenue Fund to the Department of Education for Fiscal Year 1999-2000.*

And the title is amended as follows:

On page 3, line 14, after the semicolon, insert: providing an appropriation;

House Amendment 11 (441337)(with title amendment)—On page 58, between lines 23 & 24, insert:

Section 39. Subsections (2) and (3) of section 20.15, Florida Statutes, 1998 Supplement, are amended to read:

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

(2) COMMISSIONER OF EDUCATION.—The head of the Department of Education is the Commissioner of Education who shall be elected by vote of the qualified electors of the state pursuant to s. 5, Art. IV of the State Constitution.

(a) The Commissioner of Education shall appoint a Deputy Commissioner for Educational Programs who has such powers, duties, responsibilities, and functions as are necessary to ensure the greatest possible coordination, efficiency, and effectiveness of kindergarten through 12th-grade education and vocational and continuing education programs, *including workforce development.*

(b) The Commissioner of Education shall appoint a Deputy Commissioner for Planning, Budgeting, and Management who has such powers, duties, responsibilities, and functions as are necessary to ensure the greatest possible coordination of policies, programs, and procedures for the statewide system of education and the department.

(c) The Commissioner of Education shall appoint a Deputy Commissioner for Technology and Administration who has such powers, duties, responsibilities, and functions as are necessary to ensure the greatest possible coordination and development of technological supports for the education system and efficient administration of the department.

(3) DIVISIONS.—The following divisions of the Department of Education are established:

(a) Division of Community Colleges.

(b) Division of Public Schools and Community Education.

(c) Division of Universities.

(d) Division of Workforce Development.

(e) Division of Human Resource Development.

(f) Division of Administration.

(g) Division of Financial Services.

(h) Division of Support Services.

(i) Division of Technology.

Section 40. *The Commissioner of Education is authorized to establish, abolish, or consolidate bureaus, sections, and subsections; to reallocate duties and functions; and to reassign positions in pay grade 25 and above to the Select Exempt Service category within the Department of Education in order to promote effective and efficient operation of the department. Authorized positions and appropriations may be transferred from one budget entity to another as required to implement the reorganization. The provisions of this section are subject to the requirements of section 216.181, Florida Statutes. The commissioner may not establish, abolish, or consolidate bureaus, sections, or subsections after January 31, 2000, unless such action is approved by the Legislature or by law. The commissioner shall provide a report on the reorganization to the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the Senate and the House of Representatives, and the chairs of the education and appropriations committees of the Legislature by January 31, 2001. This section is repealed on July 1, 2000.*

And the title is amended as follows:

On page 1, lines 2 & 3, remove from the title of the bill: all of said lines and insert in lieu thereof: An act relating to governmental reorga-

nization; amending s. 20.15, F.S.; clarifying duties of the Deputy Commissioner for Educational Programs; creating the position of Deputy Commissioner for Technology and Administration and providing powers, duties, responsibilities, and functions; creating the Division of Technology; authorizing the Commissioner of Education to reorganize portions of the Department of Education; providing limitations; providing for future repeal; amending s. 20.171, F.S.;

House Amendment 12 (105431)—On page 9, line 28, through page 10, line 16, remove from the bill: all of said lines and insert in lieu thereof:

(a) Field Office I—Panama City, which shall serve the following counties: Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington, Bay, Jefferson, Calhoun, Gulf, Liberty, Franklin, Wakulla, Leon, Gadsden, and Jefferson.

(b) Field Office II—Lake City, which shall serve the following counties: Madison, Taylor, Dixie, Lafayette, Suwannee, Hamilton, Columbia, Baker, Union, Bradford, Clay, St. Johns, Duval, Nassau, Alachua, Putnam, Marion, Levy, Gilchrist, and Flagler.

(c) Field Office III—Orlando, which shall serve the following counties: Volusia, Lake, Seminole, Orange, Sumter, Brevard, Osceola, Indian River, Highlands, St. Lucie, Okeechobee, and Martin.

(d) Field Office IV—Tampa, which shall serve the following counties: Citrus, Hernando, Pasco, Pinellas, Hillsborough, Polk, Hardee, Manatee, Sarasota, DeSoto, Charlotte, and Lee.

(e) Field Office V—Miami, which shall serve the following counties: Palm Beach, Glades, Hendry, Collier, Broward, Monroe, and Dade.

On motion by Senator Webster, the Senate concurred in the House amendments.

CS for CS for SB 230 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—28

Madam President	Clary	King	Myers
Bronson	Cowin	Kirkpatrick	Scott
Brown-Waite	Diaz-Balart	Latvala	Sebesta
Burt	Grant	Laurent	Silver
Carlton	Gutman	Lee	Sullivan
Casas	Hargrett	McKay	Thomas
Childers	Horne	Mitchell	Webster

Nays—10

Campbell	Forman	Jones	Meek
Dawson-White	Geller	Kurth	Rossin
Dyer	Holzendorf		

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment 1, concurred in same as amended, and passed HB 2123 as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

HB 2123—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. 364.507, F.S.; changing a cross reference; 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; amending s. 240.311, F.S.; authorizing the State Board of Community Colleges to develop and produce certain work products related to distance learning; authorizing fees for such materials for purposes of educational use; requiring annual postaudits; requiring the adoption of rules; requiring the submission of a report; requiring the State Board of Community Colleges to submit an annual report to the Legislature; 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 for an appropriation; establishing a task force in the Department of Management Services; providing for representation; 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; providing an effective date.

House Amendment 1 (091171) to Senate Amendment 1—On page 19, lines 19 through 28, remove from the amendment: all of said lines and insert:

Section 14. *Effective July 1, 1999, the sum of $250,000 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 the provisions of this act which create the Information Service Technology Development Task Force.*

House Amendment 2 (590325) (with title amendment) to Senate Amendment 1—On page 1, line 17, through page 8, line 15 remove from the amendment: all of said lines and insert in lieu thereof:

Section 1. 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 *5* **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, *2001* ~~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, *2001* ~~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 circum-

stances, 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, 2001* ~~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, *2001* ~~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 2. 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 20, lines 12-20 of the amendment remove: all said lines and insert in lieu thereof: s. 364.025, F.S.; extending the interim mechanism for maintaining universal service objectives and carrier-of-last-resort obligations until a specified date; 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, the Senate concurred in the House amendments to the Senate amendment.

HB 2123 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

Madam President	Dawson-White	Jones	Myers
Bronson	Diaz-Balart	King	Rossin
Brown-Waite	Dyer	Klein	Saunders
Burt	Forman	Kurth	Scott
Carlton	Geller	Laurent	Sebesta
Casas	Grant	Lee	Silver
Childers	Gutman	McKay	Sullivan
Clary	Hargrett	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 SB 2554, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 2554—A bill to be entitled An act relating to insurance contracts; amending s. 626.022, F.S.; providing an exception from certain insurance licensing requirements for certified public accountants acting within the scope of their profession; amending s. 626.883, F.S.; requiring that certain information be included with the payments made by a fiscal intermediary to a health care provider; amending s. 641.31, F.S., relating to health maintenance contracts; requiring a health maintenance organization to provide notice prior to increasing the copayments or limiting any benefits under a group contract; requiring certain health maintenance contracts to cover persons licensed to practice massage under certain circumstances; amending s. 641.315, F.S.; providing that a contract between a health maintenance organization and a health care provider may not restrict the provider from entering into a contract with any other health maintenance organizations and may not restrict the health maintenance organization from entering into a contract with any other provider; amending s. 641.316, F.S.; requiring that certain information be included with the payments made by a fiscal intermediary to a health care provider; providing for applicability; amending s. 641.315, F.S.; prohibiting a health maintenance organization's contract from preventing a subscriber from receiving certain services; amending s. 641.31, F.S.; prohibiting a health maintenance organization's contract from preventing a subscriber from receiving certain services; amending s. 641.3155, F.S.; prohibiting a health maintenance organization from denying payment to certain physicians for inpatient hospital services; amending s. 627.6645, F.S.; revising the notice requirements for cancellation or nonrenewal of a group health insurance policy; specifying conditions under which the insurer may retroactively cancel coverage due to nonpayment of premium; amending s. 627.6675, F.S.; revising the time limits for an employee or group member to apply for an individual converted policy when termination of group coverage is due to failure of the employer to pay the premium; revising the requirements for the premium for the converted policy; allowing a group insurer to contract with another insurer to issue an individual converted policy under certain conditions; amending s. 641.3108, F.S.; revising the notice requirements for cancellation or nonrenewal of a health maintenance organization contract; specifying conditions under which the organization may retroactively cancel coverage due to nonpayment of premium; amending s. 641.3922, F.S.; revising the time limits for an employee or group member to apply for a converted contract from a health maintenance organization when termination of group coverage is due to failure of the employer to pay the premium; revising the requirements for the premium for the converted contract; providing an effective date.

House Amendment 1 (043759)(with title amendment)—On page 6, line 23 through page 7, line 12 remove from the bill: all of said lines

And the title is amended as follows:

On page 1, line 30 through page 2, line 9 remove from the title of the bill: all of said lines and insert in lieu thereof: applicability; amending s. 627.6645, F.S.;

House Amendment 2 (362163)—On page 5, lines 16 and 19, after the word *a* insert: *commercial*

On motion by Senator King, the Senate concurred in the House amendments.

CS for SB 2554 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38

Madam President	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	Thomas
Childers	Hargrett	McKay	Webster
Clary	Horne	Meek	
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 CS for SB 1270, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 1270—A bill to be entitled An act relating to motor vehicles and highway safety; amending s. 233.063, F.S.; revising the distribution of driver's license fee revenues for driver education programs; amending s. 234.021, F.S.; revising hazardous walking conditions for students; amending s. 316.063, F.S.; revising provisions to refer to a "traffic crash" rather than an "accident"; providing a noncriminal traffic infraction for obstructing traffic under certain circumstances; amending s. 316.1958, F.S.; restricting the issuance of disabled parking citations under certain circumstances; amending s. 316.1975, F.S.; revising provisions with respect to unattended motor vehicles; amending s. 316.211, F.S.; providing for compliance with certain federal safety standards with respect to equipment for motorcycle and moped riders; amending s. 316.520, F.S.; providing that it is a noncriminal traffic infraction punishable as a moving violation to violate load limits on vehicles; amending s. 316.640, F.S.; authorizing the Florida Highway Patrol to employ certain persons as traffic accident investigation officers; providing for certain powers and duties; providing for the employment of parking enforcement specialists by airport authorities; amending s. 318.14, F.S.; conforming cross-references to changes made by the act; amending s. 318.15, F.S.; including reference to the tax collector with respect to the collection of certain service fees for reinstatement of a suspended driver's license; amending s. 318.36, F.S.; providing judicial immunity for civil traffic infraction hearing officers; amending s. 319.14, F.S.; including reference to short-term and long-term lease vehicles; providing definitions; providing penalties; amending s. 319.23, F.S.; revising application requirements for a certificate of title; deleting references to collectible vehicles; amending s. 319.30, F.S.; revising provisions with respect to dismantling, destroying, or changing the identity of a motor vehicle or mobile home; amending s. 320.01, F.S.; defining the term "agricultural products" for purposes of ch. 320, F.S.; amending s. 320.023, F.S.; revising audit requirements with respect to voluntary contributions on the application form for a motor vehicle registration; amending s. 320.03, F.S.; revising the distribution formula with respect to a fee charged for the Florida Real Time Vehicle Information System; amending s. 320.04, F.S.; authorizing a service charge on vessel decals issued from an automated vending facility or printer dispenser machine; amending s. 320.055, F.S.; revising provisions with respect to registration periods; amending s. 320.06, F.S.; authorizing the department to issue manufacturer license plates; repealing s. 320.065, F.S., relating to the registration of certain rental trailers for hire and semitrailers used to haul agricultural products; amending s. 320.0657, F.S.; revising provisions with respect to fleet license plates; providing fees; amending s. 320.08, F.S., relating to license fees; deleting references to certain collectible vehicles; providing a fee for manufacturer license plates; amending s. 320.08056, F.S.; revising the license plate annual use fee for the Challenger license plate; repealing s. 320.08058(2)(f), F.S., which provides for the repeal of the Challenger license plate; amending s. 320.08058, F.S.; revising provisions relating to the design of the Florida Salutes Veterans license plate; authorizing the Department of Veterans' Affairs to use moneys from the license plate fee to promote and market the plate; amending s. 320.084, F.S.; deleting obsolete provisions; amending s. 320.086, F.S.; revising provisions governing the issuance of license plates for certain historical motor vehicles; reenacting s. 320.072(2)(g), F.S., relating to the fee imposed on motor vehicle registrations, to incorporate the amendment to s. 320.086, F.S., in references thereto; amending s. 320.13, F.S.; providing an alternative method of registration for manufacturer license plates; prohibiting the use of dealer license plates for specified purposes; amending s. 320.131, F.S.; authorizing agents or Florida licensed dealers to issue temporary license tags when such tags are not specifically authorized; providing penalties with respect to certain violations concerning temporary tags; amending s. 320.1325, F.S.; revising provisions with respect to registration for the temporarily employed; amending s. 320.27, F.S.; revising provisions governing the denial, suspension, or revocation of motor vehicle dealer licenses; amending s. 320.30, F.S.; providing for the forfeiture of a motor vehicle; providing for confiscation and sale of such vehicles; repealing s. 320.8249(11), F.S., which provides for an exemption from installer licensing; amending s. 320.8325, F.S.; providing for uniform standards; amending s. 321.06, F.S.; authorizing the department to employ certain traffic accident investigation officers; amending s. 322.08, F.S.; deleting provisions with respect to certain applications made by persons who hold an out-of-state driver license; amending s. 322.081, F.S.; revising audit requirements with respect to voluntary contributions on the driver's license application; amending s. 322.1615, F.S.; revising provisions with respect to a learner's driver's license; amending s. 322.2615, F.S.; revising provisions with respect to suspension of a license; amending s. 322.28, F.S.; revising requirements for the period of suspension or revocation of a driver's license; amending s. 322.34, F.S.; conforming a cross-reference to changes made by the act; amending s. 325.2135, F.S.; directing the Department of Highway Safety and Motor Vehicles to enter into a contract for a motor vehicle inspection program; amending s. 325.214, F.S.; changing the motor vehicle inspection fee; amending s. 327.031, F.S.; providing for the denial or cancellation of a vessel registration when payment for registration is made by a dishonored check; amending s. 327.11, F.S.; providing for a replacement vessel registration; amending s. 327.23, F.S.; providing for a temporary certificate of registration for a vessel by certain out-of-state residents; amending s. 327.25, F.S.; revising provisions with respect to transfer of ownership and registration of vessels; creating s. 327.255, F.S.; providing for the duties of tax collectors with respect to vessel registration; providing fees; creating s. 327.256, F.S.; providing procedures for advanced vessel registration renewal; amending s. 328.01, F.S.; revising provisions with respect to application for a certificate of title for a vessel; amending s. 328.11, F.S.; increasing the time period for application for a reissuance of a certificate of title; amending s. 328.15, F.S.; providing requirements with respect to certain second liens on vessels; increasing the fee for recording a notice of lien; providing requirements with respect to satisfaction of a lien on a vessel; providing penalties for failure to comply; amending s. 328.16, F.S.; providing requirements with respect to liens; creating s. 328.165, F.S.; providing for cancellation of certificates; amending s. 713.78, F.S.; revising requirements relating to liens for recovering, towing, or storing vehicles and undocumented vessels; providing an exemption from the requirement of an inventory of personal property found in a motor vehicle to be removed from the scene of an accident under certain circumstances; amending ss. 732.9215, 732.9216, F.S.; conforming cross-references to changes made by the act; amending s. 812.014, F.S.; providing prohibition on a theft of gasoline while in a motor vehicle; amending s. 832.06, F.S.; revising provisions with respect to prosecution for worthless checks given to the tax collector for certain licenses or taxes; amending s. 932.701, F.S.; redefining the term "contraband article," and reenacting ss. 705.101(6), 932.704(4), F.S., relating to forfeiture of contraband article, to incorporate said amendment in references; amending s. 324.201, F.S.; deleting the requirement that recovery agents notify law enforcement of a license plate seizure; amending s. 324.202, F.S.; expanding into additional counties a pilot project that authorizes a recovery agent or recovery agency to seize the license plate

of a motor vehicle following suspension of the vehicle's registration or suspension of the driver's license of the owner or operator of the vehicle for failing to maintain personal injury protection; requiring that the department provide procedures for paying fees; amending s. 627.733, F.S.; deleting payment of a fee to recovery agents; amending s. 318.18, F.S.; changing the date by which electronic transmission of certain data must be commenced; amending s. 322.245, F.S.; changing the time within which the failure of a person to pay child support must be reported; repealing s. 14 of ch. 98-223, Laws of Florida, relating to required security for the operation of a motor vehicle; providing an effective date.

Substitute House Amendment 1 (843723)(with title amendment) for House Amendment 1—On page 61, line 22, through page 63, line 24, remove from the bill: all of said lines and insert in lieu thereof:

Section 48. Paragraphs (n) and (o) are added to subsection (8) of section 325.207, Florida Statutes, to read:

325.207 Inspection stations; department contracts; inspection requirements; recordkeeping.—

(8) Any contract authorized under this section shall contain:

(n) A provision authorizing the department to amend the contract if the Legislature enacts legislation that changes the number of motor vehicle model years that are subject to inspection requirements.

(o) A provision authorizing the contract to be amended or canceled by the department upon statewide implementation of clean fuel requirements promulgated by the United States Environmental Protection Agency.

Section 49. Section 325.2135, Florida Statutes, 1998 Supplement, is amended to read:

325.2135 Motor vehicle emissions inspection program; development of specifications; fees; reporting.—

~~(1) The Department of Highway Safety and Motor Vehicles shall hire an independent expert consultant to develop appropriate request for proposal specifications and a range of inspection fees for the motor vehicle emissions inspection program based on an annual and a biennial inspection program for vehicles 4 model years old and older, using the basic test for hydrocarbon emissions and carbon monoxide emissions and other mobile source testing for nitrous oxides or other pollutants, and no later than January 1, 1999, to report to the President of the Senate and the Speaker of the House of Representatives setting forth the relevant facts and the department's recommendations. Notwithstanding the provisions of chapter 325, the department and the Governor and Cabinet, acting as head of that agency, are prohibited from entering into any contract or extension of a contract for any form of motor vehicles emissions testing without legislative approval through the enactment of specific legislation directing the department to implement an inspection program and establishing a fee for the program.~~

~~(2) If no specific legislation is passed during the 1999 legislative session to direct the department to implement a motor vehicle inspection program, the department may issue a request for proposal and~~ *The department may extend the current emissions inspection program contracts for a period of time sufficient to implement new contracts resulting from competitive proposals, and shall* enter *into and implement* one or more contracts *by June 30, 2000,* for a biennial inspection program for vehicles, *except the current model year and the two prior model years,* ~~5 model years and older~~ using the basic test for hydrocarbon emissions and carbon monoxide emissions. The requirements for the program included in the proposals must be based on the requirements under chapter 325 unless those requirements conflict with this section. No contract entered into under this subsection may be for longer than *7* ~~2~~ years. *Any contract authorized under this section must contain a provision that, after 4 years, the department reserves the right to cancel the contract upon 6 months' notice to the contractor.* Notwithstanding the provisions of s. 325.214, ~~if~~ the fee for motor vehicle inspection proposed by the Department of Highway Safety and Motor Vehicles *may not* ~~will~~ exceed *$19* ~~$10~~ per inspection.~~, the department may impose the higher fee if such fee is approved through the budget amendment process set forth in chapter 216 and notice is provided to the chairmen of the Senate and House Transportation and Natural Resources Committees at the time it is provided to the Senate Ways and Means and House Appropriations Committees.~~

Section 50. Subsection (2) of section 325.214, Florida Statutes, 1998 Supplement, is amended to read:

325.214 Motor vehicle inspection; fees; disposition of fees.—

(2) The inspection fee *may not exceed $19* ~~shall be $10~~. Notwithstanding any other provision of law to the contrary, an additional fee of $1 shall be assessed upon the issuance of each dealer certificate, which fee shall be forwarded to the department for deposit into the Highway Safety Operating Trust Fund.

And the title is amended as follows:

On page 5, line 4, of the amendment after the semicolon insert: amending s. 325.207, F.S.; specifying required provisions of certain contracts for certain emission inspections;

House Amendment 2 (691369)—On page 47, line 8, of the bill after "*who*" insert: *knowingly and willfully*

House Amendment 3 (944501)—On page 19, line 19, remove from the bill: *Civil Court and*

House Amendment 4 (853013)—On page 16, line 22, remove from the bill: all of said line and insert in lieu thereof: chapter 316, s. 320.0605 ~~(1)~~, s. 320.07 (3) (a) *or (b),* s. 322.065, s.

House Amendment 5 (252569)—On page 59, line 16, remove from the bill: ~~or (5)~~ and insert in lieu thereof: or *(4)*~~(5)~~

House Amendment 6 (202609)(with title amendment)—On page 66, line 8, through page 67, line 21, remove from the bill: all of said lines and insert in lieu thereof:

Section 53. Paragraphs (b) and (c) of subsection (2), paragraph (b) of subsection (4), subsection (6), paragraph (c) of subsection (12), and subsection (15) 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 *displayed as provided in* ~~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 s. 327.11* ~~placed within 3 inches of the registration number~~.

(4) TRANSFER OF OWNERSHIP.—

(b) If a vessel is an antique as defined in subsection (2), the application shall be accompanied by either a certificate of title, a ~~notarized~~ bill of sale and a registration, or a ~~notarized~~ bill of sale and an affidavit by the owner defending the title from all claims. The bill of sale must contain a complete vessel description to include the hull identification number and engine number, if appropriate; the year, make, and color of the vessel; the selling price; and the signatures of the seller and purchaser.

(6) CHANGE OF CLASSIFICATION.—If the classification of a vessel changes from noncommercial to commercial, or from commercial to noncommercial, and a current registration certificate has been issued to the owner, the owner shall *within 30 days* forward his or her certificate to the county tax collector with a fee of $2.25 and a new certificate shall be issued.

(12) REGISTRATION.—

(c) Effective July 1, 1996, the following registration periods and renewal periods are established:

1. For vessels owned by individuals, the registration period begins the first day of the birth month of the owner and ends the last day of the

month immediately preceding the owner's birth month in the succeeding year. If the vessel is registered in the name of more than one person, the birth month of the person whose name first appears on the registration shall be used to determine the registration period. For a vessel subject to this registration period, the renewal period is the 30-day period ending at midnight on the vessel owner's date of birth.

2. For vessels owned by companies, corporations, governmental entities, ~~those entities listed under subsection (11),~~ and registrations issued to dealers and manufacturers, the registration period begins July 1 and ends June 30. The renewal period is the 30-day period beginning June 1.

(15) EXEMPTIONS.—Vessels owned and operated by Sea Explorer or Sea Scout units of the Boy Scouts of America, the Girl Scouts of America, the *Florida Association of Christian Child Caring Agencies* ~~Safe Harbor Haven~~, Inc., or the Associated Marine Institutes, Inc., and its affiliates, or which are antique vessels as defined in paragraph (2)(a) are exempt from the provisions of subsection (1). Such vessels shall be issued certificates of registration and numbers upon application and payment of the service fee provided in subsection (7).

And the title is amended as follows:

On page 5, lines 19 through 21, remove from the title of the bill: all of said lines and insert in lieu thereof: F.S.; revising language with respect to transfer of ownership and registration of vessels; providing an exemption from vessel registration fees for vessels owned and operated for the Florida Association of Christian Child Caring Agencies, Inc.; creating s. 327.255, F.S.; providing

House Amendment 7 (241961)(with title amendment)—On page 28, between lines 15 and 16, of the bill insert:

Section 17. Paragraph (a) of subsection (2) of section 320.02, Florida Statutes, 1998 Supplement, is amended to read:

320.02 Registration required; application for registration; forms.—

(2)(a) The application for registration shall include the street address of the owner's permanent residence or the address of his or her permanent place of business *and shall be accompanied by personal or business identification information which may include, but need not be limited to, a driver's license number, Florida identification card number, or federal employer identification number*. If the owner does not have a permanent residence or permanent place of business or if the owner's permanent residence or permanent place of business cannot be identified by a street address, the application shall include:

1. If the vehicle is registered to a business, the name and street address of the permanent residence of an owner of the business, an officer of the corporation, or an employee who is in a supervisory position.

2. If the vehicle is registered to an individual, the name and street address of the permanent residence of a close relative or friend who is a resident of this state.

And the title is amended as follows:

On page 2, line 17, after the semicolon insert: amending s. 320.02, F.S.; revising language with respect to application for registration forms to include certain identification information;

House Amendment 8 (422131)—On page 11, line 17, through page 12, line 25, remove from the bill: all of said lines and insert in lieu thereof:

Section 6. Section 316.211, Florida Statutes, is amended to read:

316.211 Equipment for motorcycle and moped riders.—

(1) *A* ~~No~~ person *may not* ~~shall~~ operate or ride upon a motorcycle unless the person is properly wearing protective headgear securely fastened upon his or her head which complies with *Federal Motorcycle Vehicle Safety Standard 218 promulgated by the United States Department of Transportation. The Department of Highway Safety and Motor Vehicles shall adopt this standard by agency rule* ~~standards established by the department~~.

(2) *A* ~~No~~ person *may not* ~~shall~~ operate a motorcycle unless the person is wearing an eye-protective device over his or her eyes of a type approved by the department.

(3) This section *does* ~~shall~~ not apply to persons riding within an enclosed cab or to any person 16 years of age or older who is operating or riding upon a motorcycle powered by a motor with a displacement of 50 cubic centimeters or less or is rated not in excess of 2 brake horsepower and which is not capable of propelling such motorcycle at a speed greater than 30 miles per hour on level ground.

(4) *A* ~~No~~ person under 16 years of age *may not* ~~shall~~ operate or ride upon a moped unless the person is properly wearing protective headgear securely fastened upon his or her head which complies with *Federal Motorcycle Vehicle Safety Standard 218 promulgated by the United States Department of Transportation* ~~standards established by the department~~.

(5) *The department shall make available a list of protective headgear approved in this section, and the list shall be provided on request.* ~~The department is authorized to approve protective headgear made to specifications drawn and devised by, or approved by, the American National Standards Institute, the United States Department of Transportation, the United States Consumer Products Safety Commission, the United States Department of Defense, or any other entity which can provide equally effective equipment specifications. The department shall publish lists of protective equipment, and such lists shall be made available by request to all users of such equipment.~~

House Amendment 9 (813983)(with title amendment)—On page 86, between lines 16 and 17, insert:

Section 71. Paragraph (d) of subsection (6) of section 932.703, Florida Statutes, is amended to read:

932.703 Forfeiture of contraband article; exceptions.—

(6)

(d) A vehicle that is rented or leased from a company engaged in the business of renting or leasing vehicles, which vehicle was rented or leased in the manner prescribed by law prior to the seizure, may not be forfeited under the Florida Contraband Forfeiture Act, *and no fine, penalty, or administrative charge, other than reasonable and customary charges for towing and storage, shall be imposed by any governmental agency on the company which rented or leased the vehicle,* unless the seizing agency establishes by preponderance of the evidence that the renter or lessor had actual knowledge, at the time the vehicle was rented or leased, that the vehicle was being employed or was likely to be employed in criminal activity. When a vehicle that is rented or leased from a company engaged in the business of renting or leasing vehicles is seized under the Florida Contraband Forfeiture Act, upon learning the address or phone number of the company, the seizing law enforcement agency shall, as soon as practicable, inform the company that the vehicle has been seized and is available for the company to take possession *upon payment of the reasonable and customary charges for towing and storage.*

And the title is amended as follows:

On page 7, line 17, after the semicolon insert: amending s. 932.703, F.S.; revising language with respect to fines, penalties, and administrative charges for rented or leased vehicles seized under the Florida Contraband Forfeiture Act;

House Amendment 10 (503147)(with title amendment)—On page 86, between lines 16 & 17, of the bill insert:

Section 72. Subsection (1) of section 322.051, Florida Statutes, is amended to read:

322.051 Identification cards.—

(1) Any person who is 12 years of age or older, or any person who has a disability, regardless of age, who applies for a disabled parking permit under s. 320.0848, may be issued an identification card by the department upon completion of an application and payment of an application fee.

(a) Each such application shall include the following information regarding the applicant:

1. Full name (first, middle or maiden, and last), gender, social security card number, residence and mailing address, and a brief description.

2. Proof of birth date satisfactory to the department.

3. Proof of identity satisfactory to the department, including one of the following: a certified copy of a United States birth certificate, a valid United States passport, an alien registration receipt card (green card), an employment authorization card issued by the United States Department of Justice, or proof of nonimmigrant classification provided by the United States Department of Justice, for an original identification card. ~~The application must include the applicant's full name (first, middle or maiden, and last), sex, race, residence address and mailing address, proof of birth satisfactory to the department, and other data that the department requires.~~

(b) An application for an identification card must be signed and verified by the applicant in a format designated by the department before a person authorized to administer oaths. The fee for an identification card is $3, including payment for the color photograph or digital image of the applicant.

Section 73. Subsection (2) of section 322.08, Florida Statutes, 1998 Supplement, is amended to read:

322.08 Application for license.—

(2) *Each such application shall include the following information regarding the applicant:*

(a) Full name (first, middle or maiden, and last), gender, social security card number, residence and mailing address, and a brief description.

(b) Proof of birth date satisfactory to the department.

(c) Proof of identity satisfactory to the department, including one of the following: a certified copy of a United States birth certificate, a valid United States passport, an alien registration receipt card (green card), an employment authorization card issued by the United States Department of Justice, or proof of nonimmigrant classification provided by the United States Department of Justice, for an original license.

(d) Whether the applicant has previously been licensed to drive, and, if so, when and by what state, and whether any such license or driving privilege has ever been disqualified, revoked, or suspended, or whether an application has ever been refused, and, if so, the date of and reason for such disqualification, suspension, revocation, or refusal. ~~Each such application shall reflect the full name (first, middle or maiden, and last), proof of identity satisfactory to the department, proof of birth date satisfactory to the department, sex, social security number, and residence and mailing address of the applicant, and briefly describe the applicant, and shall state whether the applicant has previously been licensed to drive, and if so, when and by what state, and whether any such license or driving privilege has ever been disqualified, revoked, or suspended, or whether an application has ever been refused, and if so, the date of and reason for such disqualification, suspension, revocation, or refusal.~~

Section 74. Paragraph (b) of subsection (1) of section 322.09, Florida Statutes, is amended to read:

322.09 Application of minors.—

(1)

(b) There shall be submitted with each application a certified copy of *a United States birth certificate, a valid United States passport, an alien registration receipt card (green card), an employment authorization card issued by the United States Department of Justice, or proof of nonimmigrant classification provided by the United States Department of Justice, for an original license* ~~the birth certificate of the applicant. If the applicant is unable to furnish such certified copy, a certificate from the public school authorities as to the age of the applicant upon entering school as required by s. 232.03, or the school authorities of the state where applicant enrolled in school, shall be submitted. Upon inability of applicant to establish a birth date as above provided, then the same may be established in the order of preference as provided by s. 232.03. However, uncertified copies of such documents shall not be accepted~~.

And the title is amended as follows:

On page 7, line 17, after the semicolon insert: amending s. 322.051, F.S.; revising language with respect to identification cards; amending s. 322.08, F.S.; revising language with respect to information required on application for license; amending s. 322.09, F.S.; revising language with respect to information required with certain applications by minors;

House Amendment 11 (602027)(with title amendment)—On page 28, lines 4 through 6, remove from the bill: all of said lines and insert in lieu thereof:

(9) Except as otherwise provided in this section, any person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 16. Subsection (2), paragraph (b) of subsection (3), and subsections (6) and (7) of section 319.30, Florida Statutes, 1998 Supplement, are amended to read:

319.30 Definitions; dismantling, destruction, change of identity of motor vehicle or mobile home; salvage.—

(2)(a) Each person mentioned as owner in the last issued certificate of title, when such motor vehicle or mobile home is dismantled, destroyed, or changed in such manner that it is not the motor vehicle or mobile home described in the certificate of title, shall surrender his or her certificate of title to the department, and thereupon the department shall, with the consent of any lienholders noted thereon, enter a cancellation upon its records. Upon cancellation of a certificate of title in the manner prescribed by this section, the department may cancel and destroy all certificates in that chain of title. *Any person who willfully and deliberately violates this paragraph commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.*

(b) When a motor vehicle is sold, transported, or delivered to a salvage motor vehicle dealer, it shall be accompanied by:

1. A properly endorsed certificate of title, salvage certificate of title, or vehicle certificate of destruction issued by the department; or

2. If the certificate of title has been surrendered to the department, a notarized affidavit signed by the owner stating that the title has been returned to the State of Florida pursuant to paragraph (a), the date on which such return was made, the year, make, and vehicle identification number of the motor vehicle, and the name, address, and personal identification card number of the owner. *Any person who willfully and deliberately violates this subparagraph by falsifying a required affidavit commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

(3)

(b) The owner of any motor vehicle or mobile home which is considered to be salvage shall, within 72 hours after the motor vehicle or mobile home becomes salvage, forward the title to the motor vehicle or mobile home to the department for processing. However, an insurance company which pays money as compensation for total loss of a motor vehicle or mobile home shall obtain the certificate of title for the motor vehicle or mobile home and, within 72 hours after receiving such certificate of title, shall forward such title to the department for processing. The owner or insurance company, as the case may be, may not dispose of a vehicle or mobile home that is a total loss before it has obtained a salvage certificate of title from the department. When applying for a salvage certificate of title, the owner or insurance company must provide the department with an estimate of the costs of repairing the physical and mechanical damage suffered by the vehicle for which a salvage certificate of title is sought. If the estimated costs of repairing the physical and mechanical damage to the vehicle is equal to 80 percent or more of the current retail cost of the vehicle, as established in any official used car or used mobile home guide, the department shall declare the vehicle unrebuildable and print notice on the salvage certificate of title that the vehicle is unrebuildable; and, thereafter, the department shall refuse issuance of any certificate of title for that vehicle. Nothing in this subsection shall be applicable when a vehicle is worth less than $1,500 retail in undamaged condition in any official used motor vehicle guide or used mobile home guide or when a stolen motor vehicle or mobile home is recovered in substantially intact condition and is readily resalable without extensive repairs to or replacement of the frame or engine. *Any person who willfully and deliberately violates this paragraph or falsifies any document to avoid the requirements of this paragraph commits a*

misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(6) In the event of a purchase by a salvage motor vehicle dealer of materials or major component parts for any reason, the purchaser shall:

(a) For each item of materials or major component parts purchased, the salvage motor vehicle dealer shall record the date of purchase, name and address of the seller, and the personal identification card number of the person delivering such items, as well as the vehicle identification number, if available.

(b) With respect to each item of materials or major component parts purchased, obtain such documentation as may be required by subsection (2).

Any person who violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(7) In the event of a purchase by a secondary metals recycler, that has been issued a certificate of registration number, of:

(a) Materials, prepared materials, or parts from any seller for purposes other than the processing of such materials, prepared materials, or parts, the purchaser shall obtain such documentation as may be required by this section, and shall record the seller's name and address, date of purchase, and the personal identification card number of the person delivering such items.

(b) Parts or prepared materials from any seller for purposes of the processing of such parts or prepared materials, the purchaser shall record the seller's name and address and date of purchase; and, in the event of a purchase transaction consisting primarily of parts or prepared materials, the personal identification card number of the person delivering such items.

(c) Materials from another secondary metals recycler for purposes of the processing of such materials, the purchaser shall record the seller's name, address, and date of purchase.

(d) Motor vehicles, mobile homes, or derelicts from other than a secondary metals recycler for purposes of the processing of such motor vehicles, mobile homes, or derelicts, the purchaser shall record the seller's name, address, date of purchase, and the personal identification card number of the person delivering such items, and shall obtain the following documentation from the seller with respect to each item purchased:

1. A valid certificate of title issued in the name of the seller or properly endorsed over to the seller;

2. A valid certificate of destruction issued in the name of the seller or properly endorsed over to the seller; or

3. If a valid certificate of title or a valid certificate of destruction is not available, an affidavit signed by the seller stating that the seller returned the certificate of title to the State of Florida pursuant to subsection (2) and the date on which such return was made, and setting forth the vehicle identification number of such motor vehicle, mobile home, or derelict.

(e) Major parts from other than a secondary metals recycler for purposes of the processing of such major parts, the purchaser shall record the seller's name, address, date of purchase, and the personal identification card number of the person delivering such items, as well as the vehicle identification number, if available, of each major part purchased.

Any person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

And the title is amended as follows:

On page 2, line 15, after the semicolon insert: providing penalties for certain violations with respect to the change of identity of a motor vehicle or mobile home;

House Amendment 12 (213663)(with title amendment)—On page 40, between lines 13 and 14, insert:

Section 28. Section 320.083, Florida Statutes, is amended to read:

320.083 Amateur radio operators; ~~citizens' band radio operators;~~ special license plates; fees.—

(1) A person who is the owner or lessee of an automobile for private use, a truck weighing not more than 5,000 pounds, or a recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use; who is a resident of the state; and who holds a valid official amateur radio station license ~~or citizens' band radio station license~~ issued by the Federal Communications Commission shall be issued a special license plate upon application, accompanied by proof of ownership of such radio station license, and payment of the following tax and fees:

(a) The license tax required for the vehicle, as prescribed by s. 320.08(2), (3)(a), (b), or (c), or (9); and

(b) An initial additional fee of $5, and an additional fee of $1.50 thereafter.

(2) The license plate issued shall meet the requirements of s. 320.06, except that, in lieu of the numbers as prescribed by s. 320.06, it shall be inscribed with the official amateur radio call letters ~~or the official citizens' band radio call letters, as appropriate,~~ of the applicant, as assigned by the Federal Communications Commission, including as a prefix, when applicable, those call letters assigned by the Armed Services of the United States of America, not to exceed eight characters. *In lieu of the name of the county or the designation "Sunshine State" on the bottom of the plate as prescribed in s. 320.06, the words "Amateur Radio" shall be inscribed.*

(3) All applications for such plates shall be made to the department.

And the title is amended as follows:

On page 3, line 20, after the semicolon insert: amending s. 320.083, F.S.; providing additional specifications for a specialty license plate for amateur radio operators; deleting obsolete provisions;

House Amendment 13 (733099)(with directory language and title amendments)—On page 40, between lines 13 & 14 of the bill, insert:

(10) FLORIDA INDIAN RIVER LAGOON LICENSE PLATES.—

(b) The license plate annual use fees are to be distributed annually as follows:

1. The first $5 million collected annually must be transferred to the St. Johns River Water Management District. The district shall account for these funds separate from all other funds received. These funds must be distributed as follows:

a. Based on Florida Indian River Lagoon license plate sales data from each county tax collector for Volusia, Brevard, Indian River, St. Lucie, Martin, and Palm Beach Counties, each county's total number of Florida Indian River Lagoon license plates sold between October 1 and September 30 must represent a percentage of the six-county total, calculated as follows: the total number sold for county A divided by the total number sold for counties A, B, C, D, E, and F is multiplied by 100. The percentage determined for St. Lucie, Martin, and Palm Beach Counties must be totaled and that total percentage of the statewide Florida Indian River Lagoon license plate revenues must be transferred to the South Florida Water Management District special Indian River Lagoon License Plate Revenue Account and distributed proportionately among St. Lucie, Martin, and Palm Beach Counties. The remaining funds in the St. Johns River Water Management District Revenue Account must be divided proportionately between Volusia, Brevard, and Indian River Counties.

b. Each water management district is responsible for administering projects in its respective counties funded with the appropriate percentage of license plate revenues.

2. Up to 5 percent of the proceeds from the annual use fee may be used for continuing promotion and marketing of the license plate.

3.~~2.~~ Any additional fees must be deposited into the General Revenue Fund. Fees are not to be deposited into the general revenue funds of the water management districts.

And the directory language is amended as follows:

On page 39, lines 21 & 22, remove: all of said lines and insert in lieu thereof:

Section 27. Subsection (4) and paragraph (b) of subsection (10) of section 320.08058, Florida Statutes, 1998 Supplement, are amended to read:

And the title is amended as follows:

On page 3, line 20, after "plate;" insert: providing that a certain percentage of the annual use fee for the Indian River Lagoon license plate may be used for the continuing promotion and marketing of the license plate;

House Amendment 14 (672449)(with title amendment)—On page 86, lines 19 & 20, remove from the bill: all of said lines and insert in lieu thereof:

Section 72. Effective July 1, 2000, subsection (1) of section 715.05, Florida Statutes, is amended to read:

715.05 Reporting of unclaimed motor vehicles.—

(1) Whenever any law enforcement agency authorizes the removal of a vehicle or whenever any towing service, garage, repair shop, or automotive service, storage, or parking place notifies the law enforcement agency of possession of a vehicle pursuant to s. 715.07(2)(a)2., the applicable law enforcement agency shall contact the Department of Highway Safety and Motor Vehicles, or the appropriate agency of the state of registration, if known, within 24 hours through the medium of electronic communications giving the full description of the vehicle. Upon receipt of the full description of the vehicle, the department shall search its files to determine the owner's name, *the name of the insurance company insuring the vehicle,* and whether any person has filed a lien upon the vehicle as provided in s. 319.27(2) and (3) and notify the applicable law enforcement agency within 72 hours. The person in charge of the towing service, garage, repair shop, or automotive service, storage, or parking place shall obtain such information from the applicable law enforcement agency within 5 days from the date of storage and shall, by certified mail, return receipt requested, notify the owner, *the insurer,* and all lienholders of the location of the vehicle and of the fact that it is unclaimed. Such notice shall be given within 7 days, excluding Saturday and Sunday, from the date of storage and shall be complete upon mailing; however, if the state of registration is unknown, the person in charge of the towing service, garage, repair shop, or automotive service, storage, or parking place shall make a good faith best effort in so notifying the owner, *the insurer,* and any lienholders, and such notice shall be given within a reasonable period of time from the date of storage.

Section 73. Except as otherwise provided herein, this act shall take effect upon becoming a law.

And the title is amended as follows:

On page 7, line 20, remove from the title of the bill: all of said line and insert in lieu thereof: vehicle; amending s. 715.05, F.S.; requiring notice to the insurer of certain unclaimed or impounded vehicles; providing effective dates.

House Amendment 15 (461969)(with title amendment)—On page 7, line 24, through page 8, line 10, remove from the bill: all of said lines and redesignate subsequent sections.

And the title is amended as follows:

On page 1, lines 3-5, remove from the title of the bill: all of said lines and insert in lieu thereof: safety; amending s.

House Amendment 16 (770903)(with title amendment)—On page 86, between lines 16 and 17, of the bill insert:

Section 72. Paragraph (c) of subsection (2) of section 812.014, Florida Statutes, is amended to read:

812.014 Theft.—

(2)

(c) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is:

1. Valued at $300 or more, but less than $5,000.

2. Valued at $5,000 or more, but less than $10,000.

3. Valued at $10,000 or more, but less than $20,000.

4. A will, codicil, or other testamentary instrument.

5. A firearm.

6. A motor vehicle, except as provided in subparagraph (2)(a).

7. Any commercially farmed animal, including any animal of the equine, bovine, or swine class, or other grazing animal, and including aquaculture species raised at a certified aquaculture facility. If the property stolen is aquaculture species raised at a certified aquaculture facility, then a $10,000 fine shall be imposed.

8. Any fire extinguisher.

9. Any amount of citrus fruit consisting of 2,000 or more individual pieces of fruit.

10. Taken from a designated construction site identified by the posting of a sign as provided for in s. 810.09(2)(d).

11. Any stop sign.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 7, line 17, after the semicolon insert: amending s. 812.014, F.S.; including the theft of any stop sign within a list of crimes which are considered to be grand theft of the third degree; providing a penalty;

House Amendment 17 (752517)(with title amendment)—On page 8, lines 11-25, remove from the bill: all of said lines and redesignate subsequent sections.

And the title is amended as follows:

On page 1, lines 5-7 remove from the title of the bill: all of said lines and insert in lieu thereof: for driver education programs; amending s. 316.063,

House Amendment 18 (812643)(with title amendment)—On page 86, between lines 16 and 17, insert:

Section 71. *(1) SHORT TITLE AND PURPOSE.—*

(a) This section may be cited as the "Florida Clean Fuel Act."

(b) The purposes of this act are to establish the Clean Fuel Florida Advisory Board under the Department of Community Affairs to study the implementation of alternative fuel vehicles and to formulate and provide to the Secretary of Community Affairs recommendations on expanding the use of alternative fuel vehicles in this state and make funding available for implementation.

(2) DEFINITIONS.—For purposes of this act:

(a) "Alternative fuels" include electricity, biodiesel, natural gas, propane, and any other fuel that may be deemed appropriate in the future by the Department of Community Affairs with guidance from the Clean Fuel Florida Advisory Board.

(b) "Alternative fuel vehicles" include on-road and off-road transportation vehicles and light-duty, medium-duty, and heavy-duty vehicles that are powered by an alternative fuel or a combination of alternative fuels.

(3) CLEAN FUEL FLORIDA ADVISORY BOARD ESTABLISHED; MEMBERSHIP; DUTIES AND RESPONSIBILITIES.—

(a) The Clean Fuel Florida Advisory Board is established within the Department of Community Affairs.

(b)1. The advisory board shall consist of the Secretary of Community Affairs, or a designee from that department, the Secretary of Environmental Protection, or a designee from that department, the Secretary of Education, or a designee from that department, the Secretary of Transportation, or a designee from that department, the Commissioner of Agriculture, or a designee from the department of Agriculture and Consumer Services, the Secretary of Management Services, or a designee from that department, and a representative of each of the following, who shall be appointed by the Secretary of Community Affairs within 30 days after the effective date of this act:

a. The Florida biodiesel industry.

b. The Florida electric utility industry.

c. The Florida natural gas industry.

d. The Florida propane gas industry.

e. An automobile manufacturers' association.

f. A Florida Clean Cities Coalition designated by the United States Department of Energy.

g. Enterprise Florida, Inc.

h. EV Ready Broward.

i. The Florida petroleum industry.

j. The Florida League of Cities.

k. The Florida Association of Counties.

l. Floridians for Better Transportation.

m. A motor vehicle manufacturer.

n. Florida Local Environment Resource Agencies.

o. Project for an energy efficient Florida.

p. Florida Transportation Builders Association.

2. The purpose of the advisory board is to serve as a resource for the department and to provide the Governor, the Legislature, and the Secretary of Community Affairs with private sector and other public agency perspectives on achieving the goal of increasing the use of alternative fuel vehicles in this state.

3. Members shall be appointed to serve terms of one year each, with reappointment at the discretion of the Secretary of Community Affairs. Vacancies shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

4. The board shall annually select a chairperson.

5.a. The board shall meet at least once each quarter or more often at the call of the chairperson or the Secretary of Community Affairs.

b. Meetings are exempt from the notice requirements of chapter 120, Florida Statutes, and sufficient notice shall be given to afford interested persons reasonable notice under the circumstances.

6. Members of the board are entitled to travel expenses while engaged in the performance of board duties.

7. The board shall terminate 5 years after the effective date of this act.

(c) The board shall review the performance of the state with reference to alternative fuel vehicle implementation in complying with federal laws and maximizing available federal funding and may:

1. Advise the Governor, Legislature, and the Secretary of Community Affairs and make recommendations regarding implementation and use of alternative fuel vehicles in this state.

2. Identify potential improvements in this act and the state's alternative fuel policies.

3. Request from all state agencies any information the board determines relevant to board duties.

4. Regularly report to the Secretary of Community Affairs, the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the board's findings and recommendations.

(d)1. The advisory board shall, within 120 days after its first meeting, make recommendations to the Department of Community Affairs for establishing pilot programs in this state that provide experience and support the best use expansion of the alternative fuel vehicle industry in this state. No funds shall be released for a project unless there is at least a 50 percent private or local match.

2. In addition to the pilot programs, the advisory board shall assess federal, state, and local initiatives to identify incentives that encourage successful alternative fuel vehicle programs, obstacles to alternative fuel vehicle use including legislative, regulatory, and economic obstacles, and programs that educate and inform the public about alternative fuel vehicles.

3. The advisory board is charged with determining a reasonable, fair, and equitable way to address current motor fuel taxes as they apply to alternative fuels and at what threshold of market penetration.

4. Based on its findings, the advisory board shall develop recommendations to the Legislature on future alternative fuel vehicle programs and legislative changes that provide the best use of state and other resources to enhance the alternative fuel vehicle market in this state and maximize the return on that investment in terms of job creation, economic development, and emissions reduction.

(e) The advisory board, working with the Department of Community Affairs, shall develop a budget for the department's approval and all expenditures shall be approved by the department. At the conclusion of the first year, the department shall conduct an audit of the board and board programs.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 7, line 17, after the semicolon, insert: creating the "Florida Clean Fuel Act"; providing purposes; providing definitions; establishing the Clean Fuel Florida Advisory Board; specifying membership; providing purposes of the board; providing for meetings and duties of the board; requiring a report containing recommendations for pilot programs; requiring a report to the Legislature; requiring a budget;

House Amendment 19 (345633)—On page 24, lines 22 and 23, remove from the bill: all of said lines and insert in lieu thereof: provided by s. 320.58, or a notary public commissioned by

House Amendment 20 (041129)(with title amendment)—On page 60, line 9, through page 61, line 2 remove from the bill: all of said lines and insert in lieu thereof:

(1) *The Department of Highway Safety and Motor Vehicles shall implement a pilot program using recovery agents for the seizure of license plates in Broward County, Dade County, and Hillsborough County. Licensed recovery agents and recovery agencies as described in s. 493.6101(20) and (21) may seize license plates of motor vehicles whose registrations have been suspended pursuant to s. 316.646 or s. 627.733 in such counties upon compliance with this section and rules of the Department of Highway Safety and Motor Vehicles. Upon the implementation of the vehicle information system overall reorganization to the Oracle database of driver licenses and a verification of an error rate of 2 percent or less for valid license plates seized during the period following implementation of the database, as determined by the Office of Program Policy Analysis and Government Accountability, the program shall be expanded to those counties where a majority of the governing body of the county has requested the program be implemented. The determination by the Office of Program Policy Analysis and Government Accountability shall be submitted to the Senate and the House of Representatives committees responsible for insurance and transportation issues no later than January 1, 2001. The program authorizing recovery agents and agencies to seize license plates shall be repealed July 1, 2002.* ~~The Department of Highway Safety and Motor Vehicles shall implement a pilot project in Broward County, Dade County, and Hillsborough County to determine the effectiveness of using recovery agents for the seizure of license~~

~~plates. On October 1, 1996, the department shall provide a report to the President of the Senate, the Speaker of the House of Representatives, the chair of the Senate Commerce Committee, the chair of the House Insurance Committee, and the Majority and Minority Leaders of the Senate and the House of Representatives, on the results of the pilot project. Licensed recovery agents and recovery agencies as described in s. 493.6101(20) and (21) may seize license plates of motor vehicles whose registrations have been suspended pursuant to s. 316.646 or s. 627.733 in such counties upon compliance with this section and rules of the Department of Highway Safety and Motor Vehicles.~~

And the title is amended as follows:

On page 7, line 9 after the semicolon, insert: specifying conditions required for expansion; requiring a determination from the Office of Program Policy Analysis and Government Accountability;

House Amendment 21 (694401)—On page 76, line 8, through page 77, line 19, remove from the bill: all of said lines

House Amendment 22 (233123)(with title amendment)—On page 86, between lines 16 and 17 of the bill insert:

Section 72. Effective October 1, 1999, subsection (1) of section 627.743, Florida Statutes, is amended and subsection (2) is added to said section to read:

627.743 Payment of third-party claims.—

(1) Before making any payment on a claim for damage to an automobile for a total loss, regardless of amount, which automobile is owned by a person who is not named as an insured in the policy under which payment is made, the insurer shall first cause a search of the records of the Department of Highway Safety and Motor Vehicles to be made in order to determine whether the damaged vehicle is subject to any liens. If the search discloses the existence of any liens, payment of the claim shall be made jointly to the owner of the damaged vehicle and the first lienholder of record. The insurer shall not be subject to the requirements of this section if the owner of the damaged vehicle presents to the insurer a title certificate for such vehicle.

(2) When making any payment on a third party claim for damage to an automobile for a partial loss, the insurer shall have printed on the loss estimate, if prepared by the insurer, the following: "Failure to use the insurance proceeds in accordance with the security agreement, if any, could be a violation of s. 812.014, Florida Statutes. If you have any questions, contact your lending institution." However, this subsection does not apply if the insurer does not prepare the loss estimate.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 7, line 17 after the semicolon insert: amending s. 627.743, F.S.; requiring an insurer to provide notice to the owner of a damaged vehicle as to the consequences of failure to use the insurance proceeds in accordance with a security agreement; providing an exception;

House Amendment 23 (384539)(with title amendment)—On page 86, between lines 16 and 17 of the bill insert:

Section 72. *Highway 326 from I-75 east to Highway 441/301/27 shall hereby be known as the Mike Stavola Highway. The Department of Transportation shall erect suitable markers acknowledging the above.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 7, line 17 after the semicolon insert: designating a section of Highway 326 as the Mike Stavola Highway; directing the Department of Transportation to erect suitable markers;

House Amendment 24 (672775)(with title amendment)—On page 86, between lines 16 and 17, insert:

Section 72. Effective June 1, 2000, subsection (6) is added to section 318.1451, Florida Statutes, to read:

318.1451 Driver improvement schools.—

(6)(a) No governmental entity or court shall provide, issue, or maintain any information or orders regarding driver improvement schools or course providers, with the exception of directing inquiries or requests to the local telephone directory heading of driving instruction or the traffic school reference guide. However, the department is authorized to maintain the information and records necessary to administer its duties and responsibilities for driver improvement courses. Where such information is a public record as defined in chapter 119, it shall be made available to the public upon request pursuant to s. 119.07(1).

(b) The department shall prepare for any governmental entity to distribute a traffic school reference guide which shall list the benefits of attending a driver improvement school, but under no circumstance may any list of course providers or schools be included, and shall refer further inquiries to the telephone directory under driving instruction.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 7, line 17, after the semicolon, insert: clarifying references to certain courses; amending s. 318.1451, F.S.; prohibiting governmental entities or courts from providing, maintaining, or disclosing certain information relating to certain schools or course providers;

House Amendment 25 (751931)(with title amendment)—On page 86, between lines 16 and 17, insert:

Section 72. Subsection (69) of section 316.003, Florida Statutes, 1998 Supplement, is reenacted to read:

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

(69) HAZARDOUS MATERIAL.—Any substance or material which has been determined by the secretary of the United States Department of Transportation to be capable of imposing an unreasonable risk to health, safety, and property. This term includes hazardous waste as defined in s. 403.703(21).

Section 73. Paragraph (k) of subsection (1) and subsection (6) of section 316.008, Florida Statutes, are amended to read:

316.008 Powers of local authorities.—

(1) The provisions of this chapter shall not be deemed to prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power, from:

(k) Requiring written *crash* ~~accident~~ reports.

(6) A county or municipality may enact an ordinance providing for the establishment of a "combat automobile theft" program, and may charge a fee for the administration of the program and the cost of the decal. Such a program shall include:

(a) Consent forms for motor vehicle owners who wish to enroll their vehicles.

(b) Decals indicating a vehicle's enrollment in the "combat automobile theft" program. The Department of Law Enforcement shall~~, no later than October 1, 1993,~~ approve the color, design, and other specifications of the program decal.

(c) A consent form signed by a motor vehicle owner provides authorization for a law enforcement officer to stop the vehicle when it is being driven between the hours of 1 a.m. and 5 a.m., provided that a decal is conspicuously affixed to the bottom left corner of the back window of the vehicle to provide notice of its enrollment in the "combat automobile theft" program. The owner of the motor vehicle is responsible for removing the decal when terminating participation in the program, or when selling or otherwise transferring ownership of the vehicle. No civil liabilities will arise from the actions of a law enforcement officer when stopping a vehicle with a yellow decal evidencing enrollment in the program when the driver is not enrolled in the program provided that the stop is made in accordance with the requirements of the "combat automobile theft" program.

Section 74. Section 316.027, Florida Statutes, is amended to read:

316.027 *Crash* ~~Accidents~~ involving death or personal injuries.—

(1)(a) The driver of any vehicle involved in *a crash* ~~an accident~~ resulting in injury of any person must immediately stop the vehicle at the scene of the *crash* ~~accident~~, or as close thereto as possible, and must remain at the scene of the *crash* ~~accident~~ until he or she has fulfilled the requirements of s. 316.062. Any person who willfully violates this paragraph is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) The driver of any vehicle involved in *a crash* ~~an accident~~ resulting in the death of any person must immediately stop the vehicle at the scene of the *crash* ~~accident~~, or as close thereto as possible, and must remain at the scene of the *crash* ~~accident~~ until he or she has fulfilled the requirements of s. 316.062. Any person who willfully violates this paragraph is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) The department shall revoke the driver's license of the person so convicted.

(3) Every stop must be made without obstructing traffic more than is necessary, and, if a damaged vehicle is obstructing traffic, the driver of the vehicle must make every reasonable effort to move the vehicle or have it moved so as not to obstruct the regular flow of traffic. Any person who fails to comply with this subsection shall be cited for a nonmoving violation, punishable as provided in chapter 318.

(4) A person whose commission of a noncriminal traffic infraction or any violation of this chapter or s. 240.265 causes or results in the death of another person may, in addition to any other civil, criminal, or administrative penalty imposed, be required by the court to serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, under the supervision of a registered nurse, an emergency room physician, or an emergency medical technician pursuant to a voluntary community service program operated by the trauma center or hospital.

Section 75. Section 316.061, Florida Statutes, is amended to read:

316.061 *Crashes* ~~Accidents~~ involving damage to vehicle or property.—

(1) The driver of any vehicle involved in *a crash* ~~an accident~~ resulting only in damage to a vehicle or other property which is driven or attended by any person shall immediately stop such vehicle at the scene of such *crash* ~~accident~~ or as close thereto as possible, and shall forthwith return to, and in every event shall remain at, the scene of the *crash* ~~accident~~ until he or she has fulfilled the requirements of s. 316.062. *A person who violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.* ~~Any person failing to stop or comply with said requirements shall, upon conviction, be punished by a fine of not more than $500 or by imprisonment for not more than 60 days or by both such fine and imprisonment.~~ Notwithstanding any other provision of this section, $5 shall be added to a fine imposed pursuant to this section, which $5 shall be deposited in the Emergency Medical Services Trust Fund.

(2) Every stop must be made without obstructing traffic more than is necessary, and, if a damaged vehicle is obstructing traffic, the driver of such vehicle must make every reasonable effort to move the vehicle or have it moved so as not to block the regular flow of traffic. Any person failing to comply with this subsection shall be cited for a nonmoving violation, punishable as provided in chapter 318.

Section 76. Section 316.062, Florida Statutes, is amended to read:

316.062 Duty to give information and render aid.—

(1) The driver of any vehicle involved in *a crash* ~~an accident~~ resulting in injury to or death of any person or damage to any vehicle or other property which is driven or attended by any person shall give his or her name, address, and the registration number of the vehicle he or she is driving, and shall upon request and if available exhibit his or her license or permit to drive, to any person injured in such *crash* ~~accident~~ or to the driver or occupant of or person attending any vehicle or other property damaged in the *crash* ~~accident~~ and shall give such information and, upon request, exhibit such license or permit to any police officer at the scene of the *crash* ~~accident~~ or who is investigating the *crash* ~~accident~~ and shall render to any person injured in the *crash* ~~accident~~ reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that treatment is necessary, or if such carrying is requested by the injured person.

(2) In the event none of the persons specified are in condition to receive the information to which they otherwise would be entitled under subsection (1), and no police officer is present, the driver of any vehicle involved in such *crash* ~~accident~~, after fulfilling all other requirements of s. 316.027 and subsection (1), insofar as possible on his or her part to be performed, shall forthwith report the *crash* ~~accident~~ to the nearest office of a duly authorized police authority and submit thereto the information specified in subsection (1).

(3) The statutory duty of a person to make a report or give information to a law enforcement officer making a written report relating to *a crash* ~~an accident~~ shall not be construed as extending to information which would violate the privilege of such person against self-incrimination.

(4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 77. Section 316.063, Florida Statutes, is amended to read:

316.063 Duty upon damaging unattended vehicle or other property.—

(1) The driver of any vehicle which collides with, or is involved in *a crash* ~~an accident~~ with, any vehicle or other property which is unattended, resulting in any damage to such other vehicle or property, shall immediately stop and shall then and there either locate and notify the operator or owner of the vehicle or other property of the driver's name and address and the registration number of the vehicle he or she is driving, or shall attach securely in a conspicuous place in or on the vehicle or other property a written notice giving the driver's name and address and the registration number of the vehicle he or she is driving, and shall without unnecessary delay notify the nearest office of a duly authorized police authority. Every such stop shall be made without obstructing traffic more than is necessary. If a damaged vehicle is obstructing traffic, the driver shall make every reasonable effort to move the vehicle or have it moved so as not to obstruct the regular flow of traffic. Any person who fails to comply with this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) The law enforcement officer at the scene of *a crash* ~~an accident~~ required to be reported in accordance with the provisions of subsection (1) or the law enforcement officer receiving a report by a driver as required by subsection (1) shall, if part or any of the property damaged is a fence or other structure used to house or contain livestock, promptly make a reasonable effort to notify the owner, occupant, or agent of this damage.

Section 78. Section 316.064, Florida Statutes, is amended to read:

316.064 When driver unable to report.—

(1) *A crash* ~~An accident~~ report is not required under this chapter from any person who is physically incapable of making a report during the period of such incapacity.

(2) Whenever the driver of a vehicle is physically incapable of making an immediate or a written report of *a crash* ~~an accident~~, as required in ss. 316.065 and 316.066, and there was another occupant in the vehicle at the time of the *crash* ~~accident~~ capable of making a report, such occupant shall make or cause to be made the report not made by the driver.

(3) Whenever the driver is physically incapable of making a written report of *a crash* ~~an accident~~ as required in this chapter, then the owner of the vehicle involved in the *crash* ~~accident~~ shall, within 10 days after the *crash* ~~accident~~, make such report not made by the driver.

(4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 79. Section 316.065, Florida Statutes, is amended to read:

316.065 *Crashes* ~~Accidents~~; reports; penalties.—

(1) The driver of a vehicle involved in *a crash* ~~an accident~~ resulting in injury to or death of any persons or damage to any vehicle or other property in an apparent amount of at least $500 shall immediately by the quickest means of communication give notice of the *crash* ~~accident~~ to the local police department, if such *crash* ~~accident~~ occurs within a municipality; otherwise, to the office of the county sheriff or the nearest office or station of the Florida Highway Patrol. *A violation of this subsection is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

(2) Every coroner or other official performing like functions, upon learning of the death of a person in his or her jurisdiction as the result of a traffic *crash* ~~accident~~, shall immediately notify the nearest office or station of the department.

(3) Any person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been struck by a bullet, or any other person to whom is brought for the purpose of repair a motor vehicle showing such evidence, shall make a report, or cause a report to be made, to the nearest local police station or Florida Highway Patrol office within 24 hours after the motor vehicle is received and before any repairs are made to the vehicle. The report shall contain the year, license number, make, model, and color of the vehicle and the name and address of the owner or person in possession of the vehicle.

(4) Any person who knowingly repairs a motor vehicle without having made a report as required by subsection (3) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The owner and driver of a vehicle involved in *a crash* ~~an accident~~ who makes a report thereof in accordance with subsection (1) or s. 316.066(1) is not liable under this section.

Section 80. Section 316.066, Florida Statutes, is amended to read:

316.066 Written reports of *crashes* ~~accidents~~.—

(1) The driver of a vehicle which is in any manner involved in *a crash* ~~an accident~~ resulting in bodily injury to or death of any person or damage to any vehicle or other property in an apparent amount of at least $500 shall, within 10 days after the *crash* ~~accident~~, forward a written report of such *crash* ~~accident~~ to the department or traffic records center. However, when the investigating officer has made a written report of the *crash* ~~accident~~ pursuant to paragraph (3)(a), no written report need be forwarded to the department or traffic records center by the driver.

(2) The receiving entity may require any driver of a vehicle involved in *a crash* ~~an accident~~ of which *a* written report must be made as provided in this section to file supplemental written reports whenever the original report is insufficient in the opinion of the department and may require witnesses of *crashes* ~~accidents~~ to render reports to the department.

(3)(a) Every law enforcement officer who in the regular course of duty investigates a motor vehicle *crash* ~~accident~~:

1. Which *crash* ~~accident~~ resulted in death or personal injury shall, within 10 days after completing the investigation, forward a written report of the *crash* ~~accident~~ to the department or traffic records center.

2. Which *crash* ~~accident~~ involved a violation of s. 316.061(1) or s. 316.193 shall, within 10 days after completing the investigation, forward a written report of the *crash* ~~accident~~ to the department or traffic records center.

3. In which *crash* ~~accident~~ a vehicle was rendered inoperative to a degree which required a wrecker to remove it from traffic may, within 10 days after completing the investigation, forward a written report of the *crash* ~~accident~~ to the department or traffic records center if such action is appropriate, in the officer's discretion.

However, in every case in which *a crash* ~~an accident~~ report is required by this section and a written report to a law enforcement officer is not prepared, the law enforcement officer shall provide each party involved in the *crash* ~~accident~~ a short-form report, prescribed by the state, to be completed by the party. The short-form report must include, but is not limited to: the date, time, and location of the *crash* ~~accident~~; a description of the vehicles involved; the names and addresses of the parties involved; the names and addresses of witnesses; the name, badge number, and law enforcement agency of the officer investigating the *crash* ~~accident~~; and the names of the insurance companies for the respective parties involved in the *crash* ~~accident~~. Each party to the *crash* ~~accident~~ shall provide the law enforcement officer with proof of insurance to be included in the *crash* ~~accident~~ report. If a law enforcement officer submits a report on the accident, proof of insurance must be provided to the officer by each party involved in the *crash* ~~accident~~. Any party who fails to provide the required information is guilty of an infraction for a nonmoving violation, punishable as provided in chapter 318 unless the officer determines that due to injuries or other special circumstances such insurance information cannot be provided immediately. If the person provides the law enforcement agency, within 24 hours after the *crash* ~~accident~~, proof of insurance that was valid at the time of the *crash* ~~accident~~, the law enforcement agency may void the citation.

(b) One or more counties may enter into an agreement with the appropriate state agency to be certified by the agency to have a traffic records center for the purpose of tabulating and analyzing countywide traffic *crash* ~~accident~~ reports. The agreement must include: certification by the agency that the center has adequate auditing and monitoring mechanisms in place to ensure the quality and accuracy of the data; the time period in which the traffic records center must report *crash* ~~accident~~ data to the agency; and the medium in which the traffic records must be submitted to the agency. In the case of a county or multicounty area that has a certified central traffic records center, a law enforcement agency or driver must submit to the center within the time limit prescribed in this section a written report of the *crash* ~~accident~~. A driver who is required to file *a crash* ~~an accident~~ report must be notified of the proper place to submit the completed report. Fees for copies of public records provided by a certified traffic records center shall be charged and collected as follows:

For *a crash* ~~an accident~~ report . . . . . $2 per copy.

For a homicide report . . . . . $25 per copy.

For a uniform traffic citation . . . . . $0.50 per copy.

The fees collected for copies of the public records provided by a certified traffic records center shall be used to fund the center or otherwise as designated by the county or counties participating in the center.

(c) *Crash* ~~Accident~~ reports made by law enforcement officers shall not be used for commercial solicitation purposes; ~~provided,~~ however, *the* ~~that~~ use of *a crash* ~~an accident~~ report for purposes of publication in a newspaper or other news periodical or a radio or television broadcast shall not be construed as "commercial purpose."

(4) Except as specified in this subsection, each *crash* ~~accident~~ report made by a person involved in *a crash* ~~an accident~~ and any statement made by such person to a law enforcement officer for the purpose of completing *a crash* ~~an accident~~ report required by this section shall be without prejudice to the individual so reporting. No such report or statement shall be used as evidence in any trial, civil or criminal. However, subject to the applicable rules of evidence, a law enforcement officer at a criminal trial may testify as to any statement made to the officer by the person involved in the *crash* ~~accident~~ if that person's privilege against self-incrimination is not violated. The results of breath, urine, and blood tests administered as provided in s. 316.1932 or s. 316.1933 are not confidential and shall be admissible into evidence in accordance with the provisions of s. 316.1934(2). *Crash* ~~Accident~~ reports made by persons involved in *crashes* ~~accidents~~ shall not be used for commercial solicitation purposes; ~~provided,~~ however, *the* ~~that~~ use of *a crash* ~~an accident~~ report for purposes of publication in a newspaper or other news periodical or a radio or television broadcast shall not be construed as "commercial purpose."

(5) For purposes of this section, a written report includes a report generated by a law enforcement agency through the use of a computer.

(6) Any driver failing to file the written report required under subsection (1) *or subsection (2) commits a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318* ~~is subject to the penalty provided in s. 318.18(2)~~.

Section 81. Section 316.067, Florida Statutes, is amended to read:

316.067 False reports.—Any person who gives information in oral, electronic, or written reports as required in this chapter, knowing or

having reason to believe that such information is false, *commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083* ~~shall be punished by a fine of not more than $500 or by imprisonment for not more than 60 days or by both such fine and imprisonment~~.

Section 82. Section 316.068, Florida Statutes, is amended to read:

316.068 *Crash* ~~Accident~~ report forms.—

(1) The department shall prepare and, upon request, supply to police departments, sheriffs, and other appropriate agencies or individuals forms for *crash* ~~accident~~ reports as required in this chapter, suitable with respect to the persons required to make such reports and the purposes to be served. The form must call for sufficiently detailed information to disclose, with reference to a vehicle *crash* ~~accident~~, the cause and conditions then existing and the persons and vehicles involved. Every *crash* ~~accident~~ report form must call for the policy numbers of liability insurance and the names of carriers covering any vehicle involved in *a crash* ~~an accident~~ required to be reported by this chapter.

(2) Every *crash* ~~accident~~ report required to be made in writing must be made on the appropriate form approved by the department and must contain all the information required therein unless not available. Notwithstanding any other provisions of this section, *a crash* ~~an accident~~ report produced electronically by a law enforcement officer must, at a minimum, contain the same information as is called for on those forms approved by the department.

Section 83. Section 316.069, Florida Statutes, is amended to read:

316.069 State to tabulate and analyze *crash* ~~accident~~ reports.—The state shall tabulate and may analyze all *crash* ~~accident~~ reports and shall publish, annually, or at more frequent intervals, statistical information based thereon as to the number and circumstances of traffic *crashes* ~~accidents~~. The state shall maintain separate statistics on the number and location of *crashes* ~~accidents~~ involving tandem trailer trucks.

Section 84. Section 316.070, Florida Statutes, is amended to read:

316.070 Exchange of information at scene of *crash* ~~accident~~.—The law enforcement officer at the scene of *a crash* ~~an accident~~ required to be reported in accordance with the provisions of s. 316.066 shall instruct the driver of each vehicle involved in the *crash* ~~accident~~ to report the following to all other parties suffering injury or property damage as an apparent result of the *crash* ~~accident~~:

(1) The name and address of the owner and the driver of the vehicle.

(2) The license number of the vehicle.

(3) The name of the liability carrier for the vehicle.

Section 85. Subsections (2) and (3) of section 316.072, Florida Statutes, are amended to read:

316.072 Obedience to and effect of traffic laws.—

(2) REQUIRED OBEDIENCE TO TRAFFIC LAWS.—It is unlawful for any person to do any act forbidden, or to fail to perform any act required, in this chapter. It is unlawful for the owner, or any other person employing or otherwise directing the driver of any vehicle, to require or knowingly permit the operation of such vehicle upon a highway in any manner contrary to law. *A violation of this subsection is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.*

(3) OBEDIENCE TO POLICE AND FIRE DEPARTMENT OFFICIALS.—It is unlawful and a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for any person willfully to fail or refuse to comply with any lawful order or direction of any law enforcement officer, traffic *crash* ~~accident~~ investigation officer as described in s. 316.640, traffic infraction enforcement officer as described in s. *316.640* ~~318.141~~, or member of the fire department at the scene of a fire, rescue operation, or other emergency. Notwithstanding the provisions of this subsection, certified emergency medical technicians or paramedics may respond to the scene of emergencies and may provide emergency medical treatment on the scene and provide transport of patients in the performance of their duties for an emergency medical services provider licensed under chapter 401 and in accordance with any local emergency medical response protocols.

Section 86. Subsection (6) is added to section 316.074, Florida Statutes, to read:

316.074 Obedience to and required traffic control devices.—

(6) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 87. Subsections (2) and (3) of section 316.0745, Florida Statutes, are amended to read:

316.0745 Uniform signals and devices.—

(2) The Department of Transportation shall compile and publish a manual of uniform traffic control devices which defines the uniform system adopted pursuant to subsection (1), and shall compile and publish minimum specifications for traffic control signals and devices certified by it as conforming with the uniform system.

(a) The department shall make copies of such manual and specifications available to all counties, municipalities, and other public bodies having jurisdiction of streets or highways open to the public in this state.

(b) The manual shall provide for the use of regulatory speed signs in work zone areas. The installation of such signs is exempt from the provisions of s. 335.10.

(3) All official traffic control signals or official traffic control devices purchased and installed in this state by any public body or official shall conform with the manual and specifications published by the Department of Transportation pursuant to subsection (2). ~~All traffic control devices other than traffic control signals purchased prior to July 1, 1972, not conforming to said system may continue in use until January 1, 1975, after which time such devices must comply with the uniform system. All traffic control signals purchased prior to January 1, 1972, not conforming to said system may continue in use until January 1, 1980, after which time such signals must comply with the uniform system.~~

Section 88. Section 316.0747, Florida Statutes, is amended to read:

316.0747 Sale or purchase of traffic control devices by nongovernmental entities; prohibitions.—

(1) It is unlawful for any nongovernmental entity to use any traffic control device at any place where the general public is invited, unless such device conforms to the uniform system of traffic control devices adopted by the Department of Transportation pursuant to this chapter.

~~(2) Any nonconforming traffic control device in use by a nongovernmental entity prior to January 1, 1980, may be used for the remainder of its useful life, but no longer than January 1, 1992, after which any replacement device shall conform to the uniform system of traffic control devices adopted by the Department of Transportation.~~

(2)~~(3)~~ Nongovernmental entities to which the general public is invited to travel shall install and maintain uniform traffic control devices at appropriate locations pursuant to the standards set forth by the Manual on Uniform Traffic Control Devices as adopted by the Department of Transportation pursuant to s. 316.0745. Such traffic control devices shall be installed no later than January 1, 1992. Businesses the parking lots of which do not provide intersecting lanes of traffic and businesses having fewer than 25 parking spaces are exempt from the provisions of this subsection. The Department of Transportation shall adopt rules to implement this section.

(3)~~(4)~~ A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 89. Section 316.075, Florida Statutes, is amended to read:

316.075 Traffic control signal devices.—

(1) Except for automatic warning signal lights installed or to be installed at railroad crossings, whenever traffic, including municipal traffic, is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red, and yellow shall be used, except for special pedestrian signals carrying a word legend, and the lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(a)~~(1)~~ Green indication.—

1.~~(a)~~ Vehicular traffic facing a circular green signal may proceed cautiously straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

2.~~(b)~~ Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, as directed by the manual, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time, except the driver of any vehicle may U-turn, so as to proceed in the opposite direction unless such movement is prohibited by posted traffic control signs. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

3.~~(c)~~ Unless otherwise directed by a pedestrian control signal as provided in s. 316.0755, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(b)~~(2)~~ Steady yellow indication.—

1.~~(a)~~ Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

2.~~(b)~~ Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian control signal as provided in s. 316.0755, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall start to cross the roadway.

(c)~~(3)~~ Steady red indication.—

1.~~(a)~~ Vehicular traffic facing a steady red signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown; however:

a.~~1.~~ The driver of a vehicle which is stopped at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection in obedience to a steady red signal may make a right turn, but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at the intersection, except that municipal and county authorities may prohibit any such right turn against a steady red signal at any intersection, which prohibition shall be effective when a sign giving notice thereof is erected in a location visible to traffic approaching the intersection.

b.~~2.~~ The driver of a vehicle on a one-way street that intersects another one-way street on which traffic moves to the left shall stop in obedience to a steady red signal, but may then make a left turn into the one-way street, but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at the intersection, except that municipal and county authorities may prohibit any such left turn as described, which prohibition shall be effective when a sign giving notice thereof is attached to the traffic control signal device at the intersection.

2.~~(b)~~ Unless otherwise directed by a pedestrian control signal as provided in s. 316.0755, pedestrians facing a steady red signal shall not enter the roadway.

(2)~~(4)~~ In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

(3)~~(5)~~(a) No traffic control signal device shall be used which does not exhibit a yellow or "caution" light between the green or "go" signal and the red or "stop" signal.

(b) No traffic control signal device shall display other than the color red at the top of the vertical signal, nor shall it display other than the color red at the extreme left of the horizontal signal.

(4) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as either a pedestrian violation or, if the infraction resulted from the operation of a vehicle, as a moving violation.

Section 90. Section 316.076, Florida Statutes, is amended to read:

316.076 Flashing signals.—

(1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

(a)~~(1)~~ Flashing red (stop signal).—When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b)~~(2)~~ Flashing yellow (caution signal).—When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2)~~(3)~~ This section does not apply at railroad-highway grade crossings. Conduct of drivers of vehicles approaching such crossings shall be governed by the rules as set forth in ss. 316.1575 and 316.159.

(3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 91. Section 316.0765, Florida Statutes, is amended to read:

316.0765 Lane direction control signals.—When lane direction control signals are placed over the individual lanes of a street or highway, vehicular traffic may travel in any lane or lanes over which a green signal is shown, but shall not enter or travel in any lane or lanes over which a red signal is shown. *A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.*

Section 92. Subsection (5) is added to section 316.077, Florida Statutes, to read:

316.077 Display of unauthorized signs, signals or markings.—

(5) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 93. Section 316.0775, Florida Statutes, is amended to read:

316.0775 Interference with official traffic control devices or railroad signs or signals.—No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any official traffic control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof. *A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

Section 94. Section 316.078, Florida Statutes, is amended to read:

316.078 Detour signs to be respected.—

(1) It is unlawful to tear down or deface any detour sign or to break down or drive around any barricade erected for the purpose of closing any section of a public street or highway to traffic during the construction or repair thereof or to drive over such section of public street or highway until again thrown open to public traffic. However, such restriction shall not apply to the person in charge of the construction or repairs.

(2) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as:

(a) A nonmoving violation for tearing, breaking down, or defacing any detour sign.

(b) A moving violation for driving around any barricade erected for the purpose of closing any section of a public street or highway to traffic that is under construction or repair or driving over such section of public street or highway until open to public traffic.

Section 95. Subsection (3) is added to section 316.079, Florida Statutes, to read:

316.079 Duty to yield to highway construction workers.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 96. Subsection (4) is added to section 316.081, Florida Statutes, to read:

316.081 Driving on right side of roadway; exceptions.—

(4) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 97. Subsection (3) is added to section 316.082, Florida Statutes, to read:

316.082 Passing vehicles proceeding in opposite directions.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 98. Section 316.0825, Florida Statutes, is amended to read:

316.0825 Vehicle approaching an animal.—Every person operating a motor vehicle shall use reasonable care when approaching or passing a person who is riding or leading an animal upon a roadway or the shoulder thereof, and shall not intentionally startle or injure such an animal. *A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.*

Section 99. Subsection (3) is added to section 316.083, Florida Statutes, to read:

316.083 Overtaking and passing a vehicle.—The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules hereinafter stated:

(3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 100. Subsection (3) is added to section 316.084, Florida Statutes, to read:

316.084 When overtaking on the right is permitted.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 101. Subsection (3) is added to section 316.085, Florida Statutes, to read:

316.085 Limitations on overtaking, passing, changing lanes and changing course.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 102. Subsection (3) is added to section 316.087, Florida Statutes, to read:

316.087 Further limitations on driving to left of center of roadway.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 103. Subsection (4) is added to section 316.0875, Florida Statutes, to read:

316.0875 No-passing zones.—

(4) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 104. Subsection (4) is added to section 316.088, Florida Statutes, to read:

316.088 One-way roadways and rotary traffic islands.—

(4) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 105. Subsection (5) is added to section 316.089, Florida Statutes, to read:

316.089 Driving on roadways laned for traffic.—Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following rules, in addition to all others consistent herewith, shall apply:

(5) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 106. Subsection (4) is added to section 316.0895, Florida Statutes, to read:

316.0895 Following too closely.—

(4) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 107. Subsection (3) is added to section 316.090, Florida Statutes, to read:

316.090 Driving on divided highways.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 108. Subsection (5) is added to section 316.091, Florida Statutes, to read:

316.091 Limited access facilities; interstate highways; use restricted.—

(5) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 109. Subsection (6) is added to section 316.121, Florida Statutes, to read:

316.121 Vehicles approaching or entering intersections.—

(6) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 110. Section 316.122, Florida Statutes, is amended to read:

316.122 Vehicle turning left.—The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. *A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.*

Section 111. Subsection (4) is added to section 316.123, Florida Statutes, to read:

316.123 Vehicle entering stop or yield intersection.—

(4) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 112. Section 316.1235, Florida Statutes, is amended to read:

316.1235 Vehicle approaching intersection in which traffic lights are inoperative.—The driver of a vehicle approaching an intersection in which the traffic lights are inoperative shall stop in the manner indicated in s. 316.123(2) for approaching a stop intersection. In the event that only some of the traffic lights within an intersection are inoperative, the driver of a vehicle approaching an inoperative light shall stop in the above-prescribed manner. *A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.*

Section 113. Subsection (3) is added to section 316.125, Florida Statutes, to read:

316.125 Vehicle entering highway from private road or driveway or emerging from alley, driveway or building.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 114. Subsection (6) is added to section 316.126, Florida Statutes, to read:

316.126 Operation of vehicles and actions of pedestrians on approach of authorized emergency vehicle.—

(6) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as either a moving violation for infractions of subsection (1) or subsection (3), or as a pedestrian violation for infractions of subsection (2).

Section 115. Subsection (19) is added to section 316.130, Florida Statutes, to read:

316.130 Pedestrian obedience to traffic control devices and traffic regulations.—

(19) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as either a pedestrian violation or, if the infraction resulted from the operation of a vehicle, as a moving violation.

Section 116. Section 316.1355, Florida Statutes, is amended to read:

316.1355 Driving through safety zone prohibited.—No vehicle shall at any time be driven through or within a safety zone. *A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.*

Section 117. Subsection (3) is added to section 316.151, Florida Statutes, to read:

316.151 Required position and method of turning at intersections.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 118. Section 316.1515, Florida Statutes, is amended to read:

316.1515 Limitations on turning around.—The driver of any vehicle shall not turn the vehicle so as to proceed in the opposite direction upon any street unless such movement can be made in safety and without interfering with other traffic and unless such movement is not prohibited by posted traffic control signs. *A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.*

Section 119. Section 316.152, Florida Statutes, is amended to read:

316.152 Turning on curve or crest of grade prohibited.—No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to, or near, the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within 500 feet. *A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.*

Section 120. Section 316.154, Florida Statutes, is amended to read:

316.154 Starting parked vehicle.—No person shall start a vehicle which is stopped, standing, or parked, unless and until such movement can be made with reasonable safety. *A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.*

Section 121. Subsection (5) is added to section 316.155, Florida Statutes, to read:

316.155 When signal required.—

(5) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 122. Subsection (3) is added to section 316.156, Florida Statutes, to read:

316.156 Signals by hand and arm or signal lamps.—

(3) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as either a moving violation for infractions of subsection (1) or as a nonmoving violation for infractions of subsection (2).

Section 123. Section 316.157, Florida Statutes, is amended to read:

316.157 Method of giving hand and arm signals.—

(1) All signals herein required to be given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

(a)~~(1)~~ Left turn.—Hand and arm extended horizontally.

(b)~~(2)~~ Right turn.—Hand and arm extended upward, except that a bicyclist may extend the right hand and arm horizontally to the right side of the bicycle.

(c)~~(3)~~ Stop or decrease speed.—Hand and arm extended downward.

(2) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 124. Subsection (3) is added to section 316.1575, Florida Statutes, to read:

316.1575 Obedience to traffic control devices at railroad-highway grade crossings.—

(3) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as either a pedestrian violation or, if the infraction resulted from the operation of a vehicle, as a moving violation.

Section 125. Subsection (3) is added to section 316.159, Florida Statutes, to read:

316.159 Certain vehicles to stop at all railroad grade crossings.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 126. Subsection (5) is added to section 316.170, Florida Statutes, to read:

316.170 Moving heavy equipment at railroad grade crossings.—

(5) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 127. Subsection (7) is added to section 316.183, Florida Statutes, to read:

316.183 Unlawful speed.—

(7) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 128. Section 316.185, Florida Statutes, is amended to read:

316.185 Special hazards.—The fact that the speed of a vehicle is lower than the prescribed limits shall not relieve the driver from the duty to decrease speed when approaching and crossing an intersection, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, or when special hazards exist or may exist with respect to pedestrians or other traffic or by reason of weather or other roadway conditions, and speed shall be decreased as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the street in compliance with legal requirements and the duty of all persons to use due care. *A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.*

Section 129. Subsection (4) of section 316.1895, Florida Statutes, is amended to read:

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

(4) A school zone speed limit may not be less than 15 miles per hour except by local regulation. ~~After July 1, 1992,~~ No school zone speed limit shall be more than 20 miles per hour in an urbanized area, as defined in s. 334.03. Such speed limit may be in force only during those times 30 minutes before, during, and 30 minutes after the periods of time when pupils are arriving at a regularly scheduled breakfast program or a regularly scheduled school session and leaving a regularly scheduled school session.

Section 130. Subsection (5) is added to section 316.191, Florida Statutes, to read:

316.191 Racing on highways.—

(5) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as either a pedestrian violation or, if the infraction resulted from the operation of a vehicle, as a moving violation.

Section 131. Paragraph (c) of subsection (3) and subsection (5) of section 316.193, Florida Statutes, 1998 Supplement, are amended to read:

316.193 Driving under the influence; penalties.—

(3) Any person:

(c) Who, by reason of such operation, causes:

1. Damage to the property or person of another commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Serious bodily injury to another, as defined in s. 316.1933, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. The death of any human being commits DUI manslaughter, and commits:

a. A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

(I) At the time of the *crash* ~~accident~~, the person knew, or should have known, that the *crash* ~~accident~~ occurred; and

(II) The person failed to give information and render aid as required by s. 316.062.

(5) The court shall place any offender convicted of violating this section on monthly reporting probation and shall require attendance at a substance abuse course licensed by the department; and the agency conducting the course may refer the offender to an authorized service provider for substance abuse evaluation and treatment, in addition to any sentence or fine imposed under this section. The offender shall assume reasonable costs for such education, evaluation, and treatment, with completion of all such education, evaluation, and treatment being a condition of reporting probation. Treatment resulting from a psychosocial evaluation may not be waived without a supporting psychosocial evaluation conducted by an agency appointed by the court and with access to the original evaluation. The offender shall bear the cost of this procedure. The term "substance abuse" means the abuse of alcohol or any substance named or described in Schedules I through V of s. 893.03. If an offender referred to treatment under this subsection fails to report for or complete such treatment or fails to complete the substance abuse education course, the DUI program shall notify the court and the department of the failure. Upon receipt of the notice, the department shall cancel the offender's driving privilege. The department shall reinstate the driving privilege when the offender completes the substance abuse education course or enters treatment required under this subsection. The organization that conducts the substance abuse education and evaluation may not provide required substance abuse treatment unless a waiver has been granted to that organization by the department. A waiver may be granted only if the department determines, in accordance with its rules, that the service provider that conducts the substance abuse education and evaluation is the most appropriate service provider and is licensed under chapter 397 or is exempt from such licensure. ~~All DUI treatment programs providing treatment services on January 1, 1994, shall be allowed to continue to provide such services until the department determines whether a waiver should be granted.~~ A statistical referral report shall be submitted quarterly to the department by each organization authorized to provide services under this section.

Section 132. Subsections (1) and (4) of section 316.1935, Florida Statutes, 1998 Supplement, are amended to read:

316.1935 Fleeing or attempting to elude a law enforcement officer; aggravated fleeing and eluding.—

(1) It is unlawful for the operator of any vehicle, having knowledge that he or she has been ordered to stop such vehicle by a duly authorized law enforcement officer, willfully to refuse or fail to stop the vehicle in compliance with such order or, having stopped in knowing compliance with such order, willfully to flee in an attempt to elude the officer, and a person who violates this subsection *commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083* ~~shall, upon conviction, be punished by imprisonment in the county jail for a period not to exceed 1 year, or by fine not to exceed $1,000, or by both such fine and imprisonment~~.

(4) Any person who, in the course of unlawfully leaving or attempting to leave the scene of *a crash* ~~an accident~~ in violation of s. 316.027 or s. 316.061, having knowledge of an order to stop by a duly authorized law enforcement officer:

(a) Willfully refuses or fails to stop in compliance with such an order, or having stopped in knowing compliance with such order, willfully flees in an attempt to elude such officer; and

(b) As a result of such fleeing or eluding, causes injury to another person or causes damage to any property belonging to another person

commits aggravated fleeing or eluding, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The felony of aggravated fleeing or eluding constitutes a separate offense for which a person may be charged, in addition to the offense of unlawfully leaving the scene of *a crash* ~~an accident~~ which the person had been in the course of committing or attempting to commit when the order to stop was given.

Section 133. Subsection (8) is added to section 316.1937, Florida Statutes, to read:

316.1937 Ignition interlock devices, requiring; unlawful acts.—

(8) In addition to the penalties provided in this section, a violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 134. Subsection (4) is added to section 316.194, Florida Statutes, to read:

316.194 Stopping, standing or parking outside of municipalities.—

(4) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 135. Paragraph (a) of subsection (1) of section 316.1945, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

316.1945 Stopping, standing, or parking prohibited in specified places.—

(1) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic control device, no person shall:

(a) Stop, stand, or park a vehicle:

1. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

2. On a sidewalk.

3. Within an intersection.

4. On a crosswalk.

5. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the Department of Transportation indicates a different length by signs or markings.

6. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic.

7. Upon any bridge or other elevated structure upon a highway or within a highway tunnel.

8. On any railroad tracks.

9. On a bicycle path.

10. At any place where official traffic control devices prohibit stopping.

11. On the roadway or shoulder of a limited access facility, except as provided by regulation of the Department of Transportation, or on the paved portion of a connecting ramp; except that a vehicle which is disabled or in a condition improper to be driven as a result of mechanical failure or *crash* ~~accident~~ may be parked on such shoulder for a period not to exceed 6 hours. This provision is not applicable to a person stopping a vehicle to render aid to an injured person or assistance to a disabled vehicle in obedience to the directions of a law enforcement officer or to a person stopping a vehicle in compliance with applicable traffic laws.

12. For the purpose of loading or unloading a passenger on the paved roadway or shoulder of a limited access facility or on the paved portion of any connecting ramp. This provision is not applicable to a person stopping a vehicle to render aid to an injured person or assistance to a disabled vehicle.

(4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 136. Subsection (4) is added to section 316.195, Florida Statutes, to read:

316.195 Additional parking regulations.—

(4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 137. Subsection (7) is added to section 316.1951, Florida Statutes, to read:

316.1951 Parking for certain purposes prohibited.—

(7) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 138. Paragraph (a) of subsection (10) of section 316.1955, Florida Statutes, 1998 Supplement, is amended to read:

316.1955 Parking spaces for persons who have disabilities.—

(10)(a) A vehicle that is transporting a person who has a disability and that has been granted a permit under s. 320.0848(1)*(a)*~~(d)~~ may be parked for a maximum of 30 minutes in any parking space reserved for persons who have disabilities.

Section 139. Subsection (6) is added to section 316.1974, Florida Statutes, to read:

316.1974 Funeral procession right-of-way and liability.—

(6) VIOLATIONS.—A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as a nonmoving violation for infractions of subsection (2), a pedestrian violation for infractions of subsection (3), or as a moving violation for infractions of subsection (3) or subsection (4) if the infraction resulted from the operation of a vehicle.

Section 140. Section 316.1975, Florida Statutes, is amended to read:

316.1975 Unattended motor vehicle.—No person driving or in charge of any motor vehicle except a licensed delivery truck or other delivery vehicle while making deliveries, shall permit it to stand unattended without first stopping the engine, locking the ignition, and removing the key. No vehicle shall be permitted to stand unattended upon any perceptible grade without stopping the engine and effectively setting the brake thereon and turning the front wheels to the curb or side of the street. *A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

Section 141. Subsection (3) is added to section 316.1985, Florida Statutes, to read:

316.1985 Limitations on backing.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 142. Section 316.1995, Florida Statutes, is amended to read:

316.1995 Driving upon sidewalk or bicycle path.—No person shall drive any vehicle other than by human power upon a bicycle path, sidewalk, or sidewalk area, except upon a permanent or duly authorized temporary driveway. *A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.*

Section 143. Subsection (3) is added to section 316.2004, Florida Statutes, to read:

316.2004 Obstruction to driver's view or driving mechanism.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 144. Section 316.2005, Florida Statutes, is amended to read:

316.2005 Opening and closing vehicle doors.—No person shall open any door on a motor vehicle unless and until it is reasonably safe to do so and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers. *A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

Section 145. Section 316.2014, Florida Statutes, is amended to read:

316.2014 Riding in house trailers.—No person or persons shall occupy a house trailer while it is being moved upon a public street or highway. *A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

Section 146. Section 316.2024, Florida Statutes, is amended to read:

316.2024 Coasting prohibited.—The driver of any motor vehicle, when traveling upon a downgrade, shall not coast with the gears or transmission of such vehicle in neutral or the clutch disengaged. *A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.*

Section 147. Section 316.2025, Florida Statutes, is amended to read:

316.2025 Following fire apparatus prohibited.—No driver of any vehicle other than an authorized emergency vehicle on official business shall follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. *A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as a moving violation for following too close to a fire apparatus or as a nonmoving violation for parking near a fire apparatus.*

Section 148. Section 316.2034, Florida Statutes, is amended to read:

316.2034 Crossing fire hose.—No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street or highway, or private road or driveway, to be used at any fire or alarm of fire, without the consent of the fire department official in command. *A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.*

Section 149. Subsection (5) is added to section 316.2035, Florida Statutes, to read:

316.2035 Injurious substances prohibited; dragging vehicle or load; obstructing, digging, etc.—

(5) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as either a nonmoving violation for infractions of subsection (1) or subsection (3) or as a moving violation for infractions of subsection (2) or subsection (4).

Section 150. Subsection (3) is added to section 316.2044, Florida Statutes, to read:

316.2044 Removal of injurious substances.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 151. Section 316.2051, Florida Statutes, is amended to read:

316.2051 Certain vehicles prohibited on hard-surfaced roads.—It is unlawful to operate upon any hard-surfaced road in this state any log cart, tractor, or well machine; any steel-tired vehicle other than the ordinary farm wagon or buggy; or any other vehicle or machine that is likely to damage a hard-surfaced road except to cause ordinary wear and tear on the same. *A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.*

Section 152. Section 316.2061, Florida Statutes, is amended to read:

316.2061 Stop when traffic obstructed.—No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed. *A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.*

Section 153. Paragraph (e) of subsection (3) and subsection (20) of section 316.2065, Florida Statutes, are amended to read:

316.2065 Bicycle regulations.—

(3)

(e) Law enforcement officers and school crossing guards may issue a bicycle safety brochure and a verbal warning to a bicycle rider or passenger who violates this subsection. ~~Effective January 1, 1998,~~ A bicycle rider or passenger who violates this subsection may be issued a citation by a law enforcement officer and assessed a fine for a pedestrian violation, as provided in s. 318.18. The court shall dismiss the charge against a bicycle rider or passenger for a first violation of paragraph (d) upon proof of purchase of a bicycle helmet that complies with this subsection.

(20) *Except as otherwise provided in this section, a violation of this section is a noncriminal traffic infraction, punishable as a pedestrian violation as provided in chapter 318. A* ~~Effective January 1, 1998,~~ law enforcement *officer* ~~officers~~ may issue traffic citations for a violation of subsection (3) or subsection (16) only if the violation occurs on a bicycle path or road, as defined in s. 334.03. However, they may not issue citations to persons on private property, except any part thereof which is open to the use of the public for purposes of vehicular traffic.

Section 154. Section 316.2074, Florida Statutes, is amended to read:

316.2074 All-terrain vehicles.—

(1) ~~The Legislature hereby finds and declares that:~~

~~(a) All-terrain vehicle use has doubled over the past several years;~~

~~(b) Injuries associated with all-terrain vehicle use have more than tripled over the past several years;~~

~~(c) On the national level, annual emergency room treatments of injuries related to all-terrain vehicle use increased from 26,900 in 1983 to 63,900 in 1984 to 85,900 in 1985;~~

~~(d) Nearly one-half of all individuals injured in all-terrain vehicle accidents are under 16 years of age;~~

~~(e) In the past 5 years, there have been more than 550 deaths resulting from all-terrain vehicle accidents, with more than 40 percent of the dead being children 16 years of age or younger;~~

~~(f) Over one-half of all individuals injured in all-terrain vehicle accidents do not wear any type of protective equipment.~~

~~(2)~~ It is the intent of the Legislature, through the adoption of this section to provide safety protection for minors while operating an all-terrain vehicle in this state.

(2)~~(3)~~ As used in this section "all-terrain vehicle" means any motorized off-highway vehicle 50 inches (1270 mm) or less in width, having a dry weight of 600 pounds (273 kg) or less, traveling on three or more low-pressure tires, designed for operator use only with no passengers, having a seat or saddle designed to be straddled by the operator, and having handlebars for steering control.

(3)~~(4)~~ No person under 16 years of age shall operate, ride, or be otherwise propelled on an all-terrain vehicle unless the person wears a safety helmet meeting United States Department of Transportation standards and eye protection.

(4)~~(5)~~ If *a crash* ~~an accident~~ results in the death of any person or in the injury of any person which results in treatment of the person by a physician, the operator of each all-terrain vehicle involved in the *crash* ~~accident~~ shall give notice of the *crash* ~~accident~~ pursuant to s. 316.066.

(5)~~(6)~~ An all-terrain vehicle having four wheels may be used by police officers on public beaches designated as public roadways for the purpose of enforcing the traffic laws of the state. All-terrain vehicles may also be used by the police to travel on public roadways within 5 miles of beach access only when getting to and from the beach.

(6) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

~~(7) Any person who violates the provisions of this section shall be punished as provided in chapter 318.~~

Section 155. Subsection (5) is added to section 316.208, Florida Statutes, to read:

316.208 Motorcycles and mopeds.—

(5) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 156. Subsection (6) is added to section 316.2085, Florida Statutes, to read:

316.2085 Riding on motorcycles or mopeds.—

(6) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 157. Subsection (6) is added to section 316.209, Florida Statutes, to read:

316.209 Operating motorcycles on roadways laned for traffic.—

(6) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 158. Subsection (3) is added to section 316.2095, Florida Statutes, to read:

316.2095 Footrests and handlebars.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 159. Subsection (6) is added to section 316.211, Florida Statutes, to read:

316.211 Equipment for motorcycle and moped riders.—

(6) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 160. Subsection (6) is added to section 316.212, Florida Statutes, to read:

316.212 Operation of golf carts on certain roadways.—The operation of a golf cart upon the public roads or streets of this state is prohibited except as provided herein:

(6) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as either a moving violation for infractions of subsection (1), subsection (2), subsection (3), or subsection (4), or as a nonmoving violation for infractions of subsection (5).

Section 161. Subsection (2) of section 316.2126, Florida Statutes, is amended to read:

316.2126 Use of golf carts by certain municipalities.—In addition to the powers granted by ss. 316.212 and 316.2125, municipalities older than 400 years old are hereby authorized to utilize golf carts, as defined in s. 320.01, upon any state, county, or municipal roads located within the corporate limits of such municipalities, subject to the following conditions:

(2) In addition to the safety equipment required in s. 316.212*(5)*~~(6)~~, such golf carts must be equipped with sufficient lighting and turn signal equipment.

Section 162. Subsection (6) is added to section 316.215, Florida Statutes, to read:

316.215 Scope and effect of regulations.—

(6) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 163. Subsection (4) is added to section 316.217, Florida Statutes, to read:

316.217 When lighted lamps are required.—

(4) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 164. Subsection (3) is added to section 316.220, Florida Statutes, to read:

316.220 Headlamps on motor vehicles.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 165. Subsection (3) is added to section 316.221, Florida Statutes, to read:

316.221 Taillamps.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 166. Subsection (4) is added to section 316.222, Florida Statutes, to read:

316.222 Stop lamps and turn signals.—

(4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 167. Subsection (8) is added to section 316.2225, Florida Statutes, to read:

316.2225 Additional equipment required on certain vehicles.—In addition to other equipment required in this chapter, the following vehicles shall be equipped as herein stated under the conditions stated in s. 316.217.

(8) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 168. Subsection (4) is added to section 316.224, Florida Statutes, to read:

316.224 Color of clearance lamps, identification lamps, side marker lamps, backup lamps, reflectors, and deceleration lights.—

(4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 169. Subsection (3) is added to section 316.225, Florida Statutes, to read:

316.225 Mounting of reflectors, clearance lamps and side marker lamps.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 170. Subsection (4) is added to section 316.226, Florida Statutes, to read:

316.226 Visibility requirements for reflectors, clearance lamps, identification lamps and marker lamps.—

(4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 171. Section 316.228, Florida Statutes, is amended to read:

316.228 Lamps or flags on projecting load.—Whenever the load upon any vehicle extends to the rear 4 feet or more beyond the bed or body of such vehicle, there shall be displayed at the extreme rear end of the load, at the times specified in s. 316.217, two red lamps visible from a distance of at least 500 feet to the rear, two red reflectors visible at night from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of headlamps and located so as to indicate maximum width, and on each side one red lamp visible from a distance of at least 500 feet to the side and located so as to indicate maximum overhang. There shall be displayed at all other times on any vehicle having a load which extends beyond its sides or more than 4 feet beyond its rear, red flags, not less than 12 inches square, marking the extremities of such load, at each point where a lamp would otherwise be required by this section. *A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

Section 172. Subsection (5) is added to section 316.229, Florida Statutes, to read:

316.229 Lamps on parked vehicles.—

(5) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 173. Subsection (8) is added to section 316.2295, Florida Statutes, to read:

316.2295 Lamps, reflectors and emblems on farm tractors, farm equipment and implements of husbandry.—

(8) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 174. Section 316.231, Florida Statutes, is amended to read:

316.231 Lamps on other vehicles and equipment.—Every vehicle, including animal-drawn vehicles and vehicles referred to in s. 316.215(3), not specifically required by the provisions of this section to be equipped with lamps or other lighting devices shall at all times specified in s. 316.217 be equipped with at least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of said vehicle, and shall also be equipped with two lamps displaying red light visible from a distance of not less than 1,000 feet to the rear of the vehicle, or, as an alternative, one lamp displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 to 100 feet to the rear when illuminated by the lawful lower beams of headlamps. *A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

Section 175. Subsection (5) is added to section 316.233, Florida Statutes, to read:

316.233 Spot lamps and auxiliary lamps.—

(5) VIOLATIONS.—A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 176. Subsection (3) is added to section 316.234, Florida Statutes, to read:

316.234 Signal lamps and signal devices.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 177. Subsection (6) is added to section 316.235, Florida Statutes, to read:

316.235 Additional lighting equipment.—

(6) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 178. Subsection (3) is added to section 316.237, Florida Statutes, to read:

316.237 Multiple-beam road-lighting equipment.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 179. Section 316.238, Florida Statutes, is amended to read:

316.238 Use of multiple-beam road-lighting equipment.—

(1) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in s. 316.217, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

(a)~~(1)~~ Whenever the driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in ss. 316.237(1)(b) and 316.430(2)(b) shall be deemed to avoid glare at all times, regardless of road contour and loading.

(b)~~(2)~~ Whenever the driver of a vehicle approaches another vehicle from the rear within 300 feet, such driver shall use a distribution of light permissible under this chapter other than the uppermost distribution of light specified in ss. 316.237(1)(a) and 316.430(2)(a).

(2) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 180. Section 316.2385, Florida Statutes, is amended to read:

316.2385 Requirements for use of lower beam.—The lower or passing beam shall be used at all times during the twilight hours in the morning and the twilight hours in the evening, and during fog, smoke and rain. Twilight shall mean the time between sunset and full night or between full night and sunrise. *A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.*

Section 181. Section 316.239, Florida Statutes, is amended to read:

316.239 Single-beam road-lighting equipment.—

(1) Headlamp systems which provide only a single distribution of light shall be permitted on all farm tractors regardless of date of manufacture, and on other motor vehicles manufactured and sold prior to January 1, 1972, in lieu of multiple-beam road-lighting equipment herein specified if the single distribution of light complies with the following requirements and limitations:

(a)~~(1)~~ The headlamps shall be so aimed that when the vehicle is not loaded none of the high intensity portion of the light shall, at a distance of 25 feet ahead, project higher than a level of five inches below the level of the center of the lamp from which it comes, and in no case higher than 42 inches above the level on which the vehicle stands at a distance of 75 feet ahead.

(b)~~(2)~~ The intensity shall be sufficient to reveal persons and vehicles at a distance of at least 200 feet.

(2) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 182. Section 316.2395, Florida Statutes, is amended to read:

316.2395 Motor vehicles; minimum headlamp requirement.—Any motor vehicle may be operated at nighttime under the conditions specified in ss. 316.237 and 316.239, when equipped with two lighted lamps upon the front thereof capable of revealing persons and objects 100 feet ahead in lieu of lamps required in ss. 316.237 and 316.239. However, at no time when lighted lamps are required shall such motor vehicle be operated in excess of 20 miles per hour. *A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

Section 183. Subsection (3) is added to section 316.2396, Florida Statutes, to read:

316.2396 Number of driving lamps required or permitted.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 184. Subsection (10) is added to section 316.2397, Florida Statutes, to read:

316.2397 Certain lights prohibited; exceptions.—

(10) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 185. Section 316.2399, Florida Statutes, is amended to read:

316.2399 Special warning lights for buses or taxicabs.—The provisions of s. 316.2397(7) to the contrary notwithstanding, a bus or taxicab may be equipped with two flashing devices for the purpose of warning the operators of other vehicles and law enforcement agents that an emergency situation exists within the bus or taxicab. Such devices shall be capable of activation by the operator of the bus or taxicab and shall be of a type approved by the Department of Highway Safety and Motor Vehicles. Such devices shall be mounted one at the front and one at the rear of the bus or taxicab and shall display flashing red lights which shine on the roadway under the vehicle. *A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

Section 186. Subsection (3) is added to section 316.240, Florida Statutes, to read:

316.240 Standards for lights on highway maintenance and service equipment.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 187. Subsection (4) is added to section 316.241, Florida Statutes, to read:

316.241 Selling or using lamps or equipment.—

(4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 188. Subsection (3) of section 316.251, Florida Statutes, is amended to read:

316.251 Maximum bumper heights.—

(3) A violation of this section shall be defined as a moving violation. A person charged with a violation of this section is subject to the penalty provided in s. 318.18~~(3)~~.

Section 189. Subsection (3) is added to section 316.252, Florida Statutes, to read:

316.252 Splash and spray suppressant devices.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 190. Section 316.253, Florida Statutes, is amended to read:

316.253 Vehicles used to sell ice cream and other confections; display of warnings required.—Any person who sells ice cream or other frozen confections at retail from a motor vehicle shall display on each side of such motor vehicle, in letters at least 3 inches high, a warning containing the words "look out for children" or "caution: children" or such similar words as are approved by the department. *A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

Section 191. Subsection (11) is added to section 316.261, Florida Statutes, to read:

316.261 Brake equipment required.—Every motor vehicle, trailer, semitrailer, and pole trailer, and any combination of such vehicles, operating upon a highway within this state shall be equipped with brakes in compliance with the requirements of this chapter.

(11) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 192. Subsection (3) is added to section 316.262, Florida Statutes, to read:

316.262 Performance ability of motor vehicle brakes.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 193. Section 316.263, Florida Statutes, is amended to read:

316.263 Maintenance of brakes.—All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. *A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

Section 194. Section 316.267, Florida Statutes, is amended to read:

316.267 Brakes on electric-powered vehicles.—When operated on the public streets and roads, every electric-powered vehicle with a rating of 3 to 6 horsepower shall be equipped with hydraulic brakes on the two rear wheels and at all times and under all conditions of loading, upon application of the service brake, shall be capable of:

(1) Developing a braking force that is not less than 43.5 percent of its gross weight.

(2) Decelerating to a stop from not more than 20 miles per hour at not less than 17 feet per second.

(3) Stopping from a speed of 20 miles per hour in not more than 25 feet, such distance to be measured from the point at which movement of the service brake pedal or control begins.

A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 195. Subsection (8) is added to section 316.271, Florida Statutes, to read;

316.271 Horns and warning devices.—

(8) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 196. Subsection (3) is added to section 316.272, Florida Statutes, to read:

316.272 Exhaust systems, prevention of noise.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 197. Subsection (7) is added to section 316.293, Florida Statutes, to read:

316.293 Motor vehicle noise.—

(7) VIOLATIONS.—A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 198. Subsections (1), (2), and (6) of section 316.2935, Florida Statutes, are amended to read:

316.2935 Air pollution control equipment; tampering prohibited; penalty.—

(1)(a) ~~On and after July 1, 1990,~~ It is unlawful for any person or motor vehicle dealer as defined in s. 320.27 to offer or display for retail sale or lease, sell, lease, or transfer title to, a motor vehicle in Florida that has been tampered with in violation of this section, as determined pursuant to subsection (7). Tampering is defined as the dismantling, removal, or rendering ineffective of any air pollution control device or system which has been installed on a motor vehicle by the vehicle manufacturer except to replace such device or system with a device or system equivalent in design and function to the part that was originally installed on the motor vehicle. All motor vehicles sold, reassigned, or traded to a licensed motor vehicle dealer are exempt from this paragraph.

(b) ~~On and after January 1, 1991,~~ At the time of sale, lease, or transfer of title of a motor vehicle, the seller, lessor, or transferor shall certify in writing to the purchaser, lessee, or transferee that the air pollution control equipment of the motor vehicle has not been tampered with by the seller, lessor, or transferor or their agents, employees, or other representatives. A licensed motor vehicle dealer shall also visually observe those air pollution control devices listed by department rule pursuant to subsection (7), and certify that they are in place, and appear properly connected and undamaged. Such certification shall not be deemed or construed as a warranty that the pollution control devices of the subject vehicle are in functional condition, nor does the execution or delivery of this certification create by itself grounds for a cause of action between the parties to this transaction.

(c) ~~On and after July 1, 1990,~~ All motor vehicles sold, reassigned, or traded by a licensed motor vehicle dealer to a licensed motor vehicle dealer, all new motor vehicles subject to certification under s. 207, Clean Air Act, 42 U.S.C. s. 7541, and all lease agreements for 30 days or less are exempt from this subsection. Also exempt from this subsection are sales of motor vehicles for salvage purposes only.

(2) No person shall operate any gasoline-powered motor vehicle, except a motorcycle, moped, ~~or~~ scooter ~~as defined in chapter 320~~, or an imported nonconforming motor vehicle which has received a one-time exemption from federal emission control requirements under 40 C.F.R. 85, subpart P, on the public roads and streets of this state which emits visible emissions from the exhaust pipe for more than a continuous period of 5 seconds, and no person shall operate on the public roads or streets of this state any motor vehicle that has been tampered with in violation of this section, as determined pursuant to subsection (7).

(6) Except as provided in subsection (5), any person who violates subsection (1), subsection (2), or subsection (3) shall be charged with a noncriminal traffic infraction, punishable as *a nonmoving violation as provided in chapter 318* ~~provided in s. 318.18(2)~~. However, the penalty may be reduced if the person committing the violation corrects the violation pursuant to the provisions of s. 316.6105.

Section 199. Section 316.294, Florida Statutes, is amended to read:

316.294 Mirrors.—Every vehicle, operated singly or when towing any other vehicle, shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least 200 feet to the rear of the motor vehicle. *A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

Section 200. Subsection (6) is added to section 316.2952, Florida Statutes, to read:

316.2952 Windshields; requirements; restrictions.—

(6) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 201. Section 316.2953, Florida Statutes, is amended to read:

316.2953 Side windows; restrictions on sunscreening material.—A person shall not operate any motor vehicle on any public highway, road, or street on which vehicle the side wings and side windows on either side forward of or adjacent to the operator's seat are composed of, covered by, or treated with any sunscreening material or other product or covering which has the effect of making the window nontransparent or which would alter the window's color, increase its reflectivity, or reduce its light transmittance, except as expressly permitted by this section. A sunscreening material is authorized for such windows if, when applied to and tested on the glass of such windows on the specific motor vehicle, the material has a total solar reflectance of visible light of not more than 25 percent as measured on the nonfilm side and a light transmittance of at least 28 percent in the visible light range. *A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

Section 202. Subsection (3) is added to section 316.2954, Florida Statutes, to read:

316.2954 Windows behind the driver; restrictions on sunscreening material.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 203. Subsections (1) and (3) of section 316.2956, Florida Statutes, are amended to read:

316.2956 Violation of provisions relating to windshields, windows, and sunscreening material; penalties.—

(1) Any person who operates a motor vehicle on which, after June 20, 1984, material was installed in violation of ss. 316.2951-316.2954 *commits* ~~is guilty of~~ a noncriminal traffic infraction, *punishable as a nonmoving violation as provided in chapter 318* ~~subject to the penalty provided in s. 318.18(2)~~.

(3) Any person who sells or installs sunscreening material in violation of any provision of ss. 316.2951-316.2955 ~~after June 20, 1984,~~ is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 204. Section 316.299, Florida Statutes, is amended to read:

316.299 Rough surfaced wheels prohibited.—No person shall drive, propel, operate, or cause to be driven, propelled or operated over any paved or graded public road of this state any tractor engine, tractor or other vehicle or contrivance having wheels provided with sharpened or roughened surfaces, other than roughened pneumatic rubber tires having studs designed to improve traction without materially injuring the surface of the highway, unless the rims or tires of the wheels of such tractor engines, tractors, or other vehicles or contrivances are provided with suitable filler blocks between the cleats so as to form a smooth surface. This requirement shall not apply to tractor engines, tractors, or other vehicles or contrivances if the rims or tires of their wheels are constructed in such manner as to prevent injury to such roads. This restriction shall not apply to tractor engines, tractors, and other vehicles or implements used by any county or the Department of Transportation in the construction or maintenance of roads or to farm implements weighing less than 1,000 pounds when provided with wheel surfaces of more than ½inch in width. *A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

Section 205. Subsection (4) is added to section 316.300, Florida Statutes, to read:

316.300 Certain vehicles to carry flares or other devices.—

(4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 206. Subsection (10) is added to section 316.301, Florida Statutes, to read:

316.301 Display of warning lights and devices when vehicle is stopped or disabled.—

(10) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 207. Paragraph (c) of subsection (1) of section 316.302, Florida Statutes, 1998 Supplement, is reenacted, and paragraph (f) of subsection (2) of that section is amended, to read:

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

(1)

(c) Except as provided in s. 316.215(5), and except as provided in s. 316.228 for rear overhang lighting and flagging requirements for intrastate operations, the requirements of this section supersede all other safety requirements of this chapter for commercial motor vehicles.

(2)

(f) A person who operates a commercial motor vehicle having a declared gross vehicle weight of less than 26,000 pounds solely in intrastate commerce and who is not transporting hazardous materials, or who is transporting petroleum products as defined in s. 376.301*(31)*~~(29)~~, is exempt from subsection (1). However, such person must comply with 49 C.F.R. parts 382, 392, 393, and 49 C.F.R. s. 396.9.

Section 208. Paragraph (c) of subsection (3) of section 316.3025, Florida Statutes, is amended to read:

316.3025 Penalties.—

(3)

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

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

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

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

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

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

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

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

Section 209. Subsection (5) of section 316.3027, Florida Statutes, is amended to read:

316.3027 Identification required on commercial motor vehicles.—

(5) Any vehicle which meets the vehicle identification requirements of the *United States Department of Transportation* ~~Interstate Commerce Commission~~ regulations shall be considered in compliance with this section.

Section 210. Subsection (4) is added to section 316.303, Florida Statutes, to read:

316.303 Television receivers.—

(4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 211. Subsection (4) is added to section 316.304, Florida Statutes, to read:

316.304 Wearing of headsets.—

(4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 212. Subsection (5) is added to section 316.3045, Florida Statutes, to read:

316.3045 Operation of radios or other mechanical soundmaking devices or instruments in vehicles; exemptions.—

(5) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 213. Subsection (3) is added to section 316.400, Florida Statutes, to read:

316.400 Headlamps.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 214. Section 316.405, Florida Statutes, is amended to read:

316.405 Motorcycle headlights to be turned on.—

(1) Any person who operates a motorcycle or motor-driven cycle on the public streets or highways shall, while so engaged, have the headlight or headlights of such motorcycle or motor-driven cycle turned on. Failure to comply with this section during the hours from sunrise to sunset, unless compliance is otherwise required by law, shall not be admissible as evidence of negligence in a civil action. *During the hours of operation between sunrise and sunset, the headlights may modulate either the upper beam or the lower beam from its maximum intensity to a lower intensity, in accordance with Federal Motor Vehicle Safety Standard 571.108.*

(2) Failure to comply with the provisions of this section shall not be deemed negligence per se in any civil action, but the violation of this section may be considered on the issue of negligence if the violation of this section is a proximate cause of *a crash* ~~an accident~~.

(3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 215. Subsection (3) is added to section 316.410, Florida Statutes, to read:

316.410 Taillamps.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 216. Section 316.415, Florida Statutes, is amended to read:

316.415 Reflectors.—Every motorcycle and motor-driven cycle shall carry on the rear, either as part of the taillamp or separately, at least one red reflector. *A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

Section 217. Section 316.420, Florida Statutes, is amended to read:

316.420 Stop lamps.—Every motorcycle and motor-driven cycle shall be equipped with at least one stop lamp meeting the requirements of s. 316.234(1). *A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

Section 218. Subsection (3) is added to section 316.425, Florida Statutes, to read:

316.425 Lamps on parked motorcycles.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 219. Subsection (3) is added to section 316.430, Florida Statutes, to read:

316.430 Multiple-beam road-lighting equipment.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 220. Section 316.435, Florida Statutes, is amended to read:

316.435 Lighting equipment for motor-driven cycles.—The headlamp or headlamps upon every motor-driven cycle may be of the single-beam or multiple-beam type, but in either event shall comply with the requirements and limitations as follows:

(1) Every such headlamp or headlamps on a motor-driven cycle shall be of sufficient intensity to reveal persons and vehicles at a distance of not less than 100 feet when the motor-driven cycle is operated at any speed less than 25 miles per hour; at a distance of not less than 200 feet when the motor-driven cycle is operated at a speed of 25 or more miles per hour; and at a distance of not less than 300 feet when the motor-driven cycle is operated at a speed of 35 or more miles per hour.

(2) In the event the motor-driven cycle is equipped with a multiple-beam headlamp or headlamps, such equipment shall comply with the requirements of s. 316.430(2).

A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 221. Section 316.440, Florida Statutes, is amended to read:

316.440 Brake equipment required.—Every motor-driven cycle must comply with the provisions of s. 316.261, except that:

(1) Motorcycles and motor-driven cycles need not be equipped with parking brakes.

(2) The wheel of a sidecar attached to a motorcycle or to a motor-driven cycle, and the front wheel of a motor-driven cycle, need not be equipped with brakes, provided that such motorcycle or motor-driven cycle is capable of complying with the performance requirements of this chapter.

A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 222. Subsection (3) is added to section 316.445, Florida Statutes, to read:

316.445 Performance ability of motorcycle brakes.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 223. Subsection (4) is added to section 316.450, Florida Statutes, to read:

316.450 Brakes on motor-driven cycles.—

(4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 224. Section 316.455, Florida Statutes, is amended to read:

316.455 Other equipment.—Every motorcycle and every motor-driven cycle when operated upon a highway shall comply with the requirements and limitations of:

(1) Section 316.271(1) and (2) on the requirement for horns and warning devices.

(2) Section 316.271(3) on the requirement for the use of horns.

(3) Section 316.271(4) on the requirement for sirens, whistles, and bells.

(4) Section 316.271(5) on the requirement for theft alarms.

(5) Section 316.271(6) on the requirement for emergency vehicles.

(6) Section 316.272 on the requirement for mufflers and prevention of noise.

(7) Section 316.294 on the requirement for mirrors.

A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 225. Section 316.46, Florida Statutes, is amended to read:

316.46 Equipment regulations for mopeds.—No person may operate a moped that does not conform to all applicable federal motor vehicle safety standards relating to lights and safety and other equipment contained in Title 49, Code of Federal Regulations. *A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

Section 226. Section 316.510, Florida Statutes, is amended to read:

316.510 Projecting loads on passenger vehicles.—No passenger type vehicle shall be operated on any highway with any load carried thereon extending beyond the fenders on the left side of the vehicle or extending more than 6 inches beyond the line of the fenders on the right side thereof. *A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

Section 227. Subsection (3) is added to section 316.520, Florida Statutes, to read:

316.520 Loads on vehicles.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 228. Subsection (3) is added to section 316.525, Florida Statutes, to read:

316.525 Requirements for vehicles hauling loads.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 229. Subsection (4) is added to section 316.530, Florida Statutes, to read:

316.530 Towing requirements.—

(4) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 230. Section 316.600, Florida Statutes, is amended to read:

316.600 Health and sanitation hazards.—No motor vehicle, trailer or semitrailer shall be equipped with an open toilet or other device that may be a hazard from a health and sanitation standpoint. *A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

Section 231. Section 316.605, Florida Statutes, is amended to read:

316.605 Licensing of vehicles.—

(1) Every vehicle, at all times while driven, stopped, or parked upon any highways, roads, or streets of this state, shall be licensed in the name of the owner thereof in accordance with the laws of this state unless such vehicle is not required by the laws of this state to be licensed in this state and shall, except as otherwise provided in s. 320.0706 for front-end registration license plates on truck tractors, display the license plate or both of the license plates assigned to it by the state, one on the rear and, if two, the other on the front of the vehicle, each to be securely fastened to the vehicle outside the main body of the vehicle in such manner as to prevent the plates from swinging, with all letters, numerals, printing, writing, and other identification marks upon the plates clear and distinct and free from defacement, mutilation, grease, and other obscuring matter, so that they will be plainly visible and legible at all times 100 feet from the rear or front. Nothing shall be placed upon the face of a Florida plate except as permitted by law or by rule or regulation of a governmental agency. No license plates other than those furnished by the state shall be used. However, if the vehicle is not required to be licensed in this state, the license plates on such vehicle issued by another state, by a territory, possession, or district of the United States, or by a foreign country, substantially complying with the provisions hereof, shall be considered as complying with this chapter. *A violation of this subsection is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

(2) Any commercial motor vehicle, as defined in s. 316.003(66), operating over the highways of this state with an expired registration, with no registration from this or any other jurisdiction, or with no registration under the applicable provisions of chapter 320 shall be in violation of s. 320.07(3) and shall subject the owner or operator of such vehicle to the penalty provided ~~in s. 318.18~~. In addition, a commercial motor vehicle found in violation of this section may be detained by any law enforcement officer until the owner or operator produces evidence that the vehicle has been properly registered and that any applicable delinquent penalties have been paid.

Section 232. Subsection (5) of section 316.613, Florida Statutes, is amended to read:

316.613 Child restraint requirements.—

(5) Any person who violates the provisions of this section commits a moving violation, punishable as provided in chapter 318 and shall have 3 points assessed against his or her driver's license as set forth in s. 322.27. In lieu of the penalty specified in s. 318.18 and the assessment of points, a person who violates the provisions of this section may elect, with the court's approval, to participate in a child restraint safety program approved by the chief judge of the circuit in which the violation occurs, and upon completing such program, the penalty specified in chapter 318 and associated costs may be waived at the court's discretion and the assessment of points shall be waived. The child restraint safety program must use a course approved by the Department of *Highway Safety and Motor Vehicles* ~~Health and Rehabilitative Services~~, and the fee for the course must bear a reasonable relationship to the cost of providing the course.

Section 233. Subsection (5) of section 316.6135, Florida Statutes, is amended to read:

316.6135 Leaving children unattended or unsupervised in motor vehicle; penalty; authority of law enforcement officer.—

(5) The child shall be remanded to the custody of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services pursuant to chapter 39, unless the law enforcement officer is able to locate the parents or legal guardian or other person responsible for the child.

Section 234. Subsection (6) is added to section 316.615, Florida Statutes, to read:

316.615 School buses; physical requirements of drivers.—

(6) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 235. Subsection (7) is added to section 316.620, Florida Statutes, to read:

316.620 Transportation of migrant farm workers.—Every carrier of migrant farm workers shall systematically inspect and maintain, or cause to be systematically maintained, all motor vehicles and their accessories subject to its control to ensure that such motor vehicles and accessories are in safe and proper operating condition in accordance with the provisions of this chapter.

(7) VIOLATIONS.—A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 236. Paragraph (b) of subsection (2), paragraph (b) of subsection (3), and paragraph (b) of subsection (5) of section 316.640, Florida Statutes, are amended to read:

316.640 Enforcement.—The enforcement of the traffic laws of this state is vested as follows:

(2) COUNTIES.—

(b) The sheriff's office of each county may employ as a traffic *crash* ~~accident~~ investigation officer any individual who successfully completes at least 200 hours of instruction in traffic *crash* ~~accident~~ investigation and court presentation through the Selective Traffic Enforcement Program (STEP) as approved by the Criminal Justice Standards and Training Commission and funded through the National Highway Traffic Safety Administration (NHTSA) or a similar program approved by the commission, but who does not necessarily otherwise meet the uniform

minimum standards established by the commission for law enforcement officers or auxiliary law enforcement officers under chapter 943. Any such traffic *crash* ~~accident~~ investigation officer who makes an investigation at the scene of a traffic *crash* ~~accident~~ may issue traffic citations when, based upon personal investigation, he or she has reasonable and probable grounds to believe that a person who was involved has committed an offense under this chapter in connection with the *crash* ~~accident~~. This paragraph does not permit the carrying of firearms or other weapons, nor do such officers have arrest authority other than for the issuance of a traffic citation as authorized in this paragraph.

(3) MUNICIPALITIES.—

(b) The police department of a chartered municipality may employ as a traffic *crash* ~~accident~~ investigation officer any individual who successfully completes at least 200 hours of instruction in traffic *crash* ~~accident~~ investigation and court presentation through the Selective Traffic Enforcement Program (STEP) as approved by the Criminal Justice Standards and Training Commission and funded through the National Highway Traffic Safety Administration (NHTSA) or a similar program approved by the commission, but who does not otherwise meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary law enforcement officers under chapter 943. Any such traffic *crash* ~~accident~~ investigation officer who makes an investigation at the scene of a traffic *crash* ~~accident~~ is authorized to issue traffic citations when, based upon personal investigation, he or she has reasonable and probable grounds to believe that a person involved has committed an offense under the provisions of this chapter in connection with the *crash* ~~accident~~. Nothing in this paragraph shall be construed to permit the carrying of firearms or other weapons, nor shall such officers have arrest authority other than for the issuance of a traffic citation as authorized above.

(5)

(b) The traffic enforcement officer shall be employed in relationship to a selective traffic enforcement program at a fixed location or as part of *a crash* ~~an accident~~ investigation team at the scene of a vehicle *crash* ~~accident~~ or in other types of traffic infraction enforcement under the direction of a fully qualified law enforcement officer; however, it is not necessary that the traffic infraction enforcement officer's duties be performed under the immediate supervision of a fully qualified law enforcement officer.

Section 237. Section 316.645, Florida Statutes, is amended to read:

316.645 Arrest authority of officer at scene of a traffic *crash* ~~accident~~.—A police officer who makes an investigation at the scene of a traffic *crash* ~~accident~~ may arrest any driver of a vehicle involved in the *crash* ~~accident~~ when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person has committed any offense under the provisions of this chapter or chapter 322 in connection with the *crash* ~~accident~~.

Section 238. Paragraph (b) of subsection (1) of section 316.70, Florida Statutes, is amended to read:

316.70 Nonpublic sector buses; safety rules.—

(1) The Department of Transportation shall establish and revise standards to assure the safe operation of nonpublic sector buses, as defined in s. 316.003(78), which standards shall be those contained in 49 C.F.R. parts 382, 385, and 390-397 and which shall be directed towards assuring that:

(b) Nonpublic sector buses are carrying the insurance required by law and carrying liability insurance on the checked baggage of passengers not to exceed the standard adopted by the *United States Department of Transportation* ~~Interstate Commerce Commission~~.

Section 239. Section 318.12, Florida Statutes, is amended to read:

318.12 Purpose.—It is the legislative intent in the adoption of this chapter to decriminalize certain violations of chapter 316, the Florida Uniform Traffic Control Law; chapter 320, Motor Vehicle Licenses; chapter 322, Drivers' Licenses; ~~chapter 339, Florida Transportation Code, Sixth Part;~~ chapter *240, Postsecondary Education* ~~239, Universities; Scholarships, etc.;~~ and chapter *338, Florida Intrastate Highway System and Toll Facilities* ~~340, Turnpike Projects~~, thereby facilitating the implementation of a more uniform and expeditious system for the disposition of traffic infractions.

Section 240. Subsection (5) of section 318.13, Florida Statutes, is amended to read:

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

(5) "Officer" means any law enforcement officer charged with and acting under his or her authority to arrest persons suspected of, or known to be, violating statutes or ordinances regulating traffic or the operation or equipment of vehicles. "Officer" includes any individual employed by a sheriff's department or the police department of a chartered municipality who is acting as a traffic infraction enforcement officer as provided in s. *316.640* ~~318.141~~.

Section 241. Subsections (1), (4), (9), and (10) of section 318.14, Florida Statutes, are amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(1) Except as provided in ss. 318.17 and 320.07(3)*(c)*~~(b)~~, any person cited for a violation of s. 240.265, chapter 316, s. 320.0605~~(1)~~, s. 320.07(3)(a), s. 322.065, s. 322.15(1), s. 322.16(2) or (3), *s. 322.1615* ~~s. 322.161(4)~~, or s. 322.19 is charged with a noncriminal infraction and must be cited for such an infraction and cited to appear before an official. If another person dies as a result of the noncriminal infraction, the person cited may be required to perform 120 community service hours under s. 316.027(4), in addition to any other penalties.

(4) Any person charged with a noncriminal infraction under this section who does not elect to appear shall pay the civil penalty and delinquent fee, if applicable, either by mail or in person, within 30 days of the date of receiving the citation. If the person cited follows the above procedure, he or she shall be deemed to have admitted the infraction and to have waived his or her right to a hearing on the issue of commission of the infraction. Such admission shall not be used as evidence in any other proceedings. Any person who is cited for a violation of s. 320.0605~~(1)~~ or s. 322.15(1), or subject to a penalty under s. 320.07(3)(a) or s. 322.065, and who makes an election under this subsection shall submit proof of compliance with the applicable section to the clerk of the court. For the purposes of this subsection, proof of compliance consists of a valid driver's license or a valid registration certificate.

(9) Any person who is cited for an infraction under this section other than a violation of s. 320.0605~~(1)~~, s. 320.07(3)(a), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a court appearance, elect to attend in the location of his or her choice within this state a basic driver improvement course approved by the Department of Highway Safety and Motor Vehicles. In such a case, adjudication must be withheld; points, as provided by s. 322.27, may not be assessed; and the civil penalty that is imposed by s. 318.18(3) must be reduced by 18 percent; however, a person may not make an election under this subsection if the person has made an election under this subsection in the preceding 12 months. A person may make no more than five elections under this subsection. The requirement for community service under s. 318.18*(8)*~~(7)~~ is not waived by a plea of nolo contendere or by the withholding of adjudication of guilt by a court.

(10)(a) Any person cited for an offense listed under this subsection may, in lieu of payment of fine or court appearance, elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court or authorized operator of a traffic violations bureau. In such case, adjudication shall be withheld; however, no election shall be made under this subsection if such person has made an election under this subsection in the 12 months preceding election hereunder. No person may make more than three elections under this subsection. This subsection applies to the following offenses:

1. Operating a motor vehicle without a valid driver's license in violation of the provisions of s. 322.03, s. 322.065, or s. 322.15(1), or operating a motor vehicle with a license which has been suspended for failure to appear, failure to pay civil penalty, or failure to attend a driver improvement course pursuant to s. 322.291.

2. Operating a motor vehicle without a valid registration in violation of s. 320.0605, ~~or~~ s. 320.07, *or s. 320.131*.

3. Operating a motor vehicle in violation of s. 316.646.

(b) Any person cited for an offense listed in this subsection shall present proof of compliance prior to the scheduled court appearance date. For the purposes of this subsection, proof of compliance shall consist of a valid, renewed, or reinstated driver's license or registration certificate and proper proof of maintenance of security as required by s. 316.646. Notwithstanding waiver of fine, any person establishing proof of compliance shall be assessed court costs of $22, except that a person charged with violation of s. 316.646(1)-(3) may be assessed court costs of $7. One dollar of such costs shall be distributed to the Department of *Children and Family* ~~Health and Rehabilitative~~ Services for deposit into the Child Welfare Training Trust Fund. One dollar of such costs shall be distributed to the Department of Juvenile Justice for deposit into the Juvenile Justice Training Trust Fund. Twelve dollars of such costs shall be distributed to the municipality and $8 shall be retained by the county, if the offense was committed within the municipality. If the offense was committed in an unincorporated area of a county or if the citation was for a violation of s. 316.646(1)-(3), the county shall retain the entire amount, except for the moneys to be deposited into the Child Welfare Training Trust Fund and the Juvenile Justice Training Trust Fund. This subsection shall not be construed to authorize the operation of a vehicle without a valid driver's license, without a valid vehicle tag and registration, or without the maintenance of required security.

Section 242. Subsection (2) of section 318.1451, Florida Statutes, is amended to read:

318.1451 Driver improvement schools.—

(2) In determining whether to approve the courses referenced in this section, the department shall consider course content designed to promote safety, driver awareness, *crash* ~~accident~~ avoidance techniques, and other factors or criteria to improve driver performance from a safety viewpoint.

Section 243. Section 318.17, Florida Statutes, is amended to read:

318.17 Offenses excepted.—No provision of this chapter is available to a person who is charged with any of the following offenses:

(1) Fleeing or attempting to elude a police officer, in violation of s. 316.1935;

(2) Leaving the scene of *a crash* ~~an accident~~, in violation of ss. 316.027 and 316.061;

(3) Driving, or being in actual physical control of, any vehicle while under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, in violation of s. 316.193, or driving with an unlawful blood-alcohol level;

(4) Reckless driving, in violation of s. 316.192;

(5) Making false *crash* ~~accident~~ reports, in violation of s. 316.067;

(6) Willfully failing or refusing to comply with any lawful order or direction of any police officer or member of the fire department, in violation of s. 316.072(3);

(7) Obstructing an officer, in violation of s. 316.545(1); or

(8) Any other offense in chapter 316 which is classified as a criminal violation.

Section 244. Subsection (1) of section 318.18, Florida Statutes, 1998 Supplement, is amended to read:

318.18 Amount of civil penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 are as follows:

(1) Fifteen dollars for*:*

(a) All infractions of pedestrian regulations.~~,~~

(b) All infractions of s. 316.2065, unless otherwise specified. ~~and~~

(c) Other violations of chapter 316 by persons 14 years of age or under who are operating bicycles, *regardless of the noncriminal traffic infraction's classification*.

Section 245. Section 318.19, Florida Statutes, is amended to read:

318.19 Infractions requiring a mandatory hearing.—Any person cited for the infractions listed in this section shall not have the provisions of s. 318.14(2), (4), and (9) available to him or her but must appear before the designated official at the time and location of the scheduled hearing:

(1) Any infraction which results in *a crash* ~~an accident~~ that causes the death of another; or

(2) Any infraction which results in *a crash* ~~an accident~~ that causes "serious bodily injury" of another as defined in s. 316.1933(1); or

(3) Any infraction of s. 316.172(1)(b).

Section 246. Subsections (4) and (7) of section 318.21, Florida Statutes, 1998 Supplement, are amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(4) Of the additional fine assessed under s. 318.18(3)*(e)*~~(d)~~ for a violation of s. 316.1301, 40 percent must be deposited into the Grants and Donations Trust Fund of the Division of Blind Services of the Department of Labor and Employment Security, and 60 percent must be distributed pursuant to subsections (1) and (2) ~~of this section~~.

(7) For fines assessed under s. 318.18(3) for unlawful speed, the following amounts must be deducted and deposited into the Nongame Wildlife Trust Fund:

For speed exceeding the limit by:	Fine:
1-5 m.p.h.	*$ .00*
~~6~~1-9 m.p.h.	$ .25
10-14 m.p.h.	$ 3.00
15-19 m.p.h.	$ 4.00
20-29 m.p.h.	$ 5.00
30 m.p.h. and above	$10.00

The remaining amount must be distributed pursuant to subsections (1) and (2).

Section 247. Subsection (1) of section 318.32, Florida Statutes, is amended to read:

318.32 Jurisdiction; limitations.—

(1) Hearing officers shall be empowered to accept pleas from and decide the guilt or innocence of any person, adult or juvenile, charged with any civil traffic infraction and shall be empowered to adjudicate or withhold adjudication of guilt in the same manner as a county court judge under the statutes, rules, and procedures presently existing or as subsequently amended, except that hearing officers shall not:

(a) Have the power to hold a defendant in contempt of court, but shall be permitted to file a motion for order of contempt with the appropriate state trial court judge;

(b) Hear a case involving *a crash* ~~an accident~~ resulting in injury or death; or

(c) Hear a criminal traffic offense case or a case involving a civil traffic infraction issued in conjunction with a criminal traffic offense.

Section 248. *Section 318.39, Florida Statutes, is repealed.*

Section 249. Paragraph (b) of subsection (2) of section 319.28, Florida Statutes, is amended to read:

319.28 Transfer of ownership by operation of law.—

(2)

(b) In case of repossession of a motor vehicle or mobile home pursuant to the terms of a security agreement or similar instrument, an affidavit by the party to whom possession has passed stating that the vehicle or mobile home was repossessed upon default in the terms of the security agreement or other instrument shall be considered satisfactory proof of ownership and right of possession. At least 5 days prior to selling

the repossessed vehicle, any subsequent lienholder named in the last issued certificate of title shall be sent notice of the repossession by certified mail, on a form prescribed by the department. If such notice is given and no written protest to the department is presented by a subsequent lienholder within 15 days from the date on which the notice was mailed, the certificate of title or the certificate of repossession shall be issued showing no liens. If the former owner or any subsequent lienholder files a written protest under oath within such 15-day period, the department shall not issue the certificate of title or certificate of repossession for 10 days thereafter. If within the 10-day period no injunction or other order of a court of competent jurisdiction has been served on the department commanding it not to deliver the certificate of title or certificate of repossession, *the department shall deliver the certificate of title or repossession* to the applicant or as may otherwise be directed in the application showing no other liens than those shown in the application. Any lienholder who has repossessed a vehicle in compliance with the provisions of this section may apply to the tax collector's office or to the department for a certificate of repossession or to the department for a certificate of title pursuant to s. 319.323. Proof of the required notice to subsequent lienholders shall be submitted together with regular title fees. A lienholder to whom a certificate of repossession has been issued may assign the certificate of title to the subsequent owner. Any person found guilty of violating any requirements of this paragraph shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 250. Paragraph (d) of subsection (1) of section 319.33, Florida Statutes, is amended to read:

319.33 Offenses involving vehicle identification numbers, applications, certificates, papers; penalty.—

(1) It is unlawful:

(d) To possess, sell or offer for sale, conceal, or dispose of in this state a motor vehicle or mobile home, or major component part thereof, on which the motor number or vehicle identification number has been destroyed, removed, covered, altered, or defaced, with knowledge of such destruction, removal, covering, alteration, or defacement, except as provided in s. 319.30*(4)*~~(3)~~.

Section 251. Subsection (12) of section 320.02, Florida Statutes, is amended to read:

320.02 Registration required; application for registration; forms.—

(12) The department is authorized to withhold registration or reregistration of any motor vehicle if the owner, or one of the coowners of the vehicle, has a driver's license which is under suspension for the failure to remit payment of any fines levied in this state pursuant to chapter 318 or chapter 322. ~~The department shall design and implement a program to accomplish this action by June 1, 1992. However, nothing in this subsection shall be construed to prohibit the department from withholding registration or renewal for a similar situation during the interim.~~

Section 252. Subsections (7) and (8) of section 320.03, Florida Statutes, 1998 Supplement, are amended to read:

320.03 Registration; duties of tax collectors; International Registration Plan.—

(7) The Department of Highway Safety and Motor Vehicles shall register apportioned motor vehicles under the provisions of the International Registration Plan. ~~Implementation of the plan shall occur by July 1, 1986, for the 1986-1987 registration period.~~ The department may adopt rules to implement and enforce the provisions of the plan.

(8) If the applicant's name appears on the list referred to in s. 316.1001*(4)*~~(5)~~ or s. 316.1967(6), a license plate or revalidation sticker may not be issued until that person's name no longer appears on the list or until the person presents a receipt from the clerk showing that the fines outstanding have been paid. The tax collector and the clerk of the court are each entitled to receive monthly, as costs for implementing and administering this subsection, 10 percent of the civil penalties and fines recovered from such persons. If the tax collector has private tag agents, such tag agents are entitled to receive a pro rata share of the amount paid to the tax collector, based upon the percentage of license plates and revalidation stickers issued by the tag agent compared to the total issued within the county. The authority of any private agent to issue license plates shall be revoked, after notice and a hearing as provided in chapter 120, if he or she issues any license plate or revalidation sticker contrary to the provisions of this subsection. This section applies only to the annual renewal in the owner's birth month of a motor vehicle registration and does not apply to the transfer of a registration of a motor vehicle sold by a motor vehicle dealer licensed under this chapter, except for the transfer of registrations which is inclusive of the annual renewals. This section does not affect the issuance of the title to a motor vehicle, notwithstanding s. 319.23(7)(b).

Section 253. Section 320.031, Florida Statutes, is amended to read:

320.031 Mailing of registration certificates, license plates, and validation stickers.—

(1) The department and the tax collectors of the several counties of the state may at the request of the applicant use United States mail service to deliver registration certificates and renewals thereof, license plates, mobile home stickers, and validation stickers to applicants.

(2) A mail service charge may be collected for each registration certificate, license plate, mobile home sticker, and validation sticker mailed by the department or any tax collector. Each registration certificate, license plate, mobile home sticker, and validation sticker shall be mailed by first-class mail unless otherwise requested by the applicant. The amount of the mail service charge shall be the actual postage required, rounded to the nearest 5 cents, plus a 25-cent handling charge. The mail service charge is in addition to the service charge provided by s. 320.04.

~~(3) The department is authorized to reproduce such documents, records, and reports as required to meet the requirements of the law and the needs of the public, either by photographing, microphotographing, or reproducing on film the document, record, or report, or by using an electronic digitizing process capable of reproducing a true and correct image of the original source document. The photographs, microphotographs, or electronic digitized copy of any records made in compliance with the provisions of this section shall have the same force and effect as the originals thereof and shall be treated as originals for the purpose of their admissibility into evidence. Duly certified or authenticated reproductions of such photographs, microphotographs, or electronically digitized records shall be admitted into evidence equally with the original photographs, microphotographs, or electronically digitized records.~~

Section 254. Subsections (1) and (5) of section 320.055, Florida Statutes, are amended to read:

320.055 Registration periods; renewal periods.—The following registration periods and renewal periods are established:

(1) For a motor vehicle subject to registration under s. 320.08(1), (2), (3)~~(a), (b), (c), (d), or (e)~~, (5)(b), (c), (d), or *(f)* ~~(e)~~, (6)(a), (7), (8), (9), or (10) and owned by a natural person, the registration period begins the first day of the birth month of the owner and ends the last day of the month immediately preceding the owner's birth month in the succeeding year. If such vehicle is registered in the name of more than one person, the birth month of the person whose name first appears on the registration shall be used to determine the registration period. For a vehicle subject to this registration period, the renewal period is the 30-day period ending at midnight on the vehicle owner's date of birth.

(5) For a vehicle subject to registration under s. 320.08(4), (5)(a)1., *(e),* ~~or~~ (6)(b), *or (14),* the registration period shall be a period of 12 months beginning in a month designated by the department and ending on the last day of the 12th month. For a vehicle subject to this registration period, the renewal period is the last month of the registration period. The registration period may be shortened or extended at the discretion of the department, on receipt of the appropriate prorated fees, in order to evenly distribute such registrations on a monthly basis.

Section 255. Paragraph (b) of subsection (1) and paragraph (a) of subsection (3) of section 320.06, Florida Statutes, are amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(1)

(b) Registration license plates bearing a graphic symbol and the alphanumeric system of identification shall be issued for a 5-year period.

At the end of said 5-year period, upon renewal, the plate shall be replaced ~~and the department shall determine the replacement date for plates issued prior to October 1, 1985~~. The fee for such replacement shall be $10, $2 of which shall be paid each year before the plate is replaced, to be credited towards the next $10 replacement fee. The fees shall be deposited into the Highway Safety Operating Trust Fund. A credit or refund shall not be given for any prior years' payments of such prorated replacement fee when the plate is replaced or surrendered before the end of the 5-year period. With each license plate, there shall be issued a validation sticker showing the owner's birth month or the appropriate renewal period if the owner is not a natural person. This validation sticker shall be placed on the upper left corner of the license plate and shall be issued one time during the life of the license plate, or upon request when it has been damaged or destroyed. There shall also be issued with each license plate a serially numbered validation sticker showing the year of expiration, which sticker shall be placed on the upper right corner of the license plate. Such license plate and validation stickers shall be issued based on the applicant's appropriate renewal period. The registration period shall be a period of 12 months, and all expirations shall occur based on the applicant's appropriate registration period. A vehicle with an apportioned registration shall be issued an annual license plate and a cab card that denote the declared gross vehicle weight for each apportioned jurisdiction in which the vehicle is authorized to operate.

(3)(a) Registration license plates shall be of metal specially treated with a retroreflective material, as specified by the department. The registration license plate is designed to increase nighttime visibility and legibility and shall be at least 6 inches wide and not less than 12 inches in length, unless a plate with reduced dimensions is deemed necessary by the department to accommodate motorcycles, mopeds, or similar smaller vehicles. Validation stickers shall be treated with a retroreflective material, shall be of such size as specified by the department, and shall adhere to the license plate. The registration license plate shall be imprinted with a combination of bold letters and numerals or numerals, not to exceed seven digits, to identify the registration license plate number. The license plate shall also be imprinted with the word "Florida" at the top and the name of the county in which it is sold at the bottom, except that apportioned license plates shall have the word "Apportioned" at the bottom and license plates issued for vehicles taxed under s. 320.08(3)(d), (4)(m) or (n), (5)(b) or (c), ~~(12),~~ or (14) shall have the word "Restricted" at the bottom. License plates issued for vehicles taxed under s. 320.08(12) must be imprinted with the word "Florida" at the top and the word "Dealer" at the bottom.~~, except that gross vehicle weight vehicles owned by a licensed motor vehicle dealer may be issued a license plate with the word "Restricted."~~ License plates issued for vehicles taxed under s. 320.08(5)(d) or (e) must be imprinted with the word "Wrecker" at the bottom. Any county may, upon majority vote of the county commission, elect to have the county name removed from the license plates sold in that county. The words "Sunshine State" shall be printed in lieu thereof. In those counties where the county commission has not removed the county name from the license plate, the tax collector may, in addition to issuing license plates with the county name printed on the license plate, also issue license plates with the words "Sunshine State" printed on the license plate subject to the approval of the department and a legislative appropriation for the additional license plates. A license plate issued for a vehicle taxed under s. 320.08(6) may not be assigned a registration license number, or be issued with any other distinctive character or designation, that distinguishes the motor vehicle as a for-hire motor vehicle.

Section 256. Subsection (1) of section 320.0601, Florida Statutes, is amended to read:

320.0601 Rental car companies; identification of vehicles as for-hire.—

(1) ~~Effective September 1, 1993,~~ A rental car company may not rent in this state any for-hire vehicle, other than vehicles designed to transport cargo, that has affixed to its exterior any bumper stickers, insignias, or advertising that identifies the vehicle as a rental vehicle.

Section 257. Section 320.0605, Florida Statutes, is amended to read:

320.0605 Certificate of registration; possession required; exception.—The registration certificate or an official copy thereof, a true copy of a rental or lease agreement issued for a motor vehicle or issued for a replacement vehicle in the same registration period, or a cab card issued for a vehicle registered under the International Registration Plan shall, at all times while the vehicle is being used or operated on the roads of this state, be in the possession of the operator thereof or be carried in the vehicle for which issued and shall be exhibited upon demand of any authorized law enforcement officer or any agent of the department. The provisions of this section do not apply during the first 30 days after purchase of a replacement vehicle. *A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.*

Section 258. Paragraph (a) of subsection (3) of section 320.07, Florida Statutes, is amended to read:

320.07 Expiration of registration; annual renewal required; penalties.—

(3) The operation of any motor vehicle without having attached thereto a registration license plate and validation stickers, or the use of any mobile home without having attached thereto a mobile home sticker, for the current registration period shall subject the owner thereof, if he or she is present, or, if the owner is not present, the operator thereof to the following penalty provisions:

(a) Any person whose motor vehicle or mobile home registration has been expired for a period of 6 months or less *commits a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318* ~~shall be subject to the penalty provided in s. 318.14~~.

Section 259. *Section 320.073, Florida Statutes, is repealed.*

Section 260. Section 320.0802, Florida Statutes, is amended to read:

320.0802 Surcharge on license tax.—During the period January 1, 1989, through December 31, 2003, there is hereby levied and imposed on each license tax imposed under s. 320.08, except those set forth in s. 320.08(11), a surcharge in the amount of $1, which shall be collected in the same manner as the license tax and deposited into the State Agency Law Enforcement Radio System Trust Fund of the Department of Management Services. However, the surcharge shall be terminated on midnight December 31, 1994, unless the pilot project established in s. 282.1095 is deemed successful by the joint task force with the concurrence of the Governor and Cabinet as the head of the Department of *Management Services* ~~General Services~~.

Section 261. Paragraph (b) of subsection (1) and paragraph (b) of subsection (7) of section 320.08058, Florida Statutes, 1998 Supplement, are amended to read:

320.08058 Specialty license plates.—

(1) MANATEE LICENSE PLATES.—

(b)1. The manatee license plate annual use fee must be deposited into the Save the Manatee Trust Fund, created within the 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)(b)*~~(5)(b)~~; and manatee protection and recovery.

2. For fiscal year 1996-1997, 25 percent of the manatee license plate annual use fee must be deposited into the Save the Manatee Trust Fund within the Department of Environmental Protection and shall be used for manatee facilities as provided in s. 370.12(5)(b).

(7) FLORIDA SPECIAL OLYMPICS LICENSE PLATES.—

(b) The license plate annual use fees are to be annually distributed as follows:

1. The first $5 million collected annually must be forwarded to the *private nonprofit corporation* ~~Florida Developmental Disabilities Planning Council~~ as described in s. *393.002* ~~393.001~~ and must be used solely for Special Olympics purposes as approved by the *private nonprofit corporation* ~~council~~.

2. Any additional fees must be deposited into the General Revenue Fund.

Section 262. Section 320.08062, Florida Statutes, 1998 Supplement, is amended to read:

320.08062 Audits required; annual use fees of *specialty* ~~special~~ license plates.—

(1)(a) All organizations that receive annual use fee proceeds from the department are responsible for ensuring that proceeds are used in accordance with ss. 320.08056 and 320.08058.

(b) All organizational recipients of any specialty license plate annual use fee authorized in this chapter, not otherwise subject to annual audit by the Office of the Auditor General, shall submit an annual audit of the expenditures of annual use fees and interest earned from these fees, to determine if expenditures are being made in accordance with the specifications outlined by law. The audit shall be prepared by a certified public accountant licensed under chapter 473 at that organizational recipient's expense. The notes to the financial statements should state whether expenditures were made in accordance with ss. 320.08056 and 320.08058.

(c) In lieu of an annual audit, any organization receiving less than $25,000 in annual use fee proceeds directly from the department, or from another state agency, may annually report, under penalties of perjury, that such proceeds were used in compliance with ss. 320.08056 and 320.08058. The attestation shall be made annually in a form and format determined by the department.

(d) The annual audit or report shall be submitted to the department for review within 180 days after the end of the organization's fiscal year.

(2) Within 90 days after receiving an organization's audit or report, the department shall determine which recipients of revenues from specialty license plate annual use fees have not complied with subsection (1). If the department determines that an organization has not complied or has failed to use the revenues in accordance with ss. 320.08056 and 320.08058, the department must discontinue the distribution of the revenues to the organization until the department determines that the organization has complied. If an organization fails to comply within 12 months after the annual use fee proceeds are withheld by the department, the proceeds shall be deposited into the Highway Safety Operating Trust Fund to offset department costs related to the issuance of specialty license plates.

(3) The Auditor General and the department have the authority to examine all records pertaining to the use of funds from the sale of specialty license plates.

Section 263. Paragraph (c) of subsection (2) of section 320.0848, Florida Statutes, 1998 Supplement, is amended to read:

320.0848 Persons who have disabilities; issuance of disabled parking permits; temporary permits; permits for certain providers of transportation services to persons who have disabilities.—

(2) DISABLED PARKING PERMIT; PERSONS WITH LONG-TERM MOBILITY PROBLEMS.—

(c)1. Except as provided in subparagraph 2., the fee for a disabled parking permit shall be:

a. Fifteen dollars for each initial 4-year permit or renewal permit, of which the State Transportation Trust Fund shall receive $13.50 and the tax collector of the county in which the fee was collected shall receive $1.50.

b. One dollar for each additional or additional renewal 4-year permit, of which the State Transportation Trust Fund shall receive all funds collected.

The department shall not issue an additional disabled parking permit unless the applicant states that they are a frequent traveler or a quadriplegic. The department may not issue to any one eligible applicant more than two disabled parking permits except to an organization in accordance with paragraph (1)*(e)*~~(d)~~. Subsections (1), (5), (6), and (7) apply to this subsection.

2. If an applicant who is a disabled veteran, is a resident of this state, has been honorably discharged, and either has been determined by the Department of Defense or the United States Department of Veterans Affairs or its predecessor to have a service-connected disability rating for compensation of 50 percent or greater or has been determined to have a service-connected disability rating of 50 percent or greater and is in receipt of both disability retirement pay from the United States Department of Veterans Affairs and has a signed physician's statement of qualification for the disabled parking permits, the fee for a disabled parking permit shall be:

a. One dollar and fifty cents for the initial 4-year permit or renewal permit.

b. One dollar for each additional or additional renewal 4-year permit.

The tax collector of the county in which the fee was collected shall retain all funds received pursuant to this subparagraph.

3. If an applicant presents to the department a statement from the Federal Government or the State of Florida indicating the applicant is a recipient of supplemental security income, the fee for the disabled parking permit shall be $9 for the initial 4-year permit or renewal permit, of which the State Transportation Trust Fund shall receive $6.75 and the tax collector of the county in which the fee was collected shall receive $2.25.

Section 264. Section 320.087, Florida Statutes, is amended to read:

320.087 Intercity buses operated in interstate commerce; tax.—All intercity motor buses owned or operated by residents or nonresidents of this state in interstate commerce or combined interstate and intrastate commerce as a result of which operation such motor buses operate both within and without this state under the authority of the *United States Department of Transportation* ~~Interstate Commerce Commission~~, are subject to motor vehicle license taxes on a basis commensurate with the use of Florida roads. The department shall require the registration in this state of that percentage of intercity motor buses operating in interstate commerce or combined interstate-intrastate commerce, into or through this state, which the actual mileage operated in this state bears to the total mileage all such intercity motor buses are operated both within and without this state. Such percentage figure, so determined, is the "Florida mileage factor." In determining the state license tax to be paid on the buses actually operated in this state under the foregoing method, the department shall first compute the amount that the state license tax would be if all of such buses were in fact subject to such tax, and then apply to that amount the Florida mileage factor.

Section 265. Section 320.1325, Florida Statutes, is amended to read:

320.1325 Registration required for the temporarily employed.—Motor vehicles owned or leased by persons who are temporarily employed within the state but are not residents are required to be registered. The department shall provide a temporary registration plate and a registration certificate valid for 90 days to an applicant who is temporarily employed in the state. The temporary registration plate may be renewed one time for an additional 90-day period. At the end of the 180-day period of temporary registration, the applicant shall apply for a permanent registration if there is a further need to remain in this state. A temporary license registration plate may not be issued for any commercial motor vehicle as defined in s. 320.01. The fee for the 90-day temporary registration plate shall be $40 plus the applicable service charge required by s. 320.04. Subsequent permanent registration and titling of a vehicle registered hereunder shall subject the applicant to the fees required by *s.* ~~ss. 319.231 and~~ 320.072, in addition to all other taxes and fees required.

Section 266. Paragraph (b) of subsection (5) of section 320.20, Florida Statutes, is amended to read:

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

(5)

(b) ~~Beginning July 1, 1989,~~ The State Comptroller each month shall deposit in the State Transportation Trust Fund an amount, drawn from other funds in the State Treasury which are not immediately needed or are otherwise in excess of the amount necessary to meet the requirements of the State Treasury, which when added to such remaining revenues each month will equal one-twelfth of the amount of the anticipated annual revenues to be deposited in the State Transportation Trust

Fund under paragraph (a) as estimated by the most recent revenue estimating conference held pursuant to s. 216.136(3). The transfers required hereunder may be suspended by action of the Administration Commission in the event of a significant shortfall of state revenues.

Section 267. Subsection (4) of section 320.8255, Florida Statutes, is amended to read:

320.8255 Mobile home inspection.—

(4) The department shall determine fees for special inspections and for the *label* ~~seal~~ authorized under s. 320.827 which are sufficient to cover the cost of inspection and administration under this section. Fees collected shall be deposited into the General Revenue Fund.

Section 268. *Section 320.8256, Florida Statutes, is repealed.*

Section 269. Subsections (2) and (4) of section 321.051, Florida Statutes, 1998 Supplement, are amended to read:

321.051 Florida Highway Patrol wrecker operator system; penalties for operation outside of system.—

(2) The Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles is authorized to establish within areas designated by the patrol a wrecker operator system using qualified, reputable wrecker operators for removal and storage of wrecked or disabled vehicles from *a crash* ~~an accident~~ scene or for removal and storage of abandoned vehicles, in the event the owner or operator is incapacitated or unavailable or leaves the procurement of wrecker service to the officer at the scene. All reputable wrecker operators shall be eligible for use in the system provided their equipment and drivers meet recognized safety qualifications and mechanical standards set by rules of the Division of Florida Highway Patrol for the size of vehicle it is designed to handle. The division is authorized to limit the number of wrecker operators participating in the wrecker operator system, which authority shall not affect wrecker operators currently participating in the system established by this section. The division is authorized to establish maximum rates for the towing and storage of vehicles removed at the division's request, where such rates have not been set by a county or municipality pursuant to s. 125.0103 or s. 166.043. Such rates shall not be considered rules for the purpose of chapter 120; however, the department shall establish by rule a procedure for setting such rates. Any provision in chapter 120 to the contrary notwithstanding, a final order of the department denying, suspending, or revoking a wrecker operator's participation in the system shall be reviewable in the manner and within the time provided by the Florida Rules of Appellate Procedure only by a writ of certiorari issued by the circuit court in the county wherein such wrecker operator resides.

(4) This section does not prohibit, or in any way prevent, the owner or operator of a vehicle involved in *a crash* ~~an accident~~ or otherwise disabled from contacting any wrecker operator for the provision of towing services, whether the wrecker operator is an authorized wrecker operator or not.

Section 270. Subsection (2) of section 321.23, Florida Statutes, is amended to read:

321.23 Public records; fees for copies; destruction of obsolete records; photographing records; effect as evidence.—

(2) Fees for copies of public records shall be charged and collected as follows:

(a) For *a crash* ~~an accident~~ report, a copy $2

(b) For a homicide report, a copy $25

(c) Photographs (accidents, etc.):

Enlargement Proof	Color	Black & White
1. 5″ x 7″	$1.00	$0.75
2. 8″ x 10″	$1.50	$1.00
3. 11″ x 14″	Not Available	$1.75
4. 16″ x 20″	Not Available	$2.75
5. 20″ x 24″	Not Available	$3.75

(d) The department shall furnish such information without charge to any local, state, or federal law enforcement agency upon proof satisfactory to the department as to the purpose of the investigation.

Section 271. *Sections 321.06, 321.07, 321.09, 321.12, 321.15, 321.17, 321.18, 321.19, 321.191, 321.20, 321.201, 321.202, 321.203, 321.21, 321.22, 321.2205, 321.221, 321.222, and 321.223, Florida Statutes, are repealed.*

Section 272. Section 322.0261, Florida Statutes, is amended to read:

322.0261 Mandatory driver improvement course; certain *crashes* ~~accidents~~.—

(1) The department shall screen *crash* ~~accident~~ reports received under s. 316.066 or s. 324.051 to identify *crashes* ~~accidents~~ involving the following:

(a) *A crash* ~~An accident~~ involving death or a bodily injury requiring transport to a medical facility; or

(b) A second *crash* ~~accident~~ by the same operator within the previous 2-year period involving property damage in an apparent amount of at least $500.

(2) With respect to an operator convicted of, or who pleaded nolo contendere to, a traffic offense giving rise to *a crash* ~~an accident~~ identified pursuant to subsection (1), the department shall require that the operator, in addition to other applicable penalties, attend a departmentally approved driver improvement course in order to maintain driving privileges. If the operator fails to complete the course within 90 days of receiving notice from the department, the operator's driver's license shall be canceled by the department until the course is successfully completed.

(3) In determining whether to approve a driver improvement course for the purposes of this section, the department shall consider course content designed to promote safety, driver awareness, *crash* ~~accident~~ avoidance techniques, and other factors or criteria to improve driver performance from a safety viewpoint.

Section 273. Subsection (2) of section 322.055, Florida Statutes, is amended to read:

322.055 Revocation or suspension of, or delay of eligibility for, driver's license for persons 18 years of age or older convicted of certain drug offenses.—

(2) If a person 18 years of age or older is convicted for the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance and such person is eligible by reason of age for a driver's license or privilege, the court shall direct the department to withhold issuance of such person's driver's license or driving privilege for a period of 2 years after the date the person was convicted or until the person is evaluated for and, if deemed necessary by the evaluating agency, completes a drug treatment and rehabilitation program approved or regulated by the Department of *Children and Family* ~~and Rehabilitative~~ Services. However, the court may, in its sound discretion, direct the department to issue a license for driving privileges restricted to business or employment purposes only, as defined by s. 322.271, if the person is otherwise qualified for such a license. A driver whose license or driving privilege has been suspended or revoked under this section or s. 322.056 may, upon the expiration of 6 months, petition the department for restoration of the driving privilege on a restricted or unrestricted basis depending on the length of suspension or revocation. In no case shall a restricted license be available until 6 months of the suspension or revocation period has expired.

Section 274. Subsection (5) of section 322.08, Florida Statutes, 1998 Supplement, is amended to read:

322.08 Application for license.—

(5) ~~After December 31, 1989,~~ The department may not issue a driver's license to a person who has never been issued a driver's license in any jurisdiction until he or she successfully completes the traffic law and substance abuse education course prescribed in s. 322.095.

Section 275. Subsection (2) of section 322.12, Florida Statutes, is amended to read:

322.12 Examination of applicants.—

(2) The department shall examine every applicant for a driver's license, including an applicant who is licensed in another state or country, except as otherwise provided in this chapter. A person who holds a learner's driver's license as provided for in *s. 322.1615* ~~s. 322.161~~ is not required to pay a fee for successfully completing the examination showing his or her ability to operate a motor vehicle as provided for herein and need not pay the fee for a replacement license as provided in s. 322.17(2). Any person who applies for reinstatement following the suspension or revocation of his or her driver's license shall pay a service fee of $25 following a suspension, and $50 following a revocation, which is in addition to the fee for a license. Any person who applies for reinstatement of a commercial driver's license following the disqualification of his or her privilege to operate a commercial motor vehicle shall pay a service fee of $50, which is in addition to the fee for a license. The department shall collect all of these fees at the time of reinstatement. The department shall issue proper receipts for such fees and shall promptly transmit all funds received by it as follows:

(a) Of the $25 fee received from a licensee for reinstatement following a suspension, the department shall deposit $15 in the General Revenue Fund and the remaining $10 in the Highway Safety Operating Trust Fund.

(b) Of the $50 fee received from a licensee for reinstatement following a revocation or disqualification, the department shall deposit $35 in the General Revenue Fund and the remaining $15 in the Highway Safety Operating Trust Fund.

If the revocation or suspension of the driver's license was for a violation of s. 316.193, or for refusal to submit to a lawful breath, blood, or urine test, an additional fee of $105 must be charged. However, only one such $105 fee is to be collected from one person convicted of such violations arising out of the same incident. The department shall collect the $105 fee and deposit it into the Highway Safety Operating Trust Fund at the time of reinstatement of the person's driver's license, but the fee must not be collected if the suspension or revocation was overturned.

Section 276. Subsection (3) of section 322.121, Florida Statutes, is amended to read:

322.121 Periodic reexamination of all drivers.—

(3) For each licensee whose driving record does not show any revocations, disqualifications, or suspensions for the preceding 7 years or any convictions for the preceding 3 years except for convictions of the following nonmoving violations:

(a) Failure to exhibit a vehicle registration certificate, rental agreement, or cab card pursuant to *s. 320.0605* ~~s. 320.0605(1)~~;

(b) Failure to renew a motor vehicle or mobile home registration that has been expired for 4 months or less pursuant to s. 320.07(3)(a);

(c) Operating a motor vehicle with an expired license that has been expired for 4 months or less pursuant to s. 322.065;

(d) Failure to carry or exhibit a license pursuant to s. 322.15(1); or

(e) Failure to notify the department of a change of address or name within 10 days pursuant to s. 322.19,

the department shall cause such licensee's license to be prominently marked with the notation "Safe Driver."

Section 277. Paragraph (a) of subsection (2) of section 322.141, Florida Statutes, is amended to read:

322.141 Color of licenses.—

(2)(a) ~~Effective January 1, 1990,~~ All licenses for the operation of motor vehicles originally issued or reissued by the department to persons who have insulin-dependent diabetes may, at the request of the applicant, have distinctive markings separate and distinct from all other licenses issued by the department.

Section 278. Subsection (4) is added to section 322.15, Florida Statutes, to read:

322.15 License to be carried and exhibited on demand; fingerprint to be imprinted upon a citation.—

(4) A violation of subsection (1) is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 279. Subsections (2), (3), and (7) of section 322.20, Florida Statutes, are amended to read:

322.20 Records of the department; fees; destruction of records.—

(2) The department shall also maintain a record of all *crash* ~~accident~~ reports, abstracts of court records of convictions, and notices of revocation or suspension of a person's driver's license or driving privilege.

(3) The department shall maintain convenient records or make suitable notations, in order that the individual driver history record of each licensee is readily available for the consideration of the department upon application for renewal of a license and at other suitable times. The release by the department of the driver history record, with respect to *crashes* ~~accidents~~ involving a licensee, shall not include any notation or record of the occurrence of a motor vehicle *crash* ~~accident~~ unless the licensee received a traffic citation as a direct result of the *crash* ~~accident~~, and to this extent such notation or record is exempt from the provisions of s. 119.07(1).

(7) The requirement for the department to keep records shall terminate upon the death of an individual licensed by the department upon notification by the Department of Health ~~and Rehabilitative Services~~ of such death. The department shall make such notification as is proper of the deletions from their records to the court clerks of the state.

Section 280. Section 322.201, Florida Statutes, is amended to read:

322.201 Records as evidence.—A copy, computer copy, or transcript of all abstracts of *crash* ~~accident~~ reports and all abstracts of court records of convictions received by the department and the complete driving record of any individual duly certified by machine imprint of the department or by machine imprint of the clerk of a court shall be received as evidence in all courts of this state without further authentication, provided the same is otherwise admissible in evidence. Further, any court or the office of the clerk of any court of this state which is electronically connected by a terminal device to the computer data center of the department may use as evidence in any case the information obtained by this device from the records of the department without need of such certification; however, if a genuine issue as to the authenticity of such information is raised by a party or by the court, the court in its sound discretion may require that a record certified by the department be submitted for admission into evidence. For such computer copies generated by a terminal device of a court or clerk of court, entry in a driver's record that the notice required by s. 322.251 was given shall constitute sufficient evidence that such notice was given.

Section 281. Paragraph (a) of subsection (2) of section 322.221, Florida Statutes, is amended to read:

322.221 Department may require reexamination.—

(2)(a) The department may require an examination or reexamination to determine the competence and driving ability of any driver causing or contributing to the cause of any *crash* ~~accident~~ resulting in death, personal injury, or property damage.

Section 282. Subsection (4) of section 322.26, Florida Statutes, 1998 Supplement, is amended to read:

322.26 Mandatory revocation of license by department.—The department shall forthwith revoke the license or driving privilege of any person upon receiving a record of such person's conviction of any of the following offenses:

(4) Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle *crash* ~~accident~~ resulting in the death or personal injury of another.

Section 283. Section 322.264, Florida Statutes, is reenacted and amended to read:

322.264 "Habitual traffic offender" defined.—A "habitual traffic offender" is any person whose record, as maintained by the Department

of Highway Safety and Motor Vehicles, shows that such person has accumulated the specified number of convictions for offenses described in subsection (1) or subsection (2) within a 5-year period:

(1) Three or more convictions of any one or more of the following offenses arising out of separate acts:

(a) Voluntary or involuntary manslaughter resulting from the operation of a motor vehicle;

(b) Any violation of s. 316.193, former s. 316.1931, or former s. 860.01;

(c) Any felony in the commission of which a motor vehicle is used;

(d) Driving a motor vehicle while his or her license is suspended or revoked;

(e) Failing to stop and render aid as required under the laws of this state in the event of a motor vehicle *crash* ~~accident~~ resulting in the death or personal injury of another; or

(f) Driving a commercial motor vehicle while his or her privilege is disqualified.

(2) Fifteen convictions for moving traffic offenses for which points may be assessed as set forth in s. 322.27, including those offenses in subsection (1).

Any violation of any federal law, any law of another state or country, or any valid ordinance of a municipality or county of another state similar to a statutory prohibition specified in subsection (1) or subsection (2) shall be counted as a violation of such prohibition. In computing the number of convictions, all convictions during the 5 years previous to July 1, 1972, will be used, provided at least one conviction occurs after that date. The fact that previous convictions may have resulted in suspension, revocation, or disqualification under another section does not exempt them from being used for suspension or revocation under this section as a habitual offender.

Section 284. Subsections (1) and (3) of section 322.27, Florida Statutes, are amended to read:

322.27 Authority of department to suspend or revoke license.—

(1) Notwithstanding any provisions to the contrary in chapter 120, the department is hereby authorized to suspend the license of any person without preliminary hearing upon a showing of its records or other sufficient evidence that the licensee:

(a) Has committed an offense for which mandatory revocation of license is required upon conviction; ~~or~~

(b) Has been convicted of a violation of any traffic law which resulted in *a crash* ~~an accident~~ that caused the death or personal injury of another or property damage in excess of $500; ~~or~~

(c) Is incompetent to drive a motor vehicle; ~~or~~

(d) Has permitted an unlawful or fraudulent use of such license or has knowingly been a party to the obtaining of a license by fraud or misrepresentation or to display, or represent as one's own, any driver's license not issued him or her. Provided, however, no provision of this section shall be construed to include the provisions of s. 322.32(1); ~~or~~

(e) Has committed an offense in another state which if committed in this state would be grounds for suspension or revocation; or

(f) Has committed a second or subsequent violation of s. 316.172(1) within a 5-year period of any previous violation.

(3) There is established a point system for evaluation of convictions of violations of motor vehicle laws or ordinances, and violations of applicable provisions of s. 403.413*(6)(b)*~~(5)(b)~~ when such violations involve the use of motor vehicles, for the determination of the continuing qualification of any person to operate a motor vehicle. The department is authorized to suspend the license of any person upon showing of its records or other good and sufficient evidence that the licensee has been convicted of violation of motor vehicle laws or ordinances, or applicable provisions of s. 403.413*(6)(b)*~~(5)(b)~~, amounting to 12 or more points as determined by the point system. The suspension shall be for a period of not more than 1 year.

(a) When a licensee accumulates 12 points within a 12-month period, the period of suspension shall be for not more than 30 days.

(b) When a licensee accumulates 18 points, including points upon which suspension action is taken under paragraph (a), within an 18-month period, the suspension shall be for a period of not more than 3 months.

(c) When a licensee accumulates 24 points, including points upon which suspension action is taken under paragraphs (a) and (b), within a 36-month period, the suspension shall be for a period of not more than 1 year.

(d) The point system shall have as its basic element a graduated scale of points assigning relative values to convictions of the following violations:

1. Reckless driving, willful and wanton—4 points.

2. Leaving the scene of *a crash* ~~an accident~~ resulting in property damage of more than $50—6 points.

3. Unlawful speed resulting in *a crash* ~~an accident~~ —6 points.

4. Passing a stopped school bus—4 points.

5. Unlawful speed:

a. Not in excess of 15 miles per hour of lawful or posted speed—3 points.

b. In excess of 15 miles per hour of lawful or posted speed—4 points.

6. All other moving violations (including parking on a highway outside the limits of a municipality)—3 points. However, no points shall be imposed for a violation of s. 316.0741 or s. 316.2065(12).

7. Any moving violation covered above, excluding unlawful speed, resulting in *a crash* ~~an accident~~ —4 points.

8. Any conviction under s. 403.413(5)(b)—3 points.

(e) A conviction in another state of a violation therein which, if committed in this state, would be a violation of the traffic laws of this state, or a conviction of an offense under any federal law substantially conforming to the traffic laws of this state, except a violation of s. 322.26, may be recorded against a driver on the basis of the same number of points received had the conviction been made in a court of this state.

(f) In computing the total number of points, when the licensee reaches the danger zone, the department is authorized to send the licensee a warning letter advising that any further convictions may result in suspension of his or her driving privilege.

(g) The department shall administer and enforce the provisions of this law and may make rules and regulations necessary for its administration.

(h) Three points shall be deducted from the driver history record of any person whose driving privilege has been suspended only once pursuant to this subsection and has been reinstated, if such person has complied with all other requirements of this chapter.

(i) This subsection shall not apply to persons operating a nonmotorized vehicle for which a driver's license is not required.

Section 285. Paragraph (a) of subsection (1) of section 322.291, Florida Statutes, is amended to read:

322.291 Driver improvement schools; required in certain suspension and revocation cases.—Except as provided in s. 322.03(2), any person:

(1) Whose driving privilege has been revoked:

(a) Upon conviction for:

1. Driving, or being in actual physical control of, any vehicle while under the influence of alcoholic beverages, any chemical substance set

forth in s. 877.111, or any substance controlled under chapter 893, in violation of s. 316.193;

2. Driving with an unlawful blood- or breath-alcohol level;

3. Manslaughter resulting from the operation of a motor vehicle;

4. Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle *crash* ~~accident~~ resulting in the death or personal injury of another;

5. Reckless driving; or

shall, before the driving privilege may be reinstated, present to the department proof of enrollment in a department-approved advanced driver improvement course or substance abuse education course. If the person fails to complete such course within 90 days after reinstatement, the driver's license shall be canceled by the department until such course is successfully completed.

Section 286. Section 322.292, Florida Statutes, is amended to read:

322.292 DUI programs supervision; powers and duties of the department.—

(1) The Department of Highway Safety and Motor Vehicles shall license and regulate all DUI programs, which regulation shall include the certification of instructors, evaluators, clinical supervisors, and evaluator supervisors. The department shall, after consultation with the chief judge of the affected judicial circuit, establish requirements regarding the number of programs to be offered within a judicial circuit. Such requirements shall address the number of clients currently served in the circuit as well as improvements in service that may be derived from operation of an additional DUI program. DUI education and evaluation services are exempt from licensure under *chapter* ~~chapters 396 and~~ 397. However, treatment programs must continue to be licensed under *chapter* ~~chapters 396 and~~ 397.

(2) The department shall adopt rules to implement its supervisory authority over DUI programs in accordance with the procedures of chapter 120, including the establishment of uniform standards of operation for DUI programs and the method for setting and approving fees, as follows:

(a) Establish *rules* ~~minimum standards~~ for statutorily required education, evaluation, and supervision of DUI offenders. Such *rules* ~~minimum standards~~ previously adopted by the Traffic Court Review Committee of the Supreme Court of Florida shall remain in effect unless modified by the department.

(b) Establish *rules* ~~minimum standards~~ for the administration and financial management of DUI programs, including, but not limited to:

1. *Rules* ~~Standards~~ governing the types of expenditures that may be made by DUI programs from funds paid by persons attending such programs.

2. *Rules* ~~Standards~~ for financial reporting that require data on DUI programs expenditures in sufficient detail to support reasonable and informed decisions concerning the fees that are to be assessed those attending DUI programs. The department shall perform financial audits of DUI programs required under this section or require that financial audits of the programs be performed by certified public accountants at program expense and submitted directly from the auditor to the department.

3. *Rules for* ~~Standards of~~ reciprocity in relation to DUI programs in other states or countries that have programs similar to the DUI programs licensed by the department.

4. Such other *rules* ~~standards~~ as the department deems appropriate and necessary for the effective oversight of the DUI programs.

(c) Implement procedures for the granting and revoking of licenses for DUI programs.

(d) Establish a fee structure for the various programs offered by the DUI programs, based only on the reasonable and necessary costs for operating the programs throughout the state. The department shall approve, modify, or reduce fees as necessary. ~~The DUI programs fees that are in effect on January 1, 1994, shall remain in effect until the department adopts a fee schedule for the DUI programs system. After the adoption of the schedule, the programs shall adjust their fees to conform with the established amounts.~~

(e) Establish policies and procedures for monitoring DUI programs compliance with all *rules* ~~minimum standards~~ established by the department.

(f) The department shall oversee an ongoing evaluation to assess the effectiveness of the DUI programs. This evaluation shall be performed by an independent group and shall evaluate the curriculum, client treatment referrals, recidivism rates, and any other relevant matters. ~~The department shall report to the Legislature by January 1, 1995, on the status of the evaluation, including its design and schedule for completion.~~ The department may use funds received under s. 322.293 to retain the services and reimburse expenses of such private persons or professional consultants as are required for monitoring and evaluating DUI programs.

(g) Investigate complaints about the DUI programs and resolve problems in the provision of services to DUI offenders, as needed.

(3) ~~All DUI programs and certified program personnel providing DUI programs services that meet the department's standards and that are operating on January 1, 1994, may remain in operation until the department's license procedures are in place. At that time the DUI programs and certified program personnel may apply for relicensure.~~

~~(4)~~ DUI programs shall be either governmental programs or not-for-profit corporations.

~~(5) The department shall report to the Supreme Court by December 1, 1994, and by December 31 of each succeeding year through 1996, on the general status of the statewide program. This report must include programmatic and statistical information regarding the number of licensed programs, enrollment and referral figures, program monitoring and evaluation activities, and findings, and the general steps taken by the department to implement the provisions of this section.~~

Section 287. Section 322.293, Florida Statutes, is amended to read:

322.293 DUI Programs Coordination Trust Fund; assessment; disposition.—

(1) ~~The DUI Programs Coordination Trust Fund, created pursuant to chapter 81-208, Laws of Florida, shall be transferred to the department with all funds therein on January 1, 1994. The DUI Programs Coordination Office shall be transferred from the budget of the Supreme Court to the Department of Highway Safety and Motor Vehicles Division of Driver Licenses. The transfer shall include all of the statutory powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds. All personnel shall be transferred at their current classifications and levels of compensation. Any legal commitments, contracts, and other obligations heretofore entered into on behalf of or assumed by the DUI Programs Coordination Office in connection with the performance of its functions and duties are charged to and shall be performed by the department.~~

~~(2)~~ The DUI Programs Coordination Trust Fund shall be administered by the department, and the costs of administration shall be borne by the fund. All funds received by the DUI Programs Coordination Trust Fund shall be used solely for the purposes set forth in this section and s. 322.292. However, if the Legislature passes legislation consolidating existing trust funds assigned to the department, all funds remaining in and deposited to the DUI Programs Coordination Trust Fund shall be transferred to the consolidated trust funds, subject to their being earmarked for use solely for the purposes set forth in this section and s. 322.292.

(2)~~(3)~~ Each DUI program shall assess $12 against each person enrolling in a DUI program at the time of enrollment, including persons who transfer to or from a program in another state. In addition, second and third offenders and those offenders under permanent driver's-license revocation who are evaluated for eligibility for license restrictions under s. 322.271(2)(b) and (4) shall be assessed $12 upon enrollment in the program and upon each subsequent anniversary date while they are in the program, for the duration of the license period.

(3)~~(4)~~ All assessments collected under this section shall be forwarded to the DUI Programs Coordination Trust Fund within 30 days after the last day of the month in which the assessment was received.

Section 288. Section 322.44, Florida Statutes, is amended to read:

322.44 Driver License Compact.—The Driver License Compact is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I

FINDINGS AND DECLARATION OF POLICY.—

(1) The party states find that:

(a) The safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles;

(b) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property;

(c) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(2) It is the policy of each of the party states to:

(a) Promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles;

(b) Make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances, and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.

ARTICLE II

DEFINITIONS.—As used in this compact:

(1) "State" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(2) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(3) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance, or administrative rule or regulation, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, and which conviction or forfeiture is required to be reported to the licensing authority.

ARTICLE III

REPORTS OF CONVICTION.—The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code, or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered or the conviction was a result of the forfeiture of bail, bond, or other security; and shall include any special findings made in connection therewith.

ARTICLE IV

EFFECT OF CONVICTION.—

(1) The licensing authority in the home state, for the purposes of suspension, revocation, or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to article III, as it would if such conduct had occurred in the home state, in the case of convictions for:

(a) Manslaughter or negligent homicide resulting from the operation of a motor vehicle, as provided by ss. 316.193 and 322.26;

(b) Driving a motor vehicle while under the influence of alcoholic beverages or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle, as provided by s. 316.193;

(c) Any felony in the commission of which a motor vehicle is used, as provided by s. 322.26; or

(d) Failure to stop and render aid in the event of a motor vehicle *crash* ~~accident~~ resulting in the death or personal injury of another, as provided by s. 322.26.

(2) As to other convictions, reported pursuant to article III, the licensing authority in the home state shall give such effect to the conduct as is provided by the laws of the home state.

ARTICLE V

APPLICATIONS FOR NEW LICENSES.—Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of, a license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if:

(1) The applicant has held such a license, but the same has been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated.

(2) The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of 1 year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.

(3) The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders such license.

ARTICLE VI

APPLICABILITY OF OTHER LAWS.—Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a nonparty state.

ARTICLE VII

COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION.—

(1) The head of the licensing authority of each party state shall be the administrator of this compact for his or her state. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(2) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

ARTICLE VIII

ENTRY INTO FORCE AND WITHDRAWAL.—

(1) This compact shall enter into force and become effective as to any state when it has enacted the same into law.

(2) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 6 months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.

ARTICLE IX

CONSTRUCTION AND SEVERABILITY.—This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable; and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to

any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Section 289. Paragraph (b) of subsection (1) of section 322.57, Florida Statutes, is amended to read:

322.57 Tests of knowledge concerning specified vehicles; endorsement; nonresidents; violations.—

(1) In addition to fulfilling any other driver's licensing requirements of this chapter, a person who:

(b) Drives a passenger vehicle must successfully complete a test of his or her knowledge concerning the safe operation of such vehicles and a test of his or her driving skill in such a vehicle. ~~However, if such a person satisfies the requirements of s. 322.55(1)(3), he or she is exempt from the test of his or her driving skills.~~

Section 290. Subsections (1) and (3) of section 322.61, Florida Statutes, are amended to read:

322.61 Disqualification from operating a commercial motor vehicle.—

(1) A person who, within a 3-year period, is convicted of two of the following serious traffic violations or any combination thereof, arising in separate incidents committed in a commercial motor vehicle shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 60 days:

(a) A violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, a weight violation, or a vehicle equipment violation, arising in connection with *a crash* ~~an accident~~ resulting in death or personal injury to any person;

(b) Reckless driving, as defined in s. 316.192;

(c) Careless driving, as defined in s. 316.1925;

(d) Fleeing or attempting to elude a law enforcement officer, as defined in s. 316.1935;

(e) Unlawful speed of 15 miles per hour or more above the posted speed limit;

(f) Driving a commercial motor vehicle, owned by such person, which is not properly insured;

(g) Improper lane change, as defined in s. 316.085; or

(h) Following too closely, as defined in s. 316.0895.

(3) Except as provided in subsection (4), any person who is convicted of one of the following offenses shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 1 year:

(a) Driving a commercial motor vehicle while he or she is under the influence of alcohol or a controlled substance;

(b) Driving a commercial motor vehicle while the alcohol concentration of his or her blood, breath, or urine is .04 percent or higher;

(c) Leaving the scene of *a crash* ~~an accident~~ involving a commercial motor vehicle driven by such person;

(d) Using a commercial motor vehicle in the commission of a felony;

(e) Driving a commercial motor vehicle while in possession of a controlled substance; or

(f) Refusing to submit to a test to determine his or her alcohol concentration while driving a commercial motor vehicle.

Section 291. Paragraph (c) of subsection (2) of section 322.63, Florida Statutes, is amended to read:

322.63 Alcohol or drug testing; commercial motor vehicle operators.—

(2) The chemical and physical tests authorized by this section shall only be required if a law enforcement officer has reasonable cause to believe that a person driving a commercial motor vehicle has any alcohol, chemical substance, or controlled substance in his or her body.

(c) The blood test shall be administered at the request of a law enforcement officer who has reasonable cause to believe that a person was driving a commercial motor vehicle with any alcohol, chemical substance, or controlled substance in his or her body. The blood test shall be performed in a reasonable manner by qualified medical personnel. Any person who appears for treatment at a medical facility as a result of his or her involvement as a commercial motor vehicle driver in *a crash* ~~an accident~~ and who is incapable, by reason of a mental or physical condition, of refusing a blood test shall be deemed to have consented to such test.

Section 292. Section 324.011, Florida Statutes, is amended to read:

324.011 Purpose of chapter.—It is the intent of this chapter to recognize the existing privilege to own or operate a motor vehicle on the public streets and highways of this state when such vehicles are used with due consideration for others and their property, and to promote safety and provide financial security requirements for such owners or operators whose responsibility it is to recompense others for injury to person or property caused by the operation of a motor vehicle. Therefore, it is required herein that the operator of a motor vehicle involved in *a crash* ~~an accident~~ or convicted of certain traffic offenses meeting the operative provisions of s. 324.051(2) shall respond for such damages and show proof of financial ability to respond for damages in future accidents as a requisite to his or her future exercise of such privileges.

Section 293. Subsection (7) of section 324.021, Florida Statutes, is amended to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(7) PROOF OF FINANCIAL RESPONSIBILITY.—That proof of ability to respond in damages for liability on account of *crashes* ~~accidents~~ arising out of the use of a motor vehicle:

(a) In the amount of $10,000 because of bodily injury to, or death of, one person in any one *crash* ~~accident~~;

(b) Subject to such limits for one person, in the amount of $20,000 because of bodily injury to, or death of, two or more persons in any one *crash* ~~accident~~;

(c) In the amount of $10,000 because of injury to, or destruction of, property of others in any one *crash* ~~accident~~; and

(d) With respect to commercial motor vehicles and nonpublic sector buses, in the amounts specified in ss. 627.7415 and 627.742, respectively.

Section 294. Section 324.022, Florida Statutes, is amended to read:

324.022 Financial responsibility for property damage.—Every owner or operator of a motor vehicle, which motor vehicle is subject to the requirements of ss. 627.730-627.7405 and required to be registered in this state, shall, by one of the methods established in s. 324.031 or by having a policy that complies with s. 627.7275, establish and maintain the ability to respond in damages for liability on account of accidents arising out of the use of the motor vehicle in the amount of $10,000 because of damage to, or destruction of, property of others in any one *crash* ~~accident~~. The requirements of this section may also be met by having a policy which provides coverage in the amount of at least $30,000 for combined property damage liability and bodily injury liability for any one *crash* ~~accident~~ arising out of the use of the motor vehicle. No insurer shall have any duty to defend uncovered claims irrespective of their joinder with covered claims.

Section 295. Section 324.051, Florida Statutes, is amended to read:

324.051 Reports of *crashes* ~~accidents~~; suspensions of licenses and registrations.—

(1)(a) Every law enforcement officer who, in the regular course of duty either at the time of and at the scene of the *crash* ~~accident~~ or thereafter by interviewing participants or witnesses, investigates a motor vehicle *crash* ~~accident~~ which he or she is required to report pursuant to s. 316.066(3)(a) shall forward a written report of the *crash* ~~accident~~ to the department within 10 days of completing the investigation. However, when the investigation of *a crash* ~~an accident~~ will take more than 10 days to complete, a preliminary copy of the *crash* ~~accident~~ report shall be forwarded to the department within 10 days of the occurrence of the *crash* ~~accident~~, to be followed by a final report within 10 days after completion of the investigation. The report shall be on a form and contain information consistent with the requirements of s. 316.068.

(b) The department is hereby further authorized to require reports of *crashes* ~~accidents~~ from individual owners or operators whenever it deems it necessary for the proper administration of this chapter, and these reports shall be made without prejudice except as specified in this subsection. No such report shall be used as evidence in any trial arising out of *a crash* ~~an accident~~. However, subject to the applicable rules of evidence, a law enforcement officer at a criminal trial may testify as to any statement made to the officer by the person involved in the accident if that person's privilege against self-incrimination is not violated.

(2)(a) Thirty days after receipt of notice of any accident described in paragraph (1)(a) involving a motor vehicle within this state, the department shall suspend, after due notice and opportunity to be heard, the license of each operator and all registrations of the owner of the vehicles operated by such operator whether or not involved in such *crash* ~~accident~~ and, in the case of a nonresident owner or operator, shall suspend such nonresident's operating privilege in this state, unless such operator or owner shall, prior to the expiration of such 30 days, be found by the department to be exempt from the operation of this chapter, based upon evidence satisfactory to the department that:

1. The motor vehicle was legally parked at the time of such *crash* ~~accident~~.

2. The motor vehicle was owned by the United States Government, this state, or any political subdivision of this state or any municipality therein.

3. Such operator or owner has secured a duly acknowledged written agreement providing for release from liability by all parties injured as the result of said *crash* ~~accident~~ and has complied with one of the provisions of s. 324.031.

4. Such operator or owner has deposited with the department security to conform with s. 324.061 when applicable and has complied with one of the provisions of s. 324.031.

5. One year has elapsed since such owner or operator was suspended pursuant to subsection (3), the owner or operator has complied with one of the provisions of s. 324.031, and no bill of complaint of which the department has notice has been filed in a court of competent jurisdiction.

(b) This subsection shall not apply:

1. To such operator or owner if such operator or owner had in effect at the time of such *crash* ~~accident~~ or traffic conviction an automobile liability policy with respect to all of the registered motor vehicles owned by such operator or owner.

2. To such operator, if not the owner of such motor vehicle, if there was in effect at the time of such *crash* ~~accident~~ or traffic conviction an automobile liability policy or bond with respect to his or her operation of motor vehicles not owned by him or her.

3. To such operator or owner if the liability of such operator or owner for damages resulting from such *crash* ~~accident~~ is, in the judgment of the department, covered by any other form of liability insurance or bond.

4. To any person who has obtained from the department a certificate of self-insurance, in accordance with s. 324.171, or to any person operating a motor vehicle for such self-insurer.

No such policy or bond shall be effective under this subsection unless it contains limits of not less than those specified in s. 324.021(7).

(3) Any driver's license or registration certificate or certificates and registration plates which are suspended as provided for in this section shall remain suspended for a period of 3 years unless reinstated as otherwise provided in this chapter.

Section 296. Subsections (1) and (2) of section 324.061, Florida Statutes, are amended to read:

324.061 Security deposited with Department of Highway Safety and Motor Vehicles; release.—

(1) Security deposited pursuant to the provisions of s. 324.051(2)(a)4. with respect to claims for injuries to persons or properties resulting from *a crash* ~~an accident~~ occurring prior to such deposit shall be in the form and amount determined by the department which, in its judgment, will be sufficient to compensate for all injuries arising out of such *crash* ~~accident~~, but in no case shall the amount exceed the limits as specified in s. 324.021(7).

(2) Such security shall be deposited with the department and shall not be released except under one of the following conditions:

(a) A duly attested written statement of satisfaction by all parties shown to be injured in such *crash* ~~accident~~ has been received by the department.~~, or~~

(b) In the event the depositor has been finally adjudicated by a court of competent jurisdiction not to be liable; or all judgments of liability against the depositor have been satisfied.~~, or~~

(c) One year shall have elapsed after deposit and during such period the department has not been duly notified of any court action brought for damages.

(d) Upon receipt of an order from a court ordering that such deposit be paid to satisfy a recorded judgment, in whole or in part, resulting from *a crash* ~~an accident~~. If the department does not have sufficient funds on deposit to satisfy such judgment it shall forthwith call upon the judgment debtor for the balance, subject to the limits specified in s. 324.021(7). Upon failure of the judgment debtor to make the necessary deposit or to satisfy the judgment in full, the department shall revoke the driving privilege and all registrations of such judgment debtor within 10 days subsequent to notification to the judgment debtor by the department.

(e) In any case in which securities deposited under this section have remained unclaimed for 5 years or more such deposit shall be transferred by the department to the State School Fund, and all interest and income that may accrue from said deposits after the aforesaid period of time, shall belong to said fund.

Section 297. Subsections (1) and (3) of section 324.081, Florida Statutes, are amended to read:

324.081 Nonresident owner or operator.—

(1) The department may establish reciprocal agreements with any other states for the purpose of fulfilling the provisions of this chapter and pursuant to such agreements may suspend the license and registration of a resident of this state involved in *a crash* ~~an accident~~ in another state.

(3) Upon receipt of such certification that the operating privilege of a resident of this state has been suspended or revoked in any such other reciprocating state pursuant to a law providing for its suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle *crash* ~~accident~~, under circumstances which would require the department to suspend a nonresident's operating privilege had the *crash* ~~accident~~ occurred in this state, the department shall suspend the license of such resident if he or she was the operator, and all of his or her registrations if he or she was the owner of a motor vehicle involved in such *crash* ~~accident~~. Such suspension shall continue until such resident furnishes evidence of his or her compliance with the law of such other state relating to the deposit of such security.

Section 298. Subsection (1) of section 324.091, Florida Statutes, is amended to read:

324.091 Notice to department; notice to insurer.—

(1) Each owner and operator involved in *a crash* ~~an accident~~ or conviction case within the purview of this chapter shall furnish evidence of automobile liability insurance, motor vehicle liability insurance, or surety bond within 30 days from the date of the mailing of notice of *crash* ~~accident~~ by the department in such form and manner as it may designate. Upon receipt of evidence that an automobile liability policy, motor vehicle liability policy, or surety bond was in effect at the time of the *crash* ~~accident~~ or conviction case, the department shall forward by United States mail, postage prepaid, to the insurer or surety insurer a copy of such information and shall assume that such policy or bond was in effect unless the insurer or surety insurer shall notify the department otherwise within 20 days from the mailing of the notice to the insurer or surety insurer; provided that if the department shall later ascertain that an automobile liability policy, motor vehicle liability policy, or surety bond was not in effect and did not provide coverage for both the owner and the operator, it shall at such time take such action as it is otherwise authorized to do under this chapter. Proof of mailing to the insurer or surety insurer may be made by the department by naming the insurer or surety insurer to whom such mailing was made and specifying the time, place and manner of mailing.

Section 299. Section 324.101, Florida Statutes, is amended to read:

324.101 Compliance before license or registration allowed.—In case the operator or owner of a motor vehicle involved in *a crash* ~~an accident~~ within the state has no license or registration, he or she shall not be allowed a license or registration until he or she has complied with the requirements of this chapter to the same extent that would be necessary, if at the time of the *crash* ~~accident~~ he or she had held a license and registration.

Section 300. Subsection (1) of section 324.202, Florida Statutes, is amended to read:

324.202 Seizure of motor vehicle license plates by recovery agents.—

(1) The Department of Highway Safety and Motor Vehicles shall implement a pilot project in Broward County, Dade County, and Hillsborough County to determine the effectiveness of using recovery agents for the seizure of license plates. ~~On October 1, 1996, the department shall provide a report to the President of the Senate, the Speaker of the House of Representatives, the chair of the Senate Commerce Committee, the chair of the House Insurance Committee, and the Majority and Minority Leaders of the Senate and the House of Representatives, on the results of the pilot project.~~ Licensed recovery agents and recovery agencies as described in s. 493.6101(20) and (21) may seize license plates of motor vehicles whose registrations have been suspended pursuant to s. 316.646 or s. 627.733 in such counties upon compliance with this section and rules of the Department of Highway Safety and Motor Vehicles.

Section 301. *Sections 325.01, 325.02, 325.03, 325.04, 325.05, 325.06, 325.07, 325.08, 325.09, and 325.10, Florida Statutes, are repealed.*

Section 302. Subsection (2) of section 325.209, Florida Statutes, is amended to read:

325.209 Waivers.—

(2) Before a waiver may be issued, the following criteria must be met:

(a) The motor vehicle owner must present evidence satisfactory to the department that a low emissions adjustment, as defined by rule of the Department of Environmental Protection, has been performed;

(b) The motor vehicle must not have been tampered with by either the current owner or any previous owner;

(c) The owner must have spent the required minimum amount for emissions-related repairs on the vehicle within the *180-day* ~~90-day~~ period prescribed in s. 325.203(1), not including the amount spent to repair or replace air pollution control equipment that has been tampered with. Emissions-related repairs performed within 30 days prior to inspection may also be considered under this provision. For any vehicle the registration period for which is established under s. 320.055(4) or (5), the required minimum amount for emissions-related repairs must be spent by the owner within *180* ~~90~~ days before the expiration of the registration period. The required minimum amount that must have been spent on related repairs is:

1. For motor vehicles designated as model years 1975 through 1979: $100; and

2. For motor vehicles designated as model year 1980 and thereafter: $200;

(d) Repairs and adjustments provided for in paragraphs (a) and (c) must have caused substantial improvement in the emissions performance of the motor vehicle; and

(e) The motor vehicle must not be covered under any manufacturer's or federally mandated emissions warranty.

Section 303. Subsection (2) of section 325.212, Florida Statutes, is reenacted to read:

325.212 Reinspections; reinspection facilities; rules; minority business participation.—

(2) Any motor vehicle repair shop, as defined in s. 559.903(7), may apply to the department, on a form approved by the department, to be licensed as a reinspection facility to reinspect motor vehicles which fail to pass inspections required by this act.

Section 304. Subsection (1) of section 328.17, Florida Statutes, is reenacted to read:

328.17 Nonjudicial sale of vessels.—

(1) It is the intent of the Legislature that any nonjudicial sale of any unclaimed vessel held for unpaid costs of repairs, improvements, or other work and related storage charges, or any vessel held for failure to pay removal costs pursuant to s. 327.53(7), or any undocumented vessel in default of marina storage fees be disposed of pursuant to the provisions of this section.

Section 305. Section 627.7415, Florida Statutes, is amended to read:

627.7415 Commercial motor vehicles; additional liability insurance coverage.—Commercial motor vehicles, as defined in s. 207.002(2) or s. 320.01, operated upon the roads and highways of this state shall be insured with the following minimum levels of combined bodily liability insurance and property damage liability insurance in addition to any other insurance requirements:

(1) Fifty thousand dollars per occurrence for a commercial motor vehicle with a gross vehicle weight of 26,000 pounds or more, but less than 35,000 pounds.

(2) One hundred thousand dollars per occurrence for a commercial motor vehicle with a gross vehicle weight of 35,000 pounds or more, but less than 44,000 pounds.

(3) Three hundred thousand dollars per occurrence for a commercial motor vehicle with a gross vehicle weight of 44,000 pounds or more.

(4) All commercial motor vehicles subject to regulations of the United States Department of Transportation, Title 49 C.F.R. part 387, subpart A, and as may be hereinafter amended, shall be insured in an amount equivalent to the minimum levels of financial responsibility as set forth in such regulations.

A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 306. Subsection (3) is added to section 627.742, Florida Statutes, to read:

627.742 Nonpublic sector buses; additional liability insurance coverage.—

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 307. Subsection (2) 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.—

(2) Whenever any person is charged with knowingly committing an assault or battery upon a law enforcement officer, a firefighter, an emergency medical care provider, a traffic accident investigation officer as described in s. 316.640, a traffic infraction enforcement officer as described in s. *316.640* ~~318.141~~, a parking enforcement specialist as defined in s. 316.640, or a security officer employed by the board of trustees of a community college, while the officer, firefighter, emergency medical care provider, intake officer, traffic accident investigation officer, traffic infraction enforcement officer, parking enforcement specialist, public transit employee or agent, or security officer is engaged in the lawful performance of his or her duties, the offense for which the person is charged shall be reclassified as follows:

(a) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

(b) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

(c) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree.

(d) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree.

Section 308. Subsection (1) of section 335.0415, Florida Statutes, is amended to read:

335.0415 Public road jurisdiction and transfer process.—

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

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 7, line 17, after the semicolon insert: reenacting s. 316.003, F.S.; relating to the definition of hazardous material; amending s. 316.008, F.S.; revising terminology and deleting obsolete provisions; amending s. 316.061, F.S.; providing second degree misdemeanor penalty for certain violations with respect to leaving the scene of an accident; revising terminology; amending ss. 316.027, 316.062, 316.063, 316.064, 316.065, 316.066, 316.068, 316.069, 316.070, 316.072, 316.640, 316.645, 318.1451, 318.17, 318.19, 318.32, 321.051, 321.23, 322.201, 322.221, 322.26, 322.291, 322.44, 322.61, 322.63, 324.011, 324.021, 324.022, 324.051, 324.061, 324.081, 324.091, 324.101, F.S.; changing the term "accident" to "crash"; amending s. 316.067, F.S.; providing a second degree misdemeanor penalty for certain false reports; amending ss. 316.0745, 316.0747, 316.1895, 316.193, 316.2065, F.S.; deleting obsolete provisions; amending s. 316.1935, F.S.; providing a first degree misdemeanor penalty for certain violations with respect to fleeing or attempting to elude a law enforcement officer; amending s. 316.2074, F.S.; deleting certain findings of the Legislature with respect to all-terrain vehicles; amending ss. 316.3027, 316.70, F.S.; providing reference to the United States Department of Transportation; amending s. 316.615, F.S., relating to school buses; amending ss. 316.613, 316.6135, F.S.; correcting reference to the Department of Highway Safety and Motor Vehicles; amending s. 316.405, F.S.; authorizing certain use of modulating headlights by motorcycles; revising various provisions in chapter 316, F.S., to conform cross-references, delete obsolete provisions, and to provide uniform references to penalties for moving and nonmoving noncriminal traffic offenses punishable under chapter 318, F.S.; amending s. 318.12, F.S.; revising references; amending ss. 318.13, 318.14, F.S.; conforming cross-references; amending ss. 318.18, 318.21, F.S.; revising provisions relating to civil penalties; repealing s. 318.39, F.S., relating to the Highway Safety Operating Trust Fund; amending s. 319.28, F.S.; revising provisions relating to repossession; amending s. 319.33, F.S.; conforming cross-references; amending ss. 320.02 and 320.03, F.S.; deleting obsolete provisions; amending s. 320.031, F.S.; revising provisions relating to the mailing of registration certificates, license plates, and validation stickers; amending s. 320.055, F.S.; conforming cross-references; amending ss. 320.06, 320.061, F.S.; deleting obsolete provisions; amending ss. 320.0605, 320.07, F.S.; providing uniform reference to noncriminal traffic infractions; repealing s. 320.073, F.S., relating to refund of impact fees; amending s. 320.0802, F.S.; providing reference to the Department of Management Services; amending s. 320.08058, F.S.; revising provisions relating to Manatee license plates and Florida Special Olympics license plates; amending s. 320.0848, F.S.; conforming a cross-reference with respect to disabled parking permits; amending s. 320.087, F.S.; providing reference to the United States Department of Transportation; amending s. 320.1325, F.S.; deleting a cross-reference; amending s. 320.20, F.S.; deleting obsolete provisions; amending s. 320.8255, F.S.; providing reference to labels rather than seals with respect to certain mobile home inspections; repealing s. 320.8256, F.S., relating to recreational vehicle inspection; repealing ss. 321.06, 321.07, 321.09, 321.15, 321.17, 321.18, 321.19, 321.191, 321.20, 321.201, 321.202, 321.203, 321.21, 321.22, 321.2205, 321.221, 321.222, 321.223, F.S., relating to the Florida Highway Patrol and the pension system therefor; amending s. 322.055, F.S.; providing reference to the Department of Children and Family Services; amending s. 322.0261, F.S.; revising terminology to change the term "accident" to "crash"; amending s. 322.08, F.S.; deleting obsolete provisions; amending ss. 322.12, 322.121, F.S.; conforming cross-references; amending s. 322.141, F.S.; deleting obsolete provisions; amending s. 322.15, F.S.; providing reference to noncriminal traffic infractions; amending s. 322.20, F.S.; providing reference to the Department of Health; reenacting and amending s. 322.264, F.S., relating to habitual traffic offenders; revising terminology; amending s. 322.27, F.S.; conforming cross-references; amending s. 322.292, F.S.; revising provisions relating to DUI programs supervision; amending s. 322.293, F.S.; deleting obsolete provisions; amending s. 322.57, F.S.; revising provisions relating to driving tests; amending s. 324.202, F.S.; deleting obsolete provisions; repealing ss. 325.01, 325.02, 325.03, 325.04, 325.05, 325.06, 325.07, 325.08, 325.09, 325.10, F.S., relating to vehicle safety equipment and inspections; amending s. 325.209, F.S.; revising provisions relating to waivers; reenacting s. 325.212(2), F.S., relating to reinspections; reenacting s. 328.17(1), F.S., relating to nonjudicial sale of vessels; amending s. 627.7415, F.S., relating to commercial motor vehicles, to include reference to noncriminal traffic infractions; amending s. 627.742, F.S.; providing reference to noncriminal traffic infractions with respect to certain violations with respect to nonpublic sector buses; amending s. 784.07, F.S.; conforming a cross-reference; amending s. 335.0415, F.S.; modifying the date to be used in determining the jurisdiction of and responsibility for public roads;

On motion by Senator Casas, the Senate concurred in the House amendments.

CS for CS for SB 1270 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—30

Madam President	Diaz-Balart	King	Rossin
Bronson	Dyer	Kirkpatrick	Saunders
Brown-Waite	Forman	Kurth	Sebesta
Burt	Geller	Laurent	Silver
Carlton	Grant	Lee	Thomas
Casas	Hargrett	McKay	Webster
Childers	Holzendorf	Mitchell	
Cowin	Horne	Myers	

Nays—7

Campbell	Gutman	Klein	Scott
Dawson-White	Jones	Meek	

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1356, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1356—A bill to be entitled An act relating to school health services; providing a short title; amending s. 381.0056, F.S.; defining the term "entity" or "health care entity"; requiring that certain services be documented in a local school health services plan; providing that certain entities providing school health services under contract with the Department of Health are instrumentalities of the state for certain purposes; providing limitations on tort actions; requiring such contractor to require providers to obtain certain liability insurance coverage; creating s. 381.0058, F.S., relating to public-private partnerships for the provision of school nurse services; providing legislative intent and purpose;

providing departmental duties; providing a proposal submission and review process; providing for the scope of services to be provided; providing for review and selection criteria; creating s. 381.0059, F.S., relating to background screening requirements for school health services providers; specifying the persons who must submit to such screening; specifying payment for screening services; providing grounds for disqualification; requiring certain attestation to screening requirements; amending s. 409.9071, F.S.; deleting reference to billing agent consulting services; directing the Department of Health to determine a means by which certain units of local government may receive a designation for purposes of federal Title V programs; requiring a study of training requirements for school health nurses; providing legislative intent relating to funding of the act; providing appropriations; providing an effective date.

House Amendment 1 (793477)(with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Section 381.0056, Florida Statutes, is amended to read:

381.0056 School health services program.—

(1) This section may be cited as the "School Health Services Act."

(2) The Legislature finds that health services conducted as a part of the total school health program should be carried out to appraise, protect, and promote the health of students. School health services supplement, rather than replace, parental responsibility and are designed to encourage parents to devote attention to child health, to discover health problems, and to encourage use of the services of their physicians, dentists, and community health agencies.

(3) When used in *or for purposes of* this section:

(a) "Emergency health needs" means onsite management and aid for illness or injury pending the student's return to the classroom or release to a parent, guardian, designated friend, or designated health care provider.

(b) "Entity" or "health care entity" means a unit of local government or a political subdivision of the state; a hospital licensed under chapter 395; a health maintenance organization certified under chapter 641; a health insurer authorized under the Florida Insurance Code; a community health center; a migrant health center; a federally qualified health center; an organization that meets the requirements for nonprofit status under section 501(c)(3) of the Internal Revenue Code; a private industry or business; or a philanthropic foundation that agrees to participate in a public-private partnership with a county health department, local school district, or school in the delivery of school health services, and agrees to the terms and conditions for the delivery of such services as required by this section and as documented in the local school health services plan.

(c)~~(b)~~ "Invasive screening" means any screening procedure in which the skin or any body orifice is penetrated.

(d)~~(c)~~ "Physical examination" means a thorough evaluation of the health status of an individual.

(e)~~(d)~~ "School health services plan" means the document that describes the services to be provided, the responsibility for provision of the services, the anticipated expenditures to provide the services, and evidence of cooperative planning by local school districts and county health departments.

(f)~~(e)~~ "Screening" means presumptive identification of unknown or unrecognized diseases or defects by the application of tests that can be given with ease and rapidity to apparently healthy persons.

(4) The Department of Health shall have the responsibility, in cooperation with the Department of Education, to supervise the administration of the school health services program and perform periodic program reviews. However, the principal of each school shall have immediate supervisory authority over the health personnel working in the school.

(5) Each county health department shall develop, jointly with the district school board and the local school health advisory committee, a *school* health services plan; and the plan shall include, at a minimum, provisions for:

(a) Health appraisal;

(b) Records review;

(c) Nurse assessment;

(d) Nutrition assessment;

(e) A preventive dental program;

(f) Vision screening;

(g) Hearing screening;

(h) Scoliosis screening;

(i) Growth and development screening;

(j) Health counseling;

(k) Referral and followup of suspected or confirmed health problems by the local county health department;

(l) Meeting emergency health needs in each school;

(m) County health department personnel to assist school personnel in health education curriculum development;

(n) Referral of students to appropriate health treatment, in cooperation with the private health community whenever possible;

(o) Consultation with a student's parent or guardian regarding the need for health attention by the family physician, dentist, or other specialist when definitive diagnosis or treatment is indicated;

(p) Maintenance of records on incidents of health problems, corrective measures taken, and such other information as may be needed to plan and evaluate health programs; except, however, that provisions in the plan for maintenance of health records of individual students must be in accordance with s. 228.093;

(q) Health information which will be provided by the school health nurses, when necessary, regarding the placement of students in exceptional student programs and the reevaluation at periodic intervals of students placed in such programs; and

(r) Notification to the local nonpublic schools of the school health services program and the opportunity for representatives of the local nonpublic schools to participate in the development of the cooperative health services plan.

(6) A nonpublic school may request to participate in the school health services program. A nonpublic school voluntarily participating in the school health services program shall:

(a) Cooperate with the county health department and district school board in the development of the cooperative health services plan;

(b) Make available *adequate* physical facilities for health services;

(c) Provide inservice health training to school personnel;

(d) Cooperate with public health personnel in the implementation of the school health services plan;

(e) Be subject to health service program reviews by the Department of Health and the Department of Education; and

(f) At the beginning of each school year, inform parents or guardians in writing that their children who are students in the school will receive specified health services as provided for in the district health services plan. A student will be exempt from any of these services if his or her parent or guardian requests such exemption in writing. This paragraph shall not be construed to authorize invasive screening; if there is a need for such procedure, the consent of the student's parent or guardian shall be obtained in writing prior to performing the screening. However, the laws and rules relating to contagious or communicable diseases and sanitary matters shall not be violated.

(7) The district school board shall:

(a) Coordinate the educational aspects of the school health services program with the Florida Comprehensive Health Education and Substance Abuse Prevention Act;

(b) Include health services and health education as part of the comprehensive plan for the school district;

(c) Provide inservice health training for school personnel;

(d) Make available *adequate* physical facilities for health services; and

(e) At the beginning of each school year, inform parents or guardians in writing that their children who are students in the district schools will receive specified health services as provided for in the district health services plan. A student will be exempt from any of these services if his or her parent or guardian requests such exemption in writing. This paragraph shall not be construed to authorize invasive screening; if there is a need for such procedure, the consent of the student's parent or guardian shall be obtained in writing prior to performing the screening. However, the laws and rules relating to contagious or communicable diseases and sanitary matters shall not be violated.

(8) The Department of Health, in cooperation with the Department of Education, may adopt rules necessary to implement this section.

(9) In the absence of negligence, no person shall be liable for any injury caused by an act or omission in the administration of school health services.

(10) Any health care entity that provides school health services under contract with the department pursuant to a school health services plan developed under this section, and as part of a school nurse services public-private partnership, is deemed to be a corporation acting primarily as an instrumentality of the state solely for the purpose of limiting liability pursuant to s. 768.28(5). The limitations on tort actions contained in s. 768.28(5) shall apply to any action against the entity with respect to the provision of school health services, if the entity is acting within the scope of and pursuant to guidelines established in the contract or by rule of the department. The contract must require the entity, or the partnership on behalf of the entity, to obtain general liability insurance coverage, with any additional endorsement necessary to insure the entity for liability assumed by its contract with the department. The Legislature intends that insurance be purchased by entities, or by partnerships on behalf of the entity, to cover all liability claims, and under no circumstances shall the state or the department be responsible for payment of any claims or defense costs for claims brought against the entity or its subcontractor for services performed under the contract with the department. This subsection does not preclude consideration by the Legislature for payment by the state of any claims bill involving an entity contracting with the department pursuant to this section.

Section 2. Section 381.0059, Florida Statutes, is created to read:

381.0059 Background screening requirements for school health services personnel.—

(1)(a) Any person who provides services under a school health services plan pursuant to s. 381.0056 must complete level 2 screening as provided in chapter 435. A person may satisfy the requirements of this subsection by submitting proof of compliance with the requirements of level 2 screening under s. 435.04, conducted within 12 months before the date that person initially provides services under a school health services plan pursuant to s. 381.0056. Any person who provides services under a school health services plan pursuant to s. 381.0056 shall be on probationary status pending the results of the level 2 screening.

(b) In order to conduct level 2 screening, any person who provides services under a school health services plan pursuant to s. 381.0056 must furnish to the Department of Health a full set of fingerprints to enable the department to conduct a criminal background investigation. Each person who provides services under a school health services plan pursuant to s. 381.0056 must file a complete set of fingerprints taken by an authorized law enforcement officer and must provide sufficient information for a statewide criminal records correspondence check through the Florida Department of Law Enforcement. The Department of Health shall submit the fingerprints to the Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check.

(c) The person subject to the required background screening or his or her employer must pay the fees required to obtain the background screening. Payment for the screening and the abuse registry check must be submitted to the Department of Health. The Florida Department of Law Enforcement shall charge the Department of Health for a level 2 screening at a rate sufficient to cover the costs of such screening pursuant to s. 943.053(3). The Department of Health shall establish a schedule of fees to cover the costs of the level 2 screening and the abuse registry check. The applicant or his or her employer who pays for the required screening may be reimbursed by the Department of Health from funds designated for this purpose.

(2)(a) When the Department of Health has reasonable cause to believe that grounds exist for the disqualification of any person providing services under a school health services plan pursuant to s. 381.0056, as a result of background screening, it shall notify the person in writing, stating the specific record that indicates noncompliance with the level 2 screening standards. The Department of Health must disqualify any person from providing services under a school health services plan pursuant to s. 381.0056 if the department finds that the person is not in compliance with the level 2 screening standards. A person who provides services under a school health plan pursuant to s. 381.0056 on a probationary status and who is disqualified because of the results of his or her background screening may contest that disqualification.

(b) As provided in s. 435.07, the Department of Health may grant an exemption from disqualification to a person providing services under a school health services plan pursuant to s. 381.0056 who has not received a professional license or certification from the Department of Health.

(c) As provided in s. 435.07, the Department of Health may grant an exemption from disqualification to a person providing services under a school health services plan pursuant to s. 381.0056 who has received a professional license or certification from the Department of Health.

(3) Any person who is required to undergo the background screening to provide services under a school health plan pursuant to s. 381.0056 who refuses to cooperate in such screening or refuses to submit the information necessary to complete the screening, including fingerprints, shall be disqualified for employment or volunteering in such position or, if employed, shall be dismissed.

(4) Under penalty of perjury, each person who provides services under a school health plan pursuant to s. 381.0056 must attest to meeting the level 2 screening requirements for participation under the plan and agree to inform the Department of Health immediately if convicted of any disqualifying offense while providing services under a school health services plan pursuant to s. 381.0056.

Section 3. *The Department of Health shall explore, with the federal Department of Health and Human Services, ways by which units of local government, other than county health departments, which participate in a school nurse services public-private partnership developed under section 381.0058, Florida Statutes, may be entitled to designation as Title V (Maternal and Child Health Block Grant) agencies. If the federal Department of Health and Human Services approves, the department shall adopt by rule the criteria and guidelines necessary to ensure oversight, flexibility, and accountability for purposes of granting such a designation. This designation is not intended to obligate any direct funding to the designated entity from the Title V funds of the Department of Health. Any money earned from Medicaid by such a designated entity must be reinvested in the school health services.*

Section 4. *The Department of Health shall study the feasibility of requiring additional training for nurses providing school health services. The Secretary of Health shall appoint two representatives from each of the following entities to serve on a study group: the Department of Health; the Department of Education; the Florida Nurses Association; the State University System; and the Board of Nursing. The Secretary of Health shall appoint a member of the study group to serve as chair. Members of the study group shall serve without compensation. The study group shall ascertain which services are being rendered and which aspects of these services are sufficiently unique to justify specific training in preparation for the delivery of such services; the appropriate duration for and content of a training curriculum for school health nurses; the costs and availability of training programs and resources for such training programs; the*

number of nurses currently employed in a school health capacity and whether these nurses require additional training or should be grandfathered-in; the factors that motivate nurses to seek such additional training; and any existing national training programs and their suitability for application in this state. The department shall report the findings and recommendations of the work group to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2000.

Section 5. This act shall take effect July 1, 1999.

And the title is amended as follows:

On page 1, line 2, through page 2, line 6, remove from the title of the bill: all of said lines and insert in lieu thereof: An act relating to school health services; amending s. 381.0056, F.S.; defining the term "entity" or "health care entity"; requiring that certain services be documented in a local school health services plan; providing that certain entities providing school health services under contract with the Department of Health are instrumentalities of the state for certain purposes; providing limitations on tort actions; requiring such contractor to require providers to obtain certain liability insurance coverage; creating s. 381.0059, F.S., relating to background screening requirements for school health services providers; specifying the persons who must submit to such screening; specifying payment for screening services; providing grounds for disqualification; requiring certain attestation to screening requirements; directing the Department of Health to determine a means by which certain units of local government may receive a designation for purposes of federal Title V programs; requiring a study of training requirements for school health nurses; providing an effective date.

On motion by Senator Klein, the Senate concurred in the House amendment.

CS for SB 1356 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	Grant	Laurent	Silver
Casas	Gutman	Lee	Sullivan
Childers	Hargrett	McKay	Thomas
Clary	Horne	Meek	Webster
Cowin	Jones	Mitchell	

Nays—None

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Friday, April 30, 1999: CS for CS for SB 972, CS for SB 264, CS for HB 903, 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

REPORTS OF COMMITTEES RELATING TO GUBERNATORIAL APPOINTMENTS

Faye Blanton April 30, 1999
Secretary of the Senate

Dear Secretary Blanton:

Please be advised that the following executive appointments were not considered by the Committee on Gubernatorial Appointments and Confirmations, left pending in Committee, and have not been acted on by the full Senate upon adjournment of the 1999 session of the Florida Legislature:

Office and Appointment		*For Term Ending*
Greater Orlando Aviation Authority		
Appointee:	Fuqua, Jeffry B.	04/16/2002
Interim Secretary of the Department of Lottery		
Appointee:	Cobb, Sue M.	Pleasure of Governor
Florida Transportation Commission		
Appointee:	Pino, Sergio	09/30/1999

Respectfully submitted,
William G. "Doc" Myers, Chairman

Faye Blanton April 30, 1999
Secretary of the Senate

Dear Secretary Blanton:

Please be advised that the following executive appointments of Governor Chiles, which were not recalled by Governor Bush, were not considered by the Committee on Gubernatorial Appointments and Confirmations and have not been acted on by the full Senate upon adjournment of the 1999 session of the Florida Legislature:

Office and Appointment		*For Term Ending*
Greater Orlando Aviation Authority		
Appointee:	Pugh, James H., Jr.	04/16/2002
Board of Trustees of Indian River Community College		
Appointee:	Pruitt, Donald E.	05/31/2002
Board of Trustees of North Florida Community College		
Appointee:	Chandler, Virginia B.	05/31/2001
Board of Trustees of South Florida Community College		
Appointee:	Livingston, James L.	05/31/1999
Postsecondary Education Planning Commission		
Appointees:	Langelier, Maricela V.	08/31/1998
	Tolle, Edgar E.	02/04/2002

Respectfully submitted,
William G. "Doc" Myers, Chairman

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State CS for CS for SB 1672 which he approved on April 30, 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 2121 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committee on Elder Affairs and Long-Term Care; and Representative Argenziano—

HB 2121—A bill to be entitled An act relating to public records; creating s. 400.1185, F.S.; providing an exemption from public records requirements for information contained in records of nursing home quality-of-care monitors; providing for review and repeal; providing a statement of public necessity; providing a contingent effective date.

—was referred to the Committee on Rules and Calendar.

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 CS for CS for SB 80, CS for SB 672, SB 928, SB 1178, SB 1288, CS for SB 1352, SB 1534, SB 1538, CS for SB 1596, CS for SB 1598, CS for CS for SB 1666, CS for SB 1742, CS for SB 1846, SB 1866, CS for CS for CS for SB 2192, CS for SB 2214, CS for CS for SB 2228, CS for SB 2268, CS for SB 2360, SB 2612, SB 2628 and SB 2688.

John B. Phelps, Clerk

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed SB 1972 by the required constitutional three-fifths vote of the membership.

John B. Phelps, Clerk

The bills contained in the foregoing messages were ordered enrolled.

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment 1 to House Amendment 1 and Senate Amendment 1 to House Amendment 4 and receded from House Amendments 2, 3, and 5 and passed CS for SB 312 as further amended.

John B. Phelps, Clerk

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 1 and 2 to House Amendment 1 and passed SB 756 as further amended.

John B. Phelps, Clerk

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendment(s) to House amendment(s) and passed CS for CS for SB 1566 and CS for SB 2186 as further amended.

John B. Phelps, Clerk

The bills contained in the foregoing messages were ordered engrossed and then enrolled.

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has accepted the Conference Committee Report as an entirety and passed HB 775, as amended by the Conference Committee Report.

John B. Phelps, Clerk

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendment(s), and passed CS for HB 1, HB 349, HB 591, HB 1081, HB 1603, HB 1613, CS for HB 1837, HB 2003, CS for HB 2067, HB 2125, HB 2167 and HB 2231, as amended.

John B. Phelps, Clerk

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendment(s) and passed as amended by the required Constitutional three-fifths vote of the membership of the House HB 1885.

John B. Phelps, Clerk

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment 1 to House Amendment 2 to Senate Amendment 1 and passed CS for CS for HB 17, as amended.

John B. Phelps, Clerk

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 29 was corrected and approved.

CO-SPONSORS

Senator Klein—SB 72, SB 248, CS for SB 714, CS for SB 716, SB 750, CS for SB 752, SB 1514

ADJOURNMENT

On motion by Senator McKay, the Senate adjourned sine die at 5:38 p.m.