The Journal OF THE House of Representatives

Number 18 **Thursday, April 26, 2001**

The House was called to order by the Speaker at 10:30 a.m.

Prayer

The following prayer was offered by the Reverend Henry D. Cribb, Jr. of First United Methodist Church of Apopka, upon invitation of Rep. Brummer:

Lord, we take a moment as we begin another day, to give You thanks and praise for the gift of life and every opportunity we are given to serve. Let Your favor rest upon us as we stop and ask for Your blessings for each of us, each family that we represent, each community represented here today, and for all the people of our state and our nation.

We seek Your wisdom and grace because we are aware of the important work still before each of our state leaders as they gather here today. Help them in all their debating, planning, and decision making, to be wise, and just, and compassionate as they fulfill their responsibilities. Help each of us to see ourselves as part of a larger community, larger than the communities that we come from or those that we represent as state leaders. Encourage us and help us to find ways in which we can be vehicles of Your love reaching out to all people across the state of Florida and around the world. Remind us of our greater responsibilities and of Your never-ending grace and help. Lord, may the work accomplished here today be pleasing in Your sight. Amen.

The following Members were recorded present:

Session Vote Sequence: 186

The Chair	Brown	Garcia	Kallinger
Alexander	Brummer	Gardiner	Kendrick
Allen	Brutus	Gelber	Kilmer
Andrews	Bucher	Gibson	Kosmas
Argenziano	Bullard	Goodlette	Kottkamp
Arza	Byrd	Gottlieb	Kravitz
Atwater	Cantens	Green	Kyle
Ausley	Clarke	Greenstein	Lacasa
Baker	Crow	Haridopolos	Lee
Ball	Cusack	Harper	Lerner
Barreiro	Detert	Harrell	Littlefield
Baxley	Diaz de la Portilla	Harrington	Lynn
Bean	Diaz-Balart	Hart	Machek
Bendross-Mindingall	Dockery	Heyman	Mack
Bennett	Farkas	Hogan	Mahon
Bense	Fasano	Holloway	Mayfield
Benson	Fields	Jennings	Maygarden
Berfield	Fiorentino	Johnson	McGriff
Betancourt	Flanagan	Jordan	Meadows
Bilirakis	Frankel	Joyner	Mealor
Bowen	Gannon	Justice	Melvin
Miller	Rich	Seiler	Stansel
Murman	Richardson	Simmons	Trovillion
Needelman	Ritter	Siplin	Wallace
Negron	Romeo	Slosberg	Waters
Paul	Ross	Smith	Weissman
Peterman	Rubio	Sobel	Wiles
Pickens	Russell	Sorensen	Wilson
Prieguez	Ryan	Spratt	Wishner

(A list of excused Members appears at the end of the *Journal*.)

A quorum was present.

Pledge

The Members, led by Amanda Holland of Orlando, Jeremy Johnson of Tallahassee, Elizabeth Lasher of Lutz, Dylan Smith of Alachua, Elizabeth Swanner of Chuluota, Jacqueline Tubaugh of Miami, and Ryan Wacker of Orlando, pledged allegiance to the Flag. Amanda Holland served at the invitation of Rep. Gardiner. Jeremy Johnson served at the invitation of Speaker Feeney. Elizabeth Lasher served at the invitation of Rep. Wallace. Dylan Smith served at the invitation of Rep. McGriff. Elizabeth Swanner and Jacqueline Tubaugh served at the invitation of Speaker Feeney. Ryan Wacker served at the invitation of Rep. Trovillion.

House Physician

The Speaker introduced Dr. Charles A. Morgan of Apopka, who served in the Clinic today upon invitation of Rep. Brummer.

Correction of the *Journal*

The *Journal* of April 25 was corrected and approved as follows: On page 689, column 1, line 28 from the bottom, delete “read the second time by title”, and insert in lieu thereof: taken up, having been read the second time by title earlier today.

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed SB 782, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By Senators Sanderson and Cowin—

SB 782—A bill to be entitled An act relating to nursing education; amending ss. 240.4075, 240.4076, F.S.; including nursing homes, family practice teaching hospitals and specialty children’s hospitals as facilities eligible under the program; exempting such hospitals from the

fund-matching requirements of the program; transferring the program from the Board of Regents to the Department of Health; providing an effective date.

—was read the first time by title and referred to the Calendar of the House.

Reports of Councils and Standing Committees

Report of the Procedural & Redistricting Council

The Honorable Tom Feeney April 25, 2001
Speaker, House of Representatives

Dear Mr. Speaker:

Your Procedural & Redistricting Council herewith submits as Special Orders for Thursday, April 26, 2001. Consideration of the House Bills on Special Orders shall include the Senate Companion Measures on the House Calendar.

I. Consideration of the attached list of bills:

A quorum of the Council was present in person, and a majority of those present agreed to the above Report.

Respectfully submitted,
Johnnie B. Byrd, Jr.
Chair

Special Orders for Thursday, April 26, 2001

1861	Green	Quality of Long-Term Care Facility
1617	Dockery	Growth Management
1055	Needelman	Worker's Comp/Law Enforcement
1927	Waters	Worker's Comp
1881	Green	Public Records/Nursing Homes
1915	Spratt	Agri. & Consumer Services Dept.
1805	Waters	Public Records/Motor Vehicle Crash
953	Bilirakis	Burglary
1395	Needelman	Driver Lic. Div./Exclusionary Rule
1131	Barreiro	Criminal Rehabilitation
1937	Byrd	State Revenue Collections/Court Clerk
1939	Byrd	Dept of Revenue Clerks of Court TF
365	Hogan	Public Records/Health/Financial Info.
1971	Harrington	Water Supply Policy
807	Bense	Hwy Safety/Motor Vehicle/Vessels
1429	Byrd	Cardiac Arrest Survival Act
1053	Russell	Transportation
1885	Littlefield	Health Care
475	Hogan	Public Health
477	Hogan	Public Records/Parents ID/Newborns
37	Paul	Absentee Ballots (Memorial)
1799	Detert	Children's Behavioral Crisis Unit
1145	Murman	Foster Care/Residential Care
1073	Murman	Behavioral Health Care Services
179	Lynn	Child Care Facilities
1895	Farkas	Health Care
1867	Farkas	Health Care Practitioner Regulation
1067	Kyle	Physician Records/Adverse Incidents
605	Gibson	Florida Alzheimer's Training Act
1403	Mealor	Health Care
649	Bilirakis	Law Enforcement Officers Disability
437	Farkas	Pharmacists/Licensure by Endorsement
1415	Kallinger	Medicaid/Environmental Modification
1253	Farkas	Limited Benefit Policies/Contracts
1529	Simmons	Controlled Substances
715	Lerner	Mary Brogan/Breast & Cervical Cancer
1765	Melvin	Public Protection
1777	Murman	Schools/Adult Entertainment Location
1845	Hart	Criminal Use of Personal ID Info.
1691	Atwater	Law Enforcement Officers
137	Goodlette	Probate
1341	Benson	Ad Val Tax / Refund of Filing Fees
163	Prieguez	Tax/Collegiate Facility Renovation
247	Harrell	Unfair Discrimination/Insurance
109	Cantens	Collection of Consumer Debts
427	Fiorentino	Homelessness
489	Johnson	High Speed Rail Study Commission
1485	Kravitz	Sexual Offenders Release Supervision
973	Davis	Property Tax/Disabled/Physicians
601	Pickens	Judgment Liens on Personal Property
573	Gibson	Homestead Assessment /Elderly Living
295	Gibson	Ad Val Tax Exemption/Elderly Living
991	Mayfield	Funeral & Cemetery Services
1205	Diaz-Balart	School Employee/Unused Sick Leave
1255	Diaz-Balart	Florida Building Code
987	Rubio	Cultural Affairs Division / Grants
1411	Pickens	District School Tax (Pending Committee Action)
1519	Berfield	Clearinghouse on Disability Info. (Pending Committee Action)
1541	Prieguez	Public Records/Economic Development
1585	Detert	Public Records/Abandoned Property
1785	Haridopolos	Brevard Co/City of Satellite Beach
1759	Hart	Stalking Offense/Cyberstalk (Pending Committee Action)
345	Johnson	Sports Industry Economic Development
1695	Alexander	Public Records/Student Assessments
159	Rubio	HMO/Physicians/Adverse Determination
1633	Attkisson	Student Assessment
1545	Lynn	Schools/Performance Reporting
1533	Lynn	Education Governance Reorg
1509	Diaz-Balart	Student Financial Assistance
1193	Arza	Teacher Quality
1043	Kilmer	Sewer, Water, & Stormwater Systems
463	Baxley	Florida Prepaid College Program
267	Kravitz	School Attendance/Violent Offenders
281	Alexander	Higher Educational Facilities
1089	Bilirakis	Real Estate professionals
599	Mack	Public Record/Child Support Services
1091	Wishner	Fla. Golf License Plate
1787	Berfield	Warranty Associations / Motor Vehicles
1811	Hart	Information Technology
1829	Russell	Motor Vehicle Titles
329	Baxley	Drug Free Legislators
1833	Crow	Real Property Liens/Duration
411	Kyle	Florida Mobile Home Act
453	Prieguez	Energy Performance Savings
1207	Carassas	Nonprofit Civic Organization/Alcohol
699	Goodlette	Rural Electric Cooperatives
805	Benson	Pool/Spa Servicing Contractor
209	Maygarden	Taxes/Property/Airports & Seaports
1009	Baxley	Excise Tax on Documents
1077	Mack	Health Care/Alternative Treatment
1125	Sorensen	Monroe Co. /Water Quality Standards
1889	Ritter	Taxation/Communication Services
1891	Ritter	Public Records/Communications Tax
1893	Ritter	Local Communications Services Tax TF
1669	Paul	Harris Chain of Lakes Restoration
1681	Miller	Pest Control Operators
1957	Hart	State Technology/Property & Services
3	Ball	Citizens' Right to Honest Gov't Act
211	Maygarden	Civil Actions/Admission of Liability
529	Wallace	Outcome-Based Total Accountability
521	Green	Financial Institutions
571	Johnson	Economic Impact Statement/Voting
575	Baker	Filing Fees/Corporate Fee
955	Bean	Correctional Officers / Job Protection
593	Bowen	Municipal Law Enforcement Officers
757	Barreiro	Wrecker Liens
767	Brown	Structured Settlements
1959	Hart	Technology Enterprise Operating TF
791	Hogan	Property Exempt from Legal Process
989	Mealor	Universities Designations
1111	Allen	Spaceport Infrastructure Act
1763	Hart	DEP/Public Notices/Internet Costs
1491	Attkisson	Wastewater Residual Reduction Act

1803	Waters	Workers Compensation
251	Kilmer	Sales Tax Exemption/Clothing
9	Ball	Solid Waste Management Facilities
113	Trovillion	Construction / Prompt Payment Act
379	Allen	Entertainment Industry
1955	Hart	Law Enforcement Radio Operating TF
747	Brown	Credit Insurance
961	Carassas	Nursing Homes & Health Care Facility
1969	Harrington	Land Acquisition & Mgmt
1425	Bowen	Violent Crime & Drug Control Council
1565	Hogan	Public Records/Archaeological/Culture
625	Bean	Security for Public Deposits
441	Baker	County Government/Property Sales
701	Bean	Correctional Officers Memorial Hwy
595	Haridopolos	Landlord & Tenant
1031	Carassas	Durable Powers of Attorney
1611	Arza	Relief/Mary Beth Wiggers/DOC
1219	Brown	Insurance Agents
1479	Bowen	Insurance Examination/Exemptions
1059	Baker	NASA's Small Aircraft Transportation
789	Mealor	Governmental Data Processing
167	Littlefield	Domestic Violence
19	Greenstein	Fair Housing Act
73	Wallace	Fla. Customer Service Standards Act
579	Crow	Uniform commercial Code
131	Harrington	Correctional Facilities
175	Machek	Reckless Driving
201	Rubio	Moving Traffic Violation/Fees
259	Slosberg	Driver's Licenses/DUI Convictions
689	Wallace	Taxes/Limitations
293	Crow	Certified Capital Company Act
301	Wilson	Testing of Inmates for HIV
315	Kottkamp	Opticianry/Violations & Penalties
331	Baxley	Physician Assistants
333	Kosmas	Cultural Endowment Program
93	Harrington	Road & Bridge Designations
351	Mayfield	Deferred Compensation Programs
371	Spratt	Electric Utilities/Interruption
1349	Mealor	Crimes/Using 2-way communications
1569	Garcia	Probation or Community Control
687	Romeo	Medically Essential Electric Service
717	Stansel	Assessment of Agricultural Property
1835	Crow	Excise Tax/Real Property
731	Kottkamp	Public Records/Local Govt/WMD
811	Clarke	Criminal Records/Obscene Materials
863	Ritter	North Springs Improvement District (LB)
959	Gottlieb	Mortgage-Foreclosure Proceedings
967	Gardiner	Enterprise Zones/Boundaries
497	Andrews	Homicide of an Unborn Child
1039	Paul	Ad Val/Disabled Ex-Service Members
235	Prieguez	Dental Service Claims/Appeals
1203	Mealor	Motor Vehicles
1221	Cantens	Water Mgmt Districts
1379	Flanagan	Emergency Telephone System
1401	Pickens	DUI
1419	Trovillion	Historic Preservation
1547	Kottkamp	Fla. Prepaid College Program
1603	Mayfield	Comprehensive Everglades Restoration
1635	Goodlette	Environmental Control
147	Ball	DNA Evidence
729	Argenziano	Environmental Control
261	Jordan	Law Officer/Background Investigators
719	Stansel	Agri.Products/Damage or Destruction
721	Stansel	Public Records/Agricultural Records
1397	Greenstein	Florida Mobile Home Relocation TF
1147	Kendrick	Public Records/Personal/Medical
1437	Ball	Public Records/Communications Systems
1615	Brummer	School District Guarantee Program
545	Carassas	David Levitt School Anti Hunger Act
1433	Bennett	Growth Management
1601	Jennings	Workforce Development
465	Baker	Tuition/Residency/National Guard
1661	Mealor	John McKay Scholarships/Students /Disabilities
1015	Harrell	Young Children/Learning Gateway (Pending Committee Action)
1339	Farkas	State University System (Pending Committee Action)

On motion by Rep. Byrd, the above report was adopted.

Motions Relating to Committee or Council References

On motion by Rep. Goodlette, agreed to by two-thirds vote, HBs 193 and 653 and CS/HB 793 were withdrawn from the Council for Healthy Communities and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 457 was withdrawn from the Council for Competitive Commerce and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, CS/HB 795 was withdrawn from the Procedural & Redistricting Council and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1017 was withdrawn from the Committee on Judicial Oversight and remains referred to the Council for Competitive Commerce.

On motion by Rep. Goodlette, agreed to by two-thirds vote, CS/HB 1101 was withdrawn from the Committee on Judicial Oversight and remains referred to the Council for Ready Infrastructure.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1169 was withdrawn from the Committee on Crime Prevention, Corrections & Safety and remains referred to the Council for Healthy Communities.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1225 was withdrawn from the Council for Competitive Commerce and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, CS/HB 1385 was withdrawn from the Committee on Workforce & Technical Skills and remains referred to the Council for Smarter Government.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1431 was withdrawn from the Council for Lifelong Learning and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1587 was withdrawn from the Council for Healthy Communities and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1869 was withdrawn from the Council for Healthy Communities and placed on the Calendar of the House.

Motion

Among the earlier motions to withdraw bills from Committees or Councils, Rep. Goodlette moved to withdraw CS/HB 1819 from the Council for Smarter Government.

Under Rule 11.4, Rep. Ritter requested a division of the question.

On motion by Rep. Goodlette, agreed to by two-thirds vote, CS/HB 1819 was withdrawn from the Council for Smarter Government and placed on the Calendar of the House.

Bills and Joint Resolutions on Third Reading

Pursuant to adoption of Special Rule 01-11, consideration of Bills and Joint Resolutions on Third Reading was temporarily postponed.

Special Orders

Special Order Calendar

HB 1861—A bill to be entitled An act relating to trust funds; creating the Quality of Long-Term Care Facility Improvement Trust Fund within

the Agency for Health Care Administration; providing for sources of funds and purposes; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing a contingent effective date.

—was read the second time by title.

Representative(s) Green offered the following:

(Amendment Bar Code: 372501)

Amendment 1—On page 1, line 21 through 23
remove from the bill: said lines

and insert in lieu thereof: *and 400.430, Florida Statutes,*

Rep. Green moved the adoption of the amendment, which was adopted.

Representative(s) Green offered the following:

(Amendment Bar Code: 564449)

Amendment 2—On page 2, lines 19 and 20
remove from the bill: all said lines

and insert in lieu thereof:

(3) The agency shall carry out through the trust fund the priorities and

Rep. Green moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HBs 1617 & 1487—A bill to be entitled An act relating to growth management; amending s. 163.3174, F.S.; requiring that local planning agencies include a representative of the district school board; repealing s. 163.3177(12), F.S., which provides requirements for a public school facilities element of a local government comprehensive plan adopted to implement a school concurrency program; amending s. 163.3177, F.S.; revising requirements for the future land use element and intergovernmental coordination element with respect to planning for schools; creating s. 163.31776, F.S.; providing legislative intent and findings; requiring that a local government comprehensive plan include a public educational facilities element; providing that the state land planning agency shall establish a schedule for adoption of such elements; exempting certain municipalities from adopting such elements; requiring local governments and the school board to enter into an interlocal agreement and providing requirements with respect thereto; providing requirements for such elements; providing requirements for future land use maps; specifying the process for adoption of such elements; specifying the effect of a local government's failure to enter into an interlocal agreement or transmit such element according to the adopted schedule and of a school board's failure to provide certain information or to enter into an interlocal agreement; creating s. 163.31777, F.S.; requiring that local governments consider public school facilities when considering certain comprehensive plan amendments and rezonings; requiring that the school board provide a school capacity report; requiring denial of such amendments or rezoning requests under certain conditions; providing requirements for proportionate share mitigation of public school facility impacts; providing for development agreements with respect thereto; providing for certain credits; amending s. 163.3180, F.S.; providing requirements with respect to the public educational facilities element when school concurrency is imposed by local option; removing school concurrency requirements relating to intergovernmental coordination and exemption for certain municipalities; revising requirements relating to an interlocal agreement for school concurrency; amending s. 163.3184, F.S.; including requirements for plan amendments relating to the public educational facilities element in the process for adoption of comprehensive plan amendments; amending s. 163.3187, F.S.; providing that plan amendments to adopt such elements and future land use map amendments for school siting are not subject to the statutory limits on the frequency of plan amendments; amending s. 163.3191, F.S.; conforming language; creating s. 163.3198, F.S.; directing the state land planning agency to develop fiscal analysis models for determining the costs and revenues of proposed development; providing requirements with respect thereto; creating a commission to oversee such development; providing for field tests of the models developed; directing the commission to make recommendations to the Governor and Legislature regarding statewide implementation of a uniform model and other growth management issues; providing an appropriation; amending s. 235.002, F.S.; revising legislative intent and findings with respect to educational facilities; amending s. 235.15, F.S.; removing specific need assessment criteria for a school district's educational plant survey and providing that the survey shall be submitted as part of the district's educational facilities plan; revising provisions relating to certain deviation from space need standards; providing for review and validation of surveys by the Office of Educational Facilities; revising requirements relating to certifications necessary for expenditure of PECO funds; amending s. 235.175, F.S.; providing legislative purpose with respect to the district educational facilities plans; amending s. 235.18, F.S.; conforming language; amending s. 235.185, F.S.; providing definitions; providing requirements for preparation of an annual tentative educational facilities plan by each school district; providing requirements for the district's facilities 5-year work program; providing for submittal of the tentative plan to local governments for review and comment; providing for annual adoption of the plan; providing for execution of the plan; removing provisions relating to 10-year and 20-year work programs; amending s. 235.188, F.S.; conforming language; amending s. 235.19, F.S., relating to site planning and selection; providing that said section is superseded by an interlocal agreement between a school board and local government and the school board and local government plans under certain conditions; revising site selection requirements; removing a requirement that the Commissioner of Education prescribe recommended sizes for new educational facility sites; amending s. 235.193, F.S.; requiring school districts and local governments to enter into an interlocal agreement and providing requirements with respect thereto; specifying effect of failure to enter into the interlocal agreement; requiring the school board to provide a local government certain information when it is considering certain comprehensive plan amendment or rezoning applications; revising requirements relating to school board responsibilities in planning with local governments; revising requirements relating to location of educational facilities; revising a notice requirement regarding proposed use of property for an educational facility; providing for inclusion of an alternative process for proposed facility review in the required interlocal agreement; conforming language; repealing s. 235.194, F.S., which requires school boards to submit an annual general educational facilities report to local governments; amending ss. 235.218, 235.321, and 236.25, F.S.; conforming language; providing an effective date.

—was read the second time by title.

Representative(s) Alexander and Diaz-Balart offered the following:

(Amendment Bar Code: 925427)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsection (1) of section 163.3174 is amended to read:

163.3174 Local planning agency.—

(1) The governing body of each local government, individually or in combination as provided in s. 163.3171, shall designate and by ordinance establish a "local planning agency," unless the agency is otherwise established by law. *Notwithstanding any special act to the contrary, no later than January 1, 2002, each local planning agencies shall include a representative of the district school board as a member of the local planning agency.* The governing body may designate itself as the local planning agency pursuant to this subsection *with the addition of a school board representative*. The governing body shall notify the state land planning agency of the establishment of its local planning

agency. All local planning agencies shall provide opportunities for involvement by ~~district school boards and~~ applicable community college boards, which may be accomplished by formal representation, membership on technical advisory committees, or other appropriate means. The local planning agency shall prepare the comprehensive plan or plan amendment after hearings to be held after public notice and shall make recommendations to the governing body regarding the adoption or amendment of the plan. The agency may be a local planning commission, the planning department of the local government, or other instrumentality, including a countywide planning entity established by special act or a council of local government officials created pursuant to s. 163.02, provided the composition of the council is fairly representative of all the governing bodies in the county or planning area; however:

Section 2. Paragraphs (a) and (h) of Subsection (6) and subsection (11) of section 163.3177 is amended, and subsection (12) is repealed:

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; 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 the school siting requirements of this paragraph no later than October 1, 1999. The failure by a local government to comply with these school siting requirements by October 1, 1999, will result in the prohibition of the local government's ability to amend the local comprehensive plan, except for plan amendments described in s. 163.3187(1)(b), until the school siting requirements are met. ~~An amendment~~ *Amendments* proposed by a local government for purposes of identifying the land use categories in which public schools are an allowable use *or for adopting or amending the school siting maps pursuant to s. 163.31776(6) are* ~~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~~ *and to encourage using elementary schools as focal points for neighborhoods. For schools serving predominantly rural counties, defined as a county with a population of less than 75,000, an agricultural land use category shall be eligible for the location of public school facilities if the local comprehensive plan contains school siting criteria, and the location is consistent with such criteria.*

5. Intergovernmental coordination between local governments and the district school board shall be governed by ss. 163.31776 and 163.31777 for local governments subject to the requirements of those sections and is encouraged for local governments exempt from such requirements.

(11)(a) The Legislature recognizes the need for innovative planning and development strategies which will address the anticipated demands of continued urbanization of Florida's coastal and other environmentally sensitive areas, and which will accommodate the development of less populated regions of the state which seek economic development and which have suitable land and water resources to accommodate growth in an environmentally acceptable manner. The Legislature further recognizes the substantial advantages of innovative approaches to development which may better serve to protect environmentally sensitive areas, maintain the economic viability of agricultural and other predominantly rural land uses, and provide for the cost-efficient delivery of public facilities and services.

(b) It is the intent of the Legislature that the local government comprehensive plans and plan amendments adopted pursuant to the provisions of this part provide for a planning process which allows for land use efficiencies within existing urban areas and which also allows for the conversion of rural lands to other uses, where appropriate and consistent with the other provisions of this part and the affected local comprehensive plans, through the application of innovative and flexible planning and development strategies and creative land use planning techniques, which may include, but not be limited to, urban villages, new towns, satellite communities, area-based allocations, clustering and open space provisions, mixed-use development, and sector planning.

(c) It is the further intent of the Legislature that local government comprehensive plans and implementing land development regulations shall provide strategies which maximize the use of existing facilities and services through redevelopment, urban infill development, and other strategies for urban revitalization.

(d)1. The department, in cooperation with the Department of Agriculture and Consumer Services, shall provide assistance to local governments in the implementation of this paragraph and s. 9J-5.006(5)(l), Florida Administrative Code. Implementation of those provisions shall include a process by which the department may authorize up to five local governments to designate all or portions of lands classified in the future land use element as predominantly agricultural, rural, open, open-rural, or a substantively equivalent land use, as a rural land stewardship area within which planning and economic incentives are applied to encourage the implementation of innovative and flexible planning and development strategies and creative land use planning techniques, including those contained in Rule 9J-5.006(5)(l), Florida Administrative Code.

2. The department shall encourage participation by local governments of different sizes and rural characteristics. It is the intent of the Legislature that rural land stewardship areas be used to further the following broad principles of rural sustainability: restoration and maintenance of the economic value of rural land; control of urban sprawl; identification and protection of ecosystems, habitats, and natural resources; promotion of rural economic activity; maintenance of

the viability of Florida's agricultural economy; and protection of the character of rural areas of Florida.

3. A local government may apply to the department in writing requesting consideration for authorization to designate a rural land stewardship area and shall describe its reasons for applying for the authorization with supporting documentation regarding its compliance with criteria set forth in this section.

4. In selecting a local government, the department shall, by written agreement:

a. Ensure that the local government has expressed its intent to designate a rural land stewardship area pursuant to the provisions of this subsection and clarify that the rural land stewardship area is intended.

b. Ensure that the local government has the financial and administrative capabilities to implement a rural land stewardship area.

5. The written agreement shall include the basis for the authorization and provide criteria for evaluating the success of the authorization including the extent the rural land stewardship area enhances rural land values; control urban sprawl; provides necessary open space for agriculture and protection of the natural environment; promotes rural economic activity; and maintains rural character and the economic viability of agriculture. The department may terminate the agreement at any time if it determines that the local government is not meeting the terms of the agreement.

6. A rural land stewardship area shall be not less than 50,000 acres and shall not exceed 400,000 acres in size, shall be located outside of municipalities and established urban growth boundaries, and shall be designated by plan amendment. The plan amendment designating a rural land stewardship area shall be subject to review by the Department of Community Affairs pursuant to s. 163.3184, F.S., and shall provide for the following:

a. Criteria for the designation of receiving areas within rural land stewardship areas in which innovative planning and development strategies may be applied. Criteria shall at a minimum provide for the following: adequacy of suitable land to accommodate development so as to avoid conflict with environmentally sensitive areas, resources, and habitats; compatibility between and transition from higher density uses to lower intensity rural uses; the establishment of receiving area service boundaries which provide for a separation between receiving areas and other land uses within the rural and stewardship are through limitations on the extension of services; and connection of receiving areas with the rest of the rural land stewardship area using rural design and rural road corridors.

b. Goals, objectives, an policies setting forth the innovative planning and development strategies to be applied within rural land stewardship areas pursuant to the provisions of this section.

c. A process for the implementation of innovative planning and development strategies within the rural land stewardship area, including those described in this subsection and s. 9J-5.006(5)(1), Florida Administrative code, which provide for a functional mix of land uses and which are applied through the adoption by the local government of zoning and land development regulations applicable to the rural land stewardship area.

d. A process which encourages visioning pursuant to s. 163.3167(11) to ensure that innovative planning and development strategies comply with the provisions of this section.

e. The control of sprawl through the use of innovative strategies and creative land use techniques consistent with the provisions of this subsection and rural 9J-5.006(5)(1), Florida Administrative Code.

7. A receiving area shall be designated by the adoption of a land development regulation. Prior to the designation of a receiving area, the local government shall provide the Department of Community Affairs a period of 30 days in which to review a proposed receiving area for consistency with the rural land stewardship area plan amendment and to provide comments to the local government.

8. Upon the adoption of a plan amendment creating a rural land stewardship area, the local government shall, by ordinance, assign to the area a certain number of credits, to be known as "transferable rural land use credits," which shall not constitute a right to develop land, nor increase density of land, except as provided by this section. The total amount of transferrable rural land use credits assigned to the rural land stewardship area must correspond to the 25-year or greater projected population of the rural land stewardship area. Transferable rural land use credits are subject to the following limitations:

a. Transferable rural land use credits may only exist within a rural land stewardship area.

b. Transferable rural land use credits may only be used on lands designated as receiving areas and then solely for the purpose of implementing innovative planning and development strategies and creative land use planning techniques adopted by the local government pursuant to this section.

c. Transferable rural land use credits assigned to a parcel of land within a rural land stewardship area shall cease to exist if the parcel of land is removed from the rural land stewardship area by plan amendment.

d. Neither the creation of the rural land stewardship area by plan amendment nor the assignment of transferable rural land use credits by the local government shall operate to displace the underlying density of land uses assigned to a parcel of land within the rural land stewardship area; however, if transferable rural land use credits are transferred from a parcel for use within a designated receiving area, the underlying density assigned to the parcel of land shall cease to exist.

e. The underlying density on each parcel of land located within a rural land stewardship area shall not be increased or decreased by the local government, except as a result of the conveyance or use of transferable rural land use credits, as long as the parcel remains within the rural land stewardship area.

f. Transferable rural land use credits shall cease to exist on a parcel of land where the underlying density assigned to the parcel of land is utilized.

g. An increase in the density of use on a parcel of land located within a designated receiving area may occur only through the assignment or use of transferable rural land use credits and shall not require a plan amendment.

h. A change in the density of land use on parcels located within receiving areas shall be specified in a development order which reflects the total number of transferable rural land use credits assigned to the parcel of land and the infrastructure and support services necessary to provide for a functional mix of land uses corresponding to the plan of development.

i. Land within a rural land stewardship area may be removed from the rural land stewardship area through a plan amendment.

j. Transferable rural land use credits may be assigned at different ratios of credits per acre according to the land use remaining following the transfer of credits, with the highest number of credits per acre assigned to preserve environmentally valuable land and a lesser number of credits to be assigned to open space and agricultural land.

k. The use or conveyance of transferable rural land use credits must be recorded in the public records of the county in which the property is located as a covenant or restrictive easement running with the land in favor of the county and either the Department of Environmental Protection, Department of Agriculture and Consumer Services, a water management district, or a recognized statewide land trust.

9. Owners of land within rural land stewardship areas should be provided incentives to enter into rural land stewardship agreements, pursuant to existing law and rules adopted thereto, with state agencies,

water management districts, and local governments to achieve mutually agreed upon conservation objectives. Such incentives may include, but not be limited to, the following:

a. Opportunity to accumulate transferable mitigation credits.

b. Extended permit agreements.

c. Opportunities for recreational leases and ecotourism.

d. Payment for specified land management services on publicly owned land, or property under covenant or restricted easement in favor of a public entity.

e. Option agreements for sale to government, in either fee or easement, upon achievement of conservation objectives.

10. The department shall report to the Legislature on an annual basis on the results of implementation of rural land stewardship areas authorized by the department, including successes and failures in achieving the intent of the Legislature as expressed in this paragraph. It is further the intent of the Legislature that the success of authorized rural land stewardship areas be substantiated before implemention occurs on a statewide basis.

(e)~~(d)~~ The implementation of this subsection shall be subject to the provisions of this chapter, chapters 186 and 187, and applicable agency rules.

(f)~~(e)~~ The department *is authorized to adopt rules as required to* ~~shall~~ implement the provisions of this subsection ~~by rule~~.

Section 3. Create new Section 163.31776:

163.31776 Public Educational Facilities Element.—

(1) The intent of the Legislature is:

(a) To establish a systematic process of sharing information between school boards and local governments on the growth and development trends in their communities in order to forecast future enrollment and school needs;

(b) To establish a systematic process for school boards and local governments to cooperatively plan for the provision of educational facilities to meet the current and projected needs of the public education system population, including the needs placed on the public education system as a result of growth and development decisions by local government;

(c) To establish a systematic process for local governments and school boards to cooperatively identify and meet the infrastructure needs of public schools to assure healthy school environments and safe school access;

(2) The Legislature finds that:

(a) Public schools are a linchpin to the vitality of our communities and play a significant role in thousands of individual housing decisions which result in community growth trends;

(b) Growth and development issues transcend the boundaries and responsibilities of individual units of government, and often no single unit of government can plan or implement policies to deal with these issues without affecting other units of government.

(3) A public educational facilities element shall be adopted in cooperation with the applicable school district by all local governments meeting the criteria identified in paragraph (a). All local governments are encouraged to adopt a public educational facilities element regardless of whether it meets the criteria of paragraph (a) or is exempted by subparagraph (c). The public educational facilities elements shall be transmitted no later than January 1, 2003, for those local governments initially meeting the criteria in paragraph (a).

(a) A local government must adopt a public educational facilities element if the local government is located in a county where the districtwide number of actual public school students:

1. are 80 percent or greater of the most current year's school capacity and the projected five-year student growth is 1,000 students or greater, or

2. the projected five-year student growth rate is 10 percent or greater.

(b) The Department of Education shall issue a report notifying the state land planning agency and each county and school district that meets the criteria in (a) on June 1 of each year. Local governments and school boards will have 18 months following notification to comply with the requirements of ss. 163.31776 and 163.31777.

(c) Each municipality shall adopt its own element or adopt a plan amendment accepting the public educational facilities element adopted by the county which includes the municipality's area of authority as defined in s. 163.3171. However, a municipality is exempt from this requirement if it does not contain a public school within its jurisdiction or none is scheduled in the five year district facilities work program of the school board's education facilities plan adopted pursuant to s. 235.185, and if the residents of the municipality have generated less than 50 additional public school students during the last five years.

Any municipality currently exempt shall notify the county and the school board of any planned annexations into residential or proposed residential areas or other change in condition and shall comply with the provisions of this subsection no later than one year following a change in conditions which render the municipality no longer eligible for exemption or the identification of a proposed public school in the school board's five-year district facilities work program in the municipality's jurisdiction.

(d) The Department of Education and the Department of Community Affairs will submit a report to the Governor, the President of the Senate, and Speaker of the House of Representative by January 2003, that evaluates the criteria in s. 163.31776(3)(a) and makes any recommendations for changes to the criteria as needed to meet the intent of this part.

(4) No later than six months prior to the deadline for transmittal of a public educational facilities element, the county, the non-exempt municipalities, and the school board shall enter into an interlocal agreement which establishes a process to develop coordinated and consistent local government public educational facilities elements and district education facilities plan, including a process:

(a) By which each local government and the school district agree and base the local government comprehensive plan and educational facilities plan on uniform projections of the amount, type, and distribution of population growth and student enrollment.

(b) To coordinate and share information relating to existing and planned public school facilities and local government plans for development and redevelopment.

(c) To ensure school siting decisions by the school board are consistent with the local comprehensive plan and future land use maps, including appropriate circumstances and criteria under which a school district may request an amendment to the comprehensive plan for school siting, and for early involvement by the local government as the school board identifies potential school sites.

(d) To coordinate and provide timely formal comments during the development, adoption, and amendment of each local government's public educational facilities element and the educational facilities plan of the school district to ensure a uniform countywide school facility planning system.

(e) For school district participation in the review of comprehensive plan amendments and rezonings which increase residential density and which are reasonably expected to have an impact on public school facility demand pursuant to s. 163.31777. The interlocal agreement shall express how the school board and local governments will develop the methodology and the criteria for determining if school facility capacity will not be reasonably available at the time of projected school impacts, including uniform, districtwide level-of service standards for all public schools of the same type and availability standards for public schools.

The interlocal agreement shall ensure that consistent criteria and capacity determination methodologies, including student generation multipliers are adopted into the school board's district education facilities plan and the local government's public educational facilities element. The interlocal agreement shall also set forth the process and uniform methodology for determining proportionate share mitigation pursuant to s. 163.31777; and,

(f) For the resolution of disputes between the school district and local governments.

(g) That determines the "true cost of school needs." This analysis must provide the number of schools and the funding needed to meet any current backlog and future needs based on uniform projections of population and student growth and development trends. This analysis should also identify how the current and future needs are funded.

(5) The public educational facilities element shall be based on data and analysis, including the interlocal agreement required by subsection (4), and the education facilities plan required by section 235.185. All local government public educational facilities elements within a county must be consistent with each other and shall address the following:

(a) The need for, strategies, and commitments to address improvements to infrastructure, safety, and community conditions in areas proximate to existing public schools.

(b) The need for and strategies for the provision of adequate infrastructure necessary to support proposed schools, including potable water, wastewater, drainage, and transportation; and other actions needed to assure safe access to schools, including sidewalks, bicycle paths, turn lanes and signalization.

(c) Co-location of other public facilities such as parks, libraries and community centers with public schools.

(d) Location of schools proximate to residential areas and for public schools to complement patterns of development including using elementary schools as focal points for neighborhoods.

(e) Use of public schools to serve as emergency shelters.

(f) A uniform methodology for consideration of the existing and planned capacity of public schools when reviewing comprehensive plan amendments and rezonings which would increase residential development, and that are reasonably expected to have an impact on the demand for public school facilities pursuant to s. 163.31777, with the review based on uniform districtwide level-of service standards for all public schools of the same type and availability standards for public schools, and the financially feasible five-year district facilities work program adopted by the school board pursuant to s. 235.185. "Financially feasible" means that a capital improvements programs will be financed for each year of the planning period, without a deficit, based on projected revenues from existing or committed revenue sources so that the adopted level-of service standard will be achieved and maintained throughout the planning period. Revenue sources may include ad valorem taxes, state revenue distributions, proceeds from the sale of bonds, sales tax proceeds, or other general tax sources. Local-option revenue sources requiring approval by a referendum of the electors shall be deemed an existing or committed revenue source only after approval in the required referendum. The current level and amount of impact fees collected by a local government may be included in the calculation of financial feasibility. However, new impact fees or expansion of existing impact fees may not be adopted until the statewide implementation of the uniform account model occurs.

(g) A uniform methodology for determining school capacity needs and proportionate share mitigation consistent with the requirements of s. 163.31777(4) and the interlocal agreement.

(h) The "true cost of school needs." This analysis must provide the number of schools and the funding needed to meet any current backlog and future needs based on local governments' population and growth trends. This analysis should also identify how the current and future needs are funded.

(i) As part of the public education facilities element, the school board shall provide its response to the independent third-party financial management audit as required by s. 235.185, as it relates to educational facility planning and construction. The response shall be part of the data and analysis needed to support the element.

(6) The future land use map series shall either incorporate maps which are the result of a collaborative process for identifying school sites and adopted in the educational facilities plan promulgated by the school board pursuant to s. 235.185 showing the locations of existing public schools and the general locations of improvements to existing schools or construction of new schools anticipated over the five, ten and twenty year time periods, or such maps shall be data and analysis in support of the future land use map series. Maps indicating general locations of future schools or school improvements shall not be deemed to prescribe a land use on a particular parcel of land.

(7) The process for adoption of a public educational facilities element shall be as provided for in s. 163.3184. The state land planning agency shall submit a copy of the proposed public school facilities element pursuant to the procedures outlined in s. 163.3184(4) to the Office of Educational Facilities of the Commissioner of Education for review and comment.

(8) The interlocal agreement must be entered into by the county, the school board, and the non-exempt municipalities within the county. If such parties cannot reach agreement, the matter shall be resolved by binding arbitration through the regional planning council. The failure of such parties to enter an interlocal agreement within 60 days of referral to binding arbitration shall result in the prohibition of the local governments' ability to amend the local comprehensive plan until the dispute is resolved. The failure of a school board to provide the required plans, information or to enter into the interlocal agreement under this subsection shall subject the school board to sanctions pursuant to s. 235.193(3). Any local government that has executed an interlocal agreement to implement school concurrency pursuant to the requirements of s. 163.3180 prior to the effective date of this act shall not be required to amend the public school element or any interlocal agreement to conform with the provisions of this section, if such amendment is ultimately determined to be in compliance.

Section 4. Create a new section 163.31777:

163.31777 Public School Capacity for Plan Amendments and Rezonings.—

(1) Local governments shall consider public school facilities when reviewing proposed comprehensive plan amendments and rezonings that increase residential densities and which are reasonably expected to have an impact on public school facility demand.

(2) For each proposed comprehensive plan amendment or rezoning, which increases residential densities and is reasonably expected to have an impact on the demand for public school facilities, the school board shall provide the local government with a school capacity report based on the district educational facilities plan adopted by the school board pursuant to s. 235.185, which shall provide data and analysis on the capacity and enrollment of affected schools based on standards established by state or federal law or judicial orders, projected additional enrollment attributable to the density increase from the amendment or rezoning, programmed and financially feasible new public school facilities or improvements for affected schools identified in the educational facilities plan of the school board and the expected date of availability of such facilities or improvements, and available reasonable options for providing public school facilities to students if the rezoning or comprehensive plan amendment is approved. The options shall include but not be limited to the school board's evaluation of school schedule modification, school attendance zones modification, school facility modification, and creation of charter schools. The report shall be consistent with this section, any adopted interlocal agreement and public educational facilities element, and must be submitted no later than three working days prior to the first public hearing by the local government to consider the comprehensive plan amendment or rezoning.

(3) Within a jurisdiction, following the effective date of an interlocal agreement between the local governments and the school board entered into pursuant to s. 163.31776, the determination that an adopted public education facilities element required under s. 163.31776 is in compliance and is financially feasible, and the revision by the school board of its district education facilities plan to comply with s. 235.185, then the local government shall deny a comprehensive plan amendment or rezoning request which would increase residential development if the school facility capacity of the district as a whole will not be reasonably available at the time of projected school impacts as determined by the methodology established in the public education facilities element; however, the application for a comprehensive plan amendment or rezoning shall not be disapproved based on lack of school capacity if the applicant executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by actual development of the property, including but not limited to the options described in subsection (4).

(4)(a) Options for proportionate share mitigation of public school facility impacts from actual development of property subject to a plan amendment or rezoning that increases residential density shall be established in the educational facilities plan and the public educational facilities element. Such options shall include execution by the applicant and the local government of a binding development agreement pursuant to ss 163.3220-163.3243 which shall constitute a legally binding commitment to pay proportionate share mitigation for the additional residential units when approved by the local government in a development order and actually developed on the property, but shall not require payment pursuant to this section for residential density allowed on the property prior to the plan amendment or rezoning which increased overall residential density. The district school board may be a party to such an agreement. As a condition of its entry into such a development agreement, the local government may require the landowner to agree to continuing renewal of the agreement upon its expiration.

(b) If the educational facilities plan and the public educational facilities element authorize a contribution of land or construction, expansion, or payment for land acquisition or construction or expansion of a public school facility, or a portion thereof, as proportionate share mitigation, the local government shall credit such a contribution, construction, expansion or payment toward any other impact fee or exaction imposed by local ordinance for the same need, on a dollar-for-dollar basis at fair market value.

(c) Any proportionate share mitigation shall be directed by the school board toward a school capacity improvement within the affected area which is identified in the financially feasible five year district work plan.

(5) Nothing in this section prohibits a local government from using its home rule powers to deny a comprehensive plan amendment or rezoning.

Section 5. Paragraphs (a) and (b) of subsection (1), and subsection (4) of section 163.3184 are amended to read:

Section 6. Section 163.3184 Process for adoption of comprehensive plan or plan amendment.—

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

(a) "Affected person" includes the affected local government; persons owning property, residing, or owning or operating a business within the boundaries of the local government whose plan is the subject of the review; *owners of real property abutting real property which is the subject of a proposed change to a future land use map;* and adjoining local governments that can demonstrate that the plan or plan amendment will produce substantial impacts on the increased need for publicly funded infrastructure or substantial impacts on areas designated for protection or special treatment within their jurisdiction. Each person, other than an adjoining local government, in order to qualify under this definition, shall also have submitted oral or written comments, recommendations, or objections to the local government during the period of time beginning with the transmittal hearing for the plan or plan amendment and ending with the adoption of the plan or plan amendment. (b) "In compliance" means consistent with the requirements of ss. 163.3177, *163.31776,*163.3178, 163.3180, 163.3191, and 163.3245, with the state comprehensive plan, with the appropriate strategic regional policy plan, and with chapter 9J-5, Florida Administrative Code, where such rule is not inconsistent with this part and with the principles for guiding development in designated areas of critical state concern.

(4) INTERGOVERNMENTAL REVIEW.—If review of a proposed comprehensive plan amendment is requested or otherwise initiated pursuant to subsection (6), the state land planning agency within 5 working days of determining that such a review will be conducted shall transmit a copy of the proposed plan amendment to various government agencies, as appropriate, for response or comment, including, but not limited to, the Department of Environmental Protection, the Department of Transportation, the water management district, and the regional planning council, and, in the case of municipal plans, to the county land planning agency. *If the plan or plan amendment includes or relates to the public educational facilities element required by s.163.31776, the state land planning agency shall submit a copy to the Office of Educational Facilities of the Commissioner of Education for review and comment.* These governmental agencies shall provide comments to the state land planning agency within 30 days after receipt of the proposed plan amendment. The appropriate regional planning council shall also provide its written comments to the state land planning agency within 30 days after receipt of the proposed plan amendment and shall specify any objections, recommendations for modifications, and comments of any other regional agencies to which the regional planning council may have referred the proposed plan amendment. Written comments submitted by the public within 30 days after notice of transmittal by the local government of the proposed plan amendment will be considered as if submitted by governmental agencies. All written agency and public comments must be made part of the file maintained under subsection (2).

Section 7. Effective October 1, 2001, subsections (3), (4), (6), (7), (8), and (15) and paragraph (d) of subsection (16) of said section are amended, to read:

163.3184 Process for adoption of comprehensive plan or plan amendment.—

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

(3) LOCAL GOVERNMENT TRANSMITTAL OF PROPOSED PLAN OR AMENDMENT.—

(a) Each local governing body shall transmit the complete proposed comprehensive plan or plan amendment to the state land planning agency, the appropriate regional planning council and water management district, the Department of Environmental Protection, *the Department of State,* and the Department of Transportation*, and, in the case of municipal plans, to the appropriate county, and, in the case of county plans, to the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services,* immediately following a public hearing pursuant to subsection (15) as specified in the state land planning agency's procedural rules. The local governing body shall also transmit a copy of the complete proposed comprehensive plan or plan amendment to any other unit of local government or government agency in the state that has filed a written request with the governing body for the plan or plan amendment. *The local government may request a review by the state land planning agency pursuant to subsection (6) at the time of transmittal of an amendment.*

(b) A local governing body shall not transmit portions of a plan or plan amendment unless it has previously provided to all state agencies designated by the state land planning agency a complete copy of its adopted comprehensive plan pursuant to subsection (7) and as specified in the agency's procedural rules. In the case of comprehensive plan amendments, the local governing body shall transmit to the state land planning agency, the appropriate regional planning council and water management district, the Department of Environmental Protection, *the Department of State,* and the Department of Transportation*, and, in the case of municipal plans, to the appropriate county, and, in the case of*

county plans, to the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services, the materials specified in the state land planning agency's procedural rules and, in cases in which the plan amendment is a result of an evaluation and appraisal report adopted pursuant to s. 163.3191, a copy of the evaluation and appraisal report. Local governing bodies shall consolidate all proposed plan amendments into a single submission for each of the two plan amendment adoption dates during the calendar year pursuant to s. 163.3187.

(c) A local government may adopt a proposed plan amendment previously transmitted pursuant to this subsection, unless review is requested or otherwise initiated pursuant to subsection (6).

(d) In cases in which a local government transmits multiple individual amendments that can be clearly and legally separated and distinguished for the purpose of determining whether to review the proposed amendment, and the state land planning agency elects to review several or a portion of the amendments and the local government chooses to immediately adopt the remaining amendments not reviewed, the amendments immediately adopted and any reviewed amendments that the local government subsequently adopts together constitute one amendment cycle in accordance with s. 163.3187(1).

(4) INTERGOVERNMENTAL REVIEW.—~~If review of a proposed comprehensive plan amendment is requested or otherwise initiated pursuant to subsection (6), the state land planning agency within 5 working days of determining that such a review will be conducted shall transmit a copy of the proposed plan amendment to various government agencies, as appropriate, for response or comment, including, but not limited to, the Department of Environmental Protection, the Department of Transportation, the water management district, and the regional planning council, and, in the case of municipal plans, to the county land planning agency.~~ *The* ~~These~~ governmental agencies *specified in paragraph (3)(a)* shall provide comments to the state land planning agency within 30 days after receipt *by the state land planning agency* of the *complete* proposed plan amendment. The appropriate regional planning council shall also provide its written comments to the state land planning agency within 30 days after receipt *by the state land planning agency* of the *complete* proposed plan amendment and shall specify any objections, recommendations for modifications, and comments of any other regional agencies to which the regional planning council may have referred the proposed plan amendment. Written comments submitted by the public within 30 days after notice of transmittal by the local government of the proposed plan amendment will be considered as if submitted by governmental agencies. All written agency and public comments must be made part of the file maintained under subsection (2).

(6) STATE LAND PLANNING AGENCY REVIEW.—

(a) The state land planning agency shall review a proposed plan amendment upon request of a regional planning council, affected person, or local government transmitting the plan amendment. *The request from the regional planning council or affected person must be* ~~if the request is~~ received within 30 days after transmittal of the proposed plan amendment pursuant to subsection (3). ~~The agency shall issue a report of its objections, recommendations, and comments regarding the proposed plan amendment.~~ A regional planning council or affected person requesting a review shall do so by submitting a written request to the agency with a notice of the request to the local government and any other person who has requested notice.

(b) The state land planning agency may review any proposed plan amendment regardless of whether a request for review has been made, if the agency gives notice to the local government, and any other person who has requested notice, of its intention to conduct such a review within *35* ~~30~~ days *after receipt by the state land planning agency* ~~of transmittal~~ of the *complete* proposed plan amendment ~~pursuant to subsection (3)~~.

(c) The state land planning agency shall establish by rule a schedule for receipt of comments from the various government agencies, as well as written public comments, pursuant to subsection (4). *If the state land planning agency elects to review the amendment or the agency is required to review the amendment as specified in paragraph (a), the agency shall issue a report of its objections, recommendations, and comments regarding the proposed amendment within 60 days after receipt of the complete proposed amendment by the state land planning agency. Proposed comprehensive plan amendments from small counties or rural communities for the purpose of job creation, economic development, or strengthening and diversifying the economy shall receive priority review by the state land planning agency.* ~~The state land planning agency shall have 30 days to review comments from the various government agencies along with a local government's comprehensive plan or plan amendment. During that period, the state land planning agency shall transmit in writing its comments to the local government along with any objections and any recommendations for modifications.~~ When a federal, state, or regional agency has implemented a permitting program, the state land planning agency shall not require a local government to duplicate or exceed that permitting program in its comprehensive plan or to implement such a permitting program in its land development regulations. Nothing contained herein shall prohibit the state land planning agency in conducting its review of local plans or plan amendments from making objections, recommendations, and comments or making compliance determinations regarding densities and intensities consistent with the provisions of this part. In preparing its comments, the state land planning agency shall only base its considerations on written, and not oral, comments, from any source.

(d) The state land planning agency review shall identify all written communications with the agency regarding the proposed plan amendment. If the state land planning agency does not issue such a review, it shall identify in writing to the local government all written communications received 30 days after transmittal. The written identification must include a list of all documents received or generated by the agency, which list must be of sufficient specificity to enable the documents to be identified and copies requested, if desired, and the name of the person to be contacted to request copies of any identified document. The list of documents must be made a part of the public records of the state land planning agency.

(7) LOCAL GOVERNMENT REVIEW OF COMMENTS; ADOPTION OF PLAN OR AMENDMENTS AND TRANSMITTAL.—

(a) The local government shall review the written comments submitted to it by the state land planning agency, and any other person, agency, or government. Any comments, recommendations, or objections and any reply to them shall be public documents, a part of the permanent record in the matter, and admissible in any proceeding in which the comprehensive plan or plan amendment may be at issue. The local government, upon receipt of written comments from the state land planning agency, shall have 120 days to adopt or adopt with changes the proposed comprehensive plan or s. 163.3191 plan amendments. In the case of comprehensive plan amendments other than those proposed pursuant to s. 163.3191, the local government shall have 60 days to adopt the amendment, adopt the amendment with changes, or determine that it will not adopt the amendment. The adoption of the proposed plan or plan amendment or the determination not to adopt a plan amendment, other than a plan amendment proposed pursuant to s. 163.3191, shall be made in the course of a public hearing pursuant to subsection (15). The local government shall transmit the *complete* adopted comprehensive plan or ~~adopted~~ plan amendment to the state land planning agency as specified in the agency's procedural rules within 10 working days after adoption*, including the names and addresses of persons compiled pursuant to paragraph (15)(c)*. The local governing body shall also transmit a copy of the adopted comprehensive plan or plan amendment to the regional planning agency and to any other unit of local government or governmental agency in the state that has filed a written request with the governing body for a copy of the plan or plan amendment.

(b) A local government that has adopted a comprehensive plan amendment to which no timely written objection from the state land planning agency, any agency, any government, or any person has been received may submit the comprehensive plan amendment and a certification to the state land planning agency within 10 days after

adoption of the comprehensive plan amendment. This certification must certify that the adopted comprehensive plan amendment did not differ from the proposed comprehensive plan amendment submitted pursuant to subsection (3), and that no timely objections were received.

(8) NOTICE OF INTENT.—

(a) Except as provided in s. 163.3187(3), the state land planning agency, upon receipt of a local government's *complete* adopted comprehensive plan or plan amendment, shall have 45 days for review and to determine if the plan or plan amendment is in compliance with this act, unless the amendment is the result of a compliance agreement entered into under subsection (16), in which case the time period for review and determination shall be 30 days. If review was not conducted under subsection (6), the agency's determination must be based upon the plan amendment as adopted. If review was conducted under subsection (6), the agency's determination of compliance must be based only upon one or both of the following:

1. The state land planning agency's written comments to the local government pursuant to subsection (6); or

2. Any changes made by the local government to the comprehensive plan or plan amendment as adopted.

(b) During the time period provided for in this subsection, the state land planning agency shall issue, through a senior administrator or the secretary, as specified in the agency's procedural rules, a notice of intent to find that the plan or plan amendment is in compliance or not in compliance. A notice of intent shall be issued by publication in the manner provided by this paragraph and by mailing a copy to the local government ~~and to persons who request notice~~. ~~The required advertisement shall be no less than 2 columns wide by 10 inches long, and the headline in the advertisement shall be in a type no smaller than 12 point.~~ The advertisement shall ~~not~~ be placed in that portion of the newspaper where legal notices ~~and classified advertisements~~ appear. The advertisement shall be published in a newspaper which meets the size and circulation requirements set forth in paragraph (15)*(e)*~~(c)~~ and which has been designated in writing by the affected local government at the time of transmittal of the amendment. Publication by the state land planning agency of a notice of intent in the newspaper designated by the local government shall be prima facie evidence of compliance with the publication requirements of this section.

(c) Notwithstanding the provisions of this subsection, within 20 days after receipt of an accurate certification submitted pursuant to paragraph (7)(b), the state land planning agency shall issue a notice of intent to find the the plan amendment in compliance without further review.

(d) The state land planning agency shall post a copy of the notice of intent on the agency's Internet site. The agency shall, no later than the date the notice of intent is transmitted to the newspaper, mail a courtesy informational statement to the persons whose names and mailing addresses were compiled pursuant to paragraph (15)(c). The informational statement shall include the identity of the newspaper in which the notice of intent will appear, the approximate date of publication of the notice of intent, the ordinance number of the plan or plan amendment, and a statement that the informational statement is provided as a courtesy to the person and that affected persons have 21 days after the actual date of publication of the notice to file a petition. The informational statement shall be sent by regular mail and shall not affect the timeframes in subsections (9) and (10).

(e) A local government that has an Internet site shall post a copy of the state land planning agency's notice of intent on its Internet site within 5 days after receipt of the mailed copy of the agency's notice of intent.

(15) PUBLIC HEARINGS.—

(a) The procedure for transmittal of a complete proposed comprehensive plan or plan amendment pursuant to subsection (3) and for adoption of a comprehensive plan or plan amendment pursuant to subsection (7) shall be by affirmative vote of not less than a majority of the members of the governing body present at the hearing. The adoption of a comprehensive plan or plan amendment shall be by ordinance. For the purposes of transmitting or adopting a comprehensive plan or plan amendment, the notice requirements in chapters 125 and 166 are superseded by this subsection, except as provided in this part.

(b) The local governing body shall hold at least two advertised public hearings on the proposed comprehensive plan or plan amendment as follows:

1. The first public hearing shall be held at the transmittal stage pursuant to subsection (3). It shall be held on a weekday at least 7 days after the day that the first advertisement is published.

2. The second public hearing shall be held at the adoption stage pursuant to subsection (7). It shall be held on a weekday at least 5 days after the day that the second advertisement is published.

(c) The local government shall provide a sign-in form at the transmittal hearing and at the adoption hearing for persons to provide their names and mailing addresses. The sign-in form shall state that any person providing the requested information will receive a courtesy informational statement concerning publication of the state land planning agency's notice of intent. The local government shall add to the sign-in form the name and address of any person who submits written comments concerning the proposed plan or plan amendment during the time period between the commencement of the transmittal hearing and the end of the adoption hearing. It shall be the responsibility of the person completing the form or providing written comments to accurately, completely, and legibly provide all information required to receive the courtesy informational statement.

(d) The agency shall provide a model sign-in form and the format for providing the list to the agency which may be used by the local government to satisfy the requirements of this paragraph by August 1, 2001.

(e)~~(c)~~ If the proposed comprehensive plan or plan amendment changes the actual list of permitted, conditional, or prohibited uses within a future land use category or changes the actual future land use map designation of a parcel or parcels of land, the required advertisements shall be in the format prescribed by s. 125.66(4)(b)2. for a county or by s. 166.041(3)(c)2.b. for a municipality.

(16) COMPLIANCE AGREEMENTS.—

(d) A local government may adopt a plan amendment pursuant to a compliance agreement in accordance with the requirements of paragraph (15)(a). The plan amendment shall be exempt from the requirements of subsections (2) through (7). The local government shall hold a single adoption public hearing pursuant to the requirements of subparagraph (15)(b)2. and paragraph (15)*(e)*~~(c)~~. Within 10 working days after adoption of a plan amendment, the local government shall transmit the amendment to the state land planning agency as specified in the agency's procedural rules, and shall submit one copy to the regional planning agency and to any other unit of local government or government agency in the state that has filed a written request with the governing body for a copy of the plan amendment, and one copy to any party to the proceeding under ss. 120.569 and 120.57 granted intervenor status.

Section 8. Paragraph (c) of subsection (1) of section 163.3187, Florida Statutes, is amended and new paragraph (h) of subsection (1) of said section is created 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:

(c) Any local government comprehensive plan amendments directly related to proposed small scale development activities may be approved without regard to statutory limits on the frequency of consideration of amendments to the local comprehensive plan. A small scale development amendment may be adopted only under the following conditions:

1. The proposed amendment involves a use of 10 acres or fewer, *except that a proposed amendment may involve a use of 20 acres or fewer if located within an area designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e),* and:

a. The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government *does* ~~shall~~ not exceed:

(I) A maximum of *150* ~~120~~ acres in a local government that contains areas specifically designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e); however, amendments under this paragraph may be applied to no more than 60 acres annually of property outside the designated areas listed in this sub-sub-subparagraph.

(II) A maximum of 80 acres in a local government that does not contain any of the designated areas set forth in sub-sub-subparagraph (I).

(III) A maximum of *200* ~~120~~ acres in a county established pursuant to s. 9, Art. VIII of the *Constitution of 1885, as preserved by s. 6(e), Art. VIII of the revised* State Constitution.

b. The proposed amendment does not involve the same property granted a change within the prior 12 months.

c. The proposed amendment does not involve the same owner's property within 200 feet of property granted a change within the prior 12 months.

d. The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity.

e. The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1). Such amendment is not subject to the density limitations of sub-subparagraph f., and shall be reviewed by the state land planning agency for consistency with the principles for guiding development applicable to the area of critical state concern where the amendment is located and shall not become effective until a final order is issued under s. 380.05(6).

f. ~~If~~ The proposed amendment *does not involve* ~~involves~~ a residential land use *within the coastal high-hazard area with*~~, the residential land use has~~ a density *exceeding* ~~of~~ 10 units ~~or less~~ per acre~~, except that this limitation does not apply to small scale amendments described in sub-sub-subparagraph a.(I) that are designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e)~~.

2.a. A local government that proposes to consider a plan amendment pursuant to this paragraph is not required to comply with the procedures and public notice requirements of s. 163.3184(15)*(e)*~~(c)~~ for such plan amendments if the local government complies with the provisions in s. 125.66(4)(a) for a county or in s. 166.041(3)(c) for a municipality. If a request for a plan amendment under this paragraph is initiated by other than the local government, public notice is required.

b. The local government shall send copies of the notice and amendment to the state land planning agency, the regional planning council, and any other person or entity requesting a copy. This information shall also include a statement identifying any property subject to the amendment that is located within a coastal high hazard area as identified in the local comprehensive plan.

3. Small scale development amendments adopted pursuant to this paragraph require only one public hearing before the governing board, which shall be an adoption hearing as described in s. 163.3184(7), and are not subject to the requirements of s. 163.3184(3)-(6) ~~unless the local government elects to have them subject to those requirements~~.

(h) A comprehensive plan amendment to adopt a public educational facilities element pursuant to s. 163.31776, and future land use map amendments for school siting may be approved without regard to statutory limits on the frequency of adoption of plan amendments.

Section 9. Paragraph (k) of subsection (2) of section 163.3191, Florida Statutes, is amended to read:

(2) The report shall present an evaluation and assessment of the comprehensive plan and shall contain appropriate statements to update the comprehensive plan, including, but not limited to, words, maps, illustrations, or other media, related to:

(k) The coordination of the comprehensive plan with existing public schools and those identified in the applicable *educational* ~~5-year school district~~ facilities *plan* ~~work program~~ adopted pursuant to ss. 235.185. The assessment shall address, where relevant, the success or failure of the coordination of the future land use map and associated planned residential development with public schools and their capacities, as well as the joint decisionmaking processes engaged in by the local government and the school board in regard to establishing appropriate population projections and the planning and siting of public school facilities. If the issues are not relevant, the local government shall demonstrate that they are not relevant.

Section 10. Section 163.3198 is created to read:

163.3198 Development of a uniform fiscal impact analysis model for evaluating the cost of infrastructure to support development.—

(1) The Legislature finds that the quality of growth in Florida could benefit greatly by the adoption of a uniform fiscal impact analysis tool that could be used by local governments to determine the costs and benefits of new development. To facilitate informed decisionmaking and accountability by local governments, the analysis model would itemize and calculate the costs and fiscal impacts of infrastructure needs created by proposed development, as well as the anticipated revenues utilized for infrastructure associated with the project. It is intended that the model be a minimum base model for implementation by all local governments. Local governments shall not be required to implement the model until the Legislature approves such implementation, nor shall local governments be prevented from utilizing other fiscal or economic analysis tools before or after adoption of the uniform fiscal analysis model. The Legislature intends that the analysis will provide local government decisionmakers with a clearer understanding of the fiscal impact of the new development on the community and its resources.

(2)(a) To oversee the development of a fiscal analysis model by the state land planning agency, there is created a commission consisting of nine members. The Governor, the President of the Senate, and the Speaker of the House of Representatives shall each appoint three members to the commission, and the Governor shall designate one of his appointees as chair. Appointments must be made by July 1, 2001, and each appointing authority shall consider ethnic and gender balance when making appointments. The members of the commission must have technical or practical expertise to bring to bear on the design or implementation of the model. The commission shall include representatives of municipalities, counties, school boards, the development community, and public interest groups.

(b) The commission shall have the responsibility to:

1. Direct the state land planning agency, and others, in developing a fiscal analysis model.

2. Select one or more models to test through six pilot projects conducted in six regionally diverse local government jurisdictions selected by the commission.

3. Make changes to the models during the testing period as needed.

4. Report to the Governor and the Legislature with implementation recommendations.

(c) Each member may receive per diem and expenses for travel, as provided in s. 112.061, while carrying out the official business of the commission.

(d) The commission is assigned, for administrative purposes, to the Department of Community Affairs.

(e) The commission shall meet at the call of the chair and shall be dissolved upon the submittal of the report and recommendations required by subsection (6).

(3)(a) The state land planning agency, as directed by the commission, shall develop one or more fiscal analysis models for determining the estimated costs and revenues of proposed development. The analysis provided by the model shall be a tool for government decisionmaking, shall not constitute an automatic approval or disapproval of new development, and shall apply to all public and private projects and all land use categories. The model or models selected for field testing shall be approved by the commission.

(b) The model shall be capable of estimating the capital, operating, and maintenance expenses and revenues for infrastructure needs created by new development based on the type, scale, and location of various land uses. For the purposes of developing the model, estimated costs shall include those associated with provision of school facilities, transportation facilities, water supply, sewer, stormwater, public safety, and solid waste services, and publicly provided telecommunications services. Estimated revenues shall include all revenues attributable to the proposed development which are utilized to construct, operate, or maintain such facilities and services. The model may be developed with capabilities of estimating other costs and benefits directly related to new development, including economic costs and benefits. The Legislature recognizes the potential limitations of such models in fairly quantifying important quality of life issues such as the intangible benefits and costs associated with development, including, but not limited to, overall impact on community character, housing costs, compatibility, and impacts on natural and historic resources, and therefore affirms its intention that the model not be used as the only determinate of the acceptability of new development. In order to develop a model for testing through pilot projects, the Legislature directs the commission to focus on the infrastructure costs expressly identified in this paragraph. The commission may authorize a local government selected to conduct a pilot project to apply the fiscal analysis model being tested to a public facility or service other than those identified in this paragraph; however, appropriately related revenues and benefits must also be considered.

(c) The model shall be capable of identifying infrastructure deficits or backlogs, and costs associated with addressing such needs.

(d) As part of its development of a fiscal analysis model, and as directed by the commission, the state land planning agency shall develop a format by which the local government shall report to its citizens, at least annually, the cumulative fiscal impact of its local planning decisions.

(4) One or more fiscal analysis models shall be tested in the field to evaluate their technical validity and practical usefulness and the financial feasibility of local government implementation. The field tests shall be conducted as demonstration projects in six regionally diverse local government jurisdictions, which may include multi-jurisdictional local planning agencies.

(5) Data, findings, and feedback from the field tests shall be presented to the commission at least every 3 months following the initiation of each demonstration project. Based on the feedback provided by the state land planning agency and the local government partner of a demonstration project, the commission may require the state land planning agency to adjust or modify one or more models, including consideration of appropriate thresholds and exemptions, and conduct additional field testing if necessary.

(6) No later than February 1, 2003, the commission shall transmit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report detailing the results of the demonstration projects. The commission shall report its recommendations for statewide implementation of a uniform fiscal analysis model. Any recommendation to implement the model must be based on the commission's determination that the model is technically valid, financially feasible for local government implementation, and practically useful for implementation as a uniform fiscal analysis model. Should the commission determine that a uniform fiscal analysis model is not technically valid, financially feasible for local government implementation, and practically useful for implementation as a uniform fiscal analysis model, it shall recommend that the model or its application be modified or not implemented. The report shall also include recommendations for changes to any existing growth management laws and policies necessary to implement the model; recommendations for repealing existing growth management laws, such as concurrency, that may no longer be relevant or effective once the model is implemented; recommendations for state technical and financial assistance to help local governments in the implementation of the uniform fiscal analysis model; recommendations addressing state and local sources of additional infrastructure funding; and recommendations for incentives to local governments to encourage identification of areas in which infrastructure development will be encouraged.

Section 11. *There is appropriated to the Department of Community Affairs from the General Revenue Fund $500,000 to implement s. 163.3198, Florida Statutes.*

Section 12. Subsection (6) of Section 163.3202, Florida Statutes, is created to read:

(6)(a) The legislature finds that electric utilities have a statutory duty pursuant to this chapter to provide reasonably sufficient, adequate, and efficient service. The legislature further finds that electric substations are an indispensable component of the grid system by which electric utilities deliver reliable electric service to all public and private persons as required by law. The legislature further finds that electric utility substations are essential services for the public health, safety and welfare and therefore are in the public interest.

(b) Nothing in this part shall prohibit a local government from adopting land development regulations which establish reasonable standards for setbacks, buffering, and landscaping for a substation to be operated by an electric utility. Compliance with any such adopted standards shall render a substation compatible with adjacent land uses.

(c) Notwithstanding any other law, after an electric utility demonstrates by competent substantial evidence that it meets all criteria for approval of an application for a development permit for the location, construction, and operation of a substation, the local government may not deny the application on grounds of incompatibility with adjacent land uses or adverse impacts on property values without clear and convincing competent evidence.

Section 13. Section 163.3215, Florida Statutes, is amended to read:

163.3215 Standing to enforce local comprehensive plans through development orders.—

(1) Any aggrieved or adversely affected party may maintain an action for *declaratory and* injunctive or other relief against any local government to *challenge any decision of local government granting or denying an application for, or to* prevent such local government from taking any action on a development order, as defined in s. 163.3164, which materially alters the use or density or intensity of use on a particular piece of property t hat is not consistent with the comprehensive plan adopted under this part. *Such action shall be filed*

no later than 30 days following rendition of a development order or other written decision, or when all local administrative appeals, if any, are exhausted, whichever is later.

(2) "Aggrieved or adversely affected party" means any person or local government which will suffer an adverse effect to an interest protected or furthered by the local government comprehensive plan, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, or environmental or natural resources. The alleged adverse interest may be shared in common with other members of the community at large, but shall exceed in degree the general interest in community good shared by all persons. *The term shall include the owner, developer or applicant for a development order.*

~~(3)(a) No suit may be maintained under this section challenging the approval or denial of a zoning, rezoning, planned unit development, variance, special exception, conditional use, or other development order granted prior to October 1, 1985, or applied for prior to July 1, 1985.~~

~~(b)~~ Suit under *subsections (1) or (4)* ~~this section~~ shall be the sole action available to challenge the consistency of a development order with a comprehensive plan adopted under this part. *The local government that issues that development order shall be named as the respondent.*

~~(4) As a condition precedent to the institution of an action pursuant to this section, the complaining party shall first file a verified complaint with the local government whose actions are complained of setting forth the facts upon which the complaint is based and the relief sought by the complaining party. The verified complaint shall be filed no later than 30 days after the alleged inconsistent action has been taken. The local government receiving the complaint shall respond within 30 days after receipt of the complaint. Thereafter, the complaining party may institute the action authorized in this section. However, the action shall be instituted no later than 30 days after the expiration of the 30-day period which the local government has to take appropriate action. Failure to comply with this subsection shall not bar an action for a temporary restraining order to prevent immediate and irreparable harm from the actions complained of.~~ *If a local government elects to adopt or has adopted an ordinance establishing, at a minimum, the requirements listed in this subsection, then the sole action for an aggrieved and adversely affected party to challenge consistency of a development order with the comprehensive plan shall be by a petition for certiorari filed in circuit court no later than 30 days following rendition of a development order or other written decision of the local government, or when all local administrative appeals, if any, are exhausted, whichever is later. An action for injunctive or other relief may be joined with the petition for certiorari. Principles of judicial or administrative res judicata and collateral estoppel shall apply to these proceedings. Minimum components of the local process shall be as follows:*

(a) Notice by publication and by mailed notice to all abutting property owners within 10 days of the filing of an application for development review, provided that notice under this subsection shall not be required for an application for a building permit. The notice must delineate that aggrieved or adversely affected persons have the right to request a quasi-judicial hearing, that the request need not be a formal petition or complaint, how to initiate the quasi-judicial process and the time-frames for initiating the process. The local government shall include an opportunity for an alternative dispute resolution process and may include a stay of the formal quasi-judicial hearing for this purpose.

(b) A point of entry into the process consisting of a written preliminary decision, at a time and in a manner to be established in the local ordinance, with the time to request a quasi-judicial hearing running from the written preliminary decision; provided that the local government is not bound by the preliminary decision. A party may request a hearing to challenge or support a preliminary decision.

(c) An opportunity to participate in the process for an aggrieved or adversely affected party which provides a reasonable time to prepare and present a case for a quasi-judicial hearing.

(d) An opportunity for reasonable discovery prior to a quasi-judicial hearing.

(e) A quasi-judicial hearing before an independent special master who shall be an attorney with at least five years experience and who shall, at the conclusion of the hearing, recommend written findings of fact and conclusions of law.

(f) At the quasi-judicial hearing all parties shall have the opportunity to respond, present evidence and argument on all issues involved that are related to the development order and to conduct cross-examination and submit rebuttal evidence.

(g) The standard of review applied by the special master shall be strict scrutiny in accordance with Florida law.

(h) A duly noticed public hearing before the local government at which public testimony shall be allowed. At the hearing the local government shall be bound by the special master's findings of fact unless the findings of fact are not supported by competent substantial evidence. The governing body may modify the conclusions of law if it finds that the special master's application or interpretation of law is erroneous. The governing body may make reasonable interpretations of its comprehensive plan and land development regulations without regard to whether the special master's interpretation is labeled as a finding of fact or a conclusion of law. The local government's final decision shall be reduced to writing, including the findings of fact and conclusions of law, and shall not be considered rendered or final until officially date stamped by the city or county clerk.

(i) No ex parte communication relating to the merits of the matter under review shall be made to the special master. No ex parte communication relating to the merits of the matter under review shall be made to the governing body after a time to be established by the local ordinance, but no later than receipt of the recommended order by the governing body.

(j) At the option of the local government this ordinance may require actions to challenge the consistency of a development order with land development regulations to be brought in the same proceeding.

(k) Authority by the special master to issue and enforce subpoenas and compel entry upon land.

(5) Venue in any cases brought under this section shall lie in the county or counties where the actions or inactions giving rise to the cause of action are alleged to have occurred.

(6) The signature of an attorney or party constitutes a certificate that he or she has read the pleading, motion, or other paper and that, to the best of his or her knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or for economic advantage, competitive reasons or frivolous purposes or needless increase in the cost of litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the court, upon motion or its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

(7) In any *suit* ~~action~~ under *subsections (1) or (4)* ~~this section~~, no settlement shall be entered into by the local government unless the terms of the settlement have been the subject of a public hearing after notice as required by this part.

(8) In any suit under this section, the Department of Legal Affairs may intervene to represent the interests of the state.

(9) Nothing in this section shall be construed to relieve the local government of its obligations to hold public hearings as required by law.

Section 14. Paragraph (a) of subsection (1) of section 235.002, Florida Statutes, is repealed and subsequent paragraphs are amended and a new paragraph (a) of subsection (2) is created and subsequent paragraphs are renumbered and amended as follows:

235.002 Intent.—

(1) The intent of the Legislature is:

~~(b)~~ *(a)* To encourage the use of innovative designs, construction techniques, and financing mechanisms in building educational facilities for the purpose of reducing costs *to the taxpayer*, creating a more satisfactory educational environment, and reducing the amount of time necessary for design*, permitting of on- and off-site improvements required by law,* and construction to fill unmet needs.

~~(c)~~ *(b)* To provide a systematic mechanism whereby educational facilities construction plans can meet the current and projected needs of the public education system population as quickly as possible by building uniform, sound educational environments and to provide a sound base for planning for educational facilities needs.

~~(d)~~ *(c)* To provide ~~proper legislative support~~ for ~~as wide a range of~~ fiscally sound financing methodologies ~~as possible for the delivery~~of educational facilities ~~and, where appropriate, for their construction, operation, and maintenance~~.

(d) To establish a systematic process of sharing information between school boards and local governments on the growth and development trends in their communities in order to forecast future enrollment and school needs;

(e) To establish a systematic process for school boards and local governments to cooperatively plan for the provision of educational facilities to meet the current and projected needs of the public education system population, including the needs placed on the public education system as a result of growth and development decisions by local government;

(f) To establish a systematic process for local governments and school boards to cooperatively identify and meet the infrastructure needs of public schools;

(2) The Legislature finds ~~and declares~~ that:

(a) Public schools are a linchpin to the vitality of our communities and play a significant role in the thousands of individual housing decisions which result in community growth trends;

~~(a)~~ *(b)* Growth and development issues transcend the boundaries and responsibilities of individual units of government, and often no single unit of government can plan or implement policies to deal with these issues without affecting other units of government.

~~(b)~~ *(c)* The effective and efficient provision of public educational facilities and services ~~is essential to preserving and enhancing~~ *enhances*the quality of life of the people of this state.

~~(c)~~ *(d)* The provision of educational facilities often impacts community infrastructure and services. Assuring coordinated and cooperative provision of such facilities and associated infrastructure and services is in the best interest of the state.

(e) The location of schools must follow future land use maps and may not be used to control growth, rather the location of schools should correspond with local government growth trends.

Section 15. Section 235.15 is amended as follows:

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

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

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

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

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

2. Each survey of a special facility, joint-use facility, or cooperative vocational education facility must be based on capital outlay full-time equivalent student enrollment data prepared by the department for school districts, by the Division of Community Colleges for community colleges, and by the Board of Regents for state universities. A survey of

space needs of a joint-use facility shall be based upon the respective space needs of the school districts, community colleges, and universities, as appropriate. Projections of a school district's facility space needs may not exceed the norm space and occupant design criteria established by the State Requirements for Educational Facilities.

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

4. Each state university's survey must reflect the capacity of existing facilities as specified in the inventory maintained and validated by the Board of Regents. Projections of facility space needs must be consistent with standards for determining space needs approved by the Board of Regents. The projected capital outlay full-time equivalent student enrollment must be consistent with the 5-year planned enrollment cycle for the State University System approved by the Board of Regents.

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

(c) Review and validation.—The *Office of Educational Facilities of the Commissioner of Education* ~~department~~ shall review and validate the *education facilities plans of school districts and the* surveys of school districts and community colleges and any amendments thereto for compliance with the requirements of this chapter and~~, when required by the State Constitution,~~ shall recommend those in compliance for approval by the State Board of Education.

(2) Only the superintendent or the college president shall certify to the *Office of Educational Facilities of the Commissioner of Education* ~~department~~ a project's compliance with the requirements for expenditure of PECO funds prior to release of funds.

(a) Upon request for release of PECO funds for planning purposes, certification must be made to the *Office of Educational Facilities of the Commissioner of Education* ~~department~~ that the need and location of the facility are in compliance with the board-approved *education facilities plan or* survey recommendations*,* ~~and~~ that the project meets the definition of a PECO project and the limiting criteria for expenditures of PECO funding *and that the plan is consistent with the local government comprehensive plan*.

(b) Upon request for release of construction funds, certification must be made to the *Office of Educational Facilities of the Commissioner of Education* ~~department~~ that the need and location of the facility are in compliance with the board-approved *education facilities plan or* survey recommendations, that the project meets the definition of a PECO project and the limiting criteria for expenditures of PECO funding, ~~and~~ that the construction documents meet the requirements of the State Uniform Building Code for Educational Facilities Construction or other applicable codes as authorized in this chapter, and that the site is consistent with the local government comprehensive plan.

Section 16. Paragraphs (3) and (4) of section 235.175, and sections 235.18 and .185 are amended as follows:

235.175 SMART schools; Classrooms First; legislative purpose.—

(3) SCHOOL DISTRICT *EDUCATION* FACILITIES *PLAN* ~~WORK PROGRAMS~~.—It is the purpose of the Legislature to create ss. 235.185, requiring each school district annually to adopt *an education facilities plan that provides an integrated long-range facilities plan, including the survey of projected needs and the five-year work program.* ~~a district facilities 5-year work program~~. The purpose of the ~~district facilities work program~~ *education facilities plan* is to keep the school board*, local governments* and the public fully informed as to whether the district is using sound policies and practices that meet the essential needs of students and that warrant public confidence in district operations. The ~~district facilities work program~~ *education facilities plan* will be monitored by the SMART Schools Clearinghouse, which will also apply performance standards pursuant to ss. 235.218.

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

Section 17. Section 235.18 is amended to read:

235.18 Annual capital outlay budget.—

Each board, including the Board of Regents, shall, each year, adopt a capital outlay budget for the ensuing year in order that the capital outlay needs of the board for the entire year may be well understood by the public. This capital outlay budget shall be a part of the annual budget and shall be based upon and in harmony with the educational plant and ancillary facilities plan. This budget shall designate the proposed capital outlay expenditures by project for the year from all fund sources. The board may not expend any funds on any project not included in the budget, as amended. Each district school board must prepare its tentative district ~~facilities work program~~ *education facilities plan* as required by ss. 235.185 before adopting the capital outlay budget.

Section 18. Section 235.185 is amended to read:

235.185 School district *education* facilities *plan* ~~work program~~; definitions; preparation, adoption, and amendment; long-term work programs.—

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

(a) "Adopted education facilities plan" means the comprehensive planning document adopted annually by the district school board as provided in subsection (2) and contains the education plant survey.

(b) "District facilities work program" means the 5-year listing of capital outlay projects, adopted by the district school board as provided in subsection (2)(a)2. and (2)(b) as part of the district education facilities plan, required:

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

2. To provide an adequate number of satisfactory student stations for the projected student enrollment of the district in K-12 programs in accordance with the goal in s. 235.061.

(c) "Tentative education facilities plan" means the comprehensive planning document prepared annually by the district school board and submitted to the Office of Educational Facilities of the Commissioner of Education and the affected general purpose local governments.

(d) "Financially feasible" means that a capital improvements programs will be financed for each year of the planning period, without a deficit, based on projected revenues from existing or committed revenue sources authorized by general or special law so that the adopted level-of service standard will be achieved and maintained throughout the planning period. Revenue sources may include ad valorem taxes, state revenue distributions, proceeds from the sale of bonds, sales tax proceeds, or other general tax sources. Local-option revenue sources requiring approval by a referendum of the electors shall be deemed an existing or committed revenue source only after approval in the required referendum.

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

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

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

~~2. To provide an adequate number of satisfactory student stations for the projected student enrollment of the district in K-12 programs in accordance with the goal in ss. 235.062.~~

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

(a) Annually, prior to the adoption of the district school budget, each school board shall prepare a tentative district ~~work program~~ *education facilities plan which includes long range planning for facilities needs over 5, 10, and 20 year periods. The plan shall be developed in coordination with the general purpose local governments and be consistent with the local government comprehensive plans. The school board's plan for provision of new schools shall meet the needs of all growing communities in the district, ranging from small rural communities to large urban cities. The plan shall consider:*

1. Projected student populations apportioned geographically at the local level. For the 5-year, 10-year, and 20-year planning periods projections shall be based on information produced by the demographic, revenue and education estimating conferences pursuant to s. 216.136, where available, as modified by the district based on local governments and the Office of Educational Facilities of the Commissioner of Education. The projections shall be apportioned geographically with assistance from the local governments using local development trend data, the comprehensive plan, and the school district student enrollment data from all communities. There must be a reasonable distribution to all local governments in a county, regardless of the local government's size.

2. An inventory of existing school facilities shall be provided. Any anticipated expansions or closures of existing school sites over the 5, 10, and 20 year periods shall be identified. The inventory shall include an assessment of areas proximate to existing schools and identification for the need for improvements to infrastructure, safety, including safe access routes, and conditions in the community. The plan shall also provide a listing of major repairs and renovation projects anticipated over the period of the plan.

3. Each school district's education facilities plan shall include:

a. projections of facilities space needs which may not exceed the norm space and occupant design criteria established in the State Requirements for Educational Facilities.

b. information on leased, loaned, and donated space and relocatables used for conducting the district's instructional programs.

4. General location of public schools proposed to be constructed over the 5, 10, and 20 year time periods, including a listing of the proposed schools' site acreage needs and anticipated capacity and maps showing the general location. The school boards identification of general locations of future school sites will be based on the school siting requirements of s. 163.3177(6)(a) and policies in the comprehensive plan which provide guidance for appropriate locations for school sites.

5. The identification of options deemed reasonable and approved by the school board that reduce the need for additional permanent student stations. Such options may include, but not be limited to:

a. acceptable capacity

b. redistricting,

c. busing,

d. year round schools, and

e. charter schools.

6. The criteria and method, jointly determined by the local government and the school board, for determining the impact to public school capacity in response to a local government request for a report pursuant to s. 235.193(4).

(b) The plan shall also include a financially feasible district facilities work program for a five-year period. The work program shall include:

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

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

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

b. The proposed locations of planned facilities*, whether those locations are consistent with the comprehensive plans of all affected local governments and recommendations for infrastructure and other improvements to land adjacent to existing facilities. The provisions of ss. 235.19 and 235.193((6), (7) and (8) shall be addressed for new facilities planned within the first three years of the work plan, as appropriate.*

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

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

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

f. The number and percentage of district students planned to be educated in relocatable facilities during each year of the tentative district facilities work program. *For future needs determination, student capacity shall not be assigned to any relocatable classroom that is scheduled for elimination or replacement with a permanent educational facility in the current year of the adopted district education facilities plan and in the district facilities work program adopted under ss. 235.185. Those relocatables clearly identified and scheduled for replacement in a school board adopted, financially feasible, five-year district facilities work program shall be counted at zero capacity at the time the work program is adopted and approved by the school board. However, if the district facilities work program is changed or altered and the relocatables are not replaced as scheduled in the work program, they must then be reentered into the system for counting at actual capacity. Relocatables may not be perpetually added to the work program and continually extended for purposes of circumventing the intent of this section. All relocatable classrooms not identified and scheduled for replacement, including those owned, lease- purchased, or leased by the school district, shall be counted at actual student capacity. The district education facilities plan shall identify the number of relocatable student stations scheduled for replacement during the five- year survey period and the total dollar amount needed for that replacement.*

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

h. Projects for which Capital Outlay and Debt Service funds, accruing under Section 9(d), Article XII of the State Constitution are to be used, shall be identified separately in priority order as a Project Priority List (PPL) within the district facilities work program.

3. The projected cost for each project identified in the ~~tentative~~ district facilities work program. For proposed projects for new student stations, a schedule shall be prepared comparing the planned cost and square footage for each new student station, by elementary, middle, and

high school levels, to the low, average, and high cost of facilities constructed throughout the state during the most recent fiscal year for which data is available from the Department of Education.

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

5. A schedule indicating which projects included in the ~~tentative~~ district facilities work program will be funded from current revenues projected in subparagraph 4 *3*.

6. A schedule of options for the generation of additional revenues by the district for expenditure on projects identified in the ~~tentative~~ district facilities work program which are not funded under subparagraph *4.* ~~5.~~ Additional anticipated revenues may include effort index grants, SIT Program awards, and Classrooms First funds.

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

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

(d) The district school board shall coordinate with each affected local government to ensure consistency between the tentative district education facilities plan and the local government comprehensive plans of the affected local governments during the development of the tentative district education facilities plan.

(e) Commencing on October 1, 2001, and not less than once every five years thereafter, the district school board shall contract with a qualified, independent third party to conduct a financial management and performance audit of the educational planning and construction activities of the district, and to make a determination as to whether the plan is financially feasible. The response of the school board to the audit shall be included in the public education facilities element adopted pursuant to s. 163.31776. An audit conducted by the Auditor General satisfies this requirement.

(3) Submittal of tentative district education facilities plan to local government. The district school board shall submit a copy of its tentative district education facilities plan to all affected local governments prior to adoption by the board. The affected local governments shall review the tentative district education facilities plan and comment to the district school board on the consistency of the plan with the local comprehensive plan, whether a comprehensive plan amendment will be necessary for any proposed educational facility, and whether the local government supports a necessary comprehensive plan amendment. If the local government does not support a comprehensive plan amendment for a proposed educational facility, the matter shall be resolved pursuant to the interlocal agreement required by ss. 163.31776(4)and 235.193(2). The process for the submittal and review shall be detailed in the interlocal agreement required pursuant to ss. 163.31776(4) and 235.193(2). Where the school board and the local government have not entered into an interlocal agreement pursuant to ss. 163.31776(4) and 235.193(2), the school board and the local government must determine a mutually acceptable process for submittal and review of the tentative district education facilities plan. Disputes between the school board and the local government, in instances where the school board and the local government have not entered into an interlocal agreement pursuant to 163.31776(4) and 235.193(2), shall be addressed pursuant to s. 163.3181.

(4) ~~(3)~~ ADOPTED DISTRICT *EDUCATION* FACILITIES *PLAN* ~~WORK PROGRAM~~.—Annually, the district school board shall consider and adopt the tentative district *education* facilities *plan* ~~work program~~ completed pursuant to subsection (2). Upon giving proper ~~public~~ notice *to the public and local governments* and opportunity for public comment, the district school board may amend the *plan* ~~program~~ to revise the priority of projects, to add or delete projects, to reflect the impact of change orders, or to reflect the approval of new revenue sources which may become available. The adopted district facilities work program shall *include a 5-year facilities work program which*:

(a) Be a complete, balanced *and financially feasible* capital outlay financial plan for the district.

(b) Set forth the proposed commitments and planned expenditures of the district to address the educational facilities needs of its students and to adequately provide for the maintenance of the educational plant and ancillary facilities*, including safe access ways from neighborhoods to schools*.

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

~~(5) 10-YEAR AND 20-YEAR WORK PROGRAMS.—In addition to the adopted district facilities work program covering the 5-year work program, the district school board shall adopt annually a 10-year and a 20-year work program which is include the information set forth in subsection (2), but based upon enrollment projections and facility needs for the 10-year and 20-year periods. It is recognized that the projections in the 10-year and 20-year timeframes are tentative and should be used only for general planning purposes.~~

Section 19. Section 235.188, Florida Statutes, is amended to read:

235.188 Full bonding required to participate in programs.—

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

Section 20. Section 235.19 is amended as follows:

235.19 Site planning and selection.—

(1) If the school board and local government have entered into an interlocal agreement pursuant to ss. 163.31776(4) and 235.193(2) and have developed a process to ensure consistency between the local government comprehensive plan and the school district education facilities plan and a method to coordinate decision making and approval activities relating to school planning and site selection, the provisions of this section are superseded by the interlocal agreement and the plans of the local government and the school board.

~~(1)~~ *(2)* Before acquiring property for sites, each board shall determine the location of proposed educational centers or campuses for the board. In making this determination, the board shall consider existing and anticipated site needs and the most economical and practicable locations of sites. The board shall coordinate with the long-range or comprehensive plans of local, regional, and state governmental agencies to assure the ~~compatibility~~ *consistency* of such plans ~~with site planning~~. Boards are encouraged to locate schools proximate to urban residential areas to the extent possible, and shall seek to collocate schools with other public facilities, such as parks, libraries, and community centers, to the extent possible*, and to encourage using elementary schools as focal points for neighborhoods*.

(~~(2)~~ *(3)* Each new site selected must be adequate in size to meet the educational needs of the students to be served on that site by the original educational facility or future expansions of the facility through renovation or the addition of relocatables. ~~The Commissioner of Education shall prescribe by rule recommended sizes for new sites according to categories of students to be housed and other appropriate factors determined by the commissioner. Less-than-recommended site sizes are allowed if the board, by a two-thirds majority, recommends such a site and finds that it can provide an appropriate and equitable educational program on the site.~~

(~~3~~) *(4)* Sites recommended for purchase, or purchased, in accordance with chapter 230 or chapter 240 must meet standards prescribed therein and such supplementary standards as the *school board* ~~commissioner~~ prescribes to promote the educational interests of the students. Each site must be well drained and *either* suitable for outdoor educational purposes as appropriate for the educational program *or co-located with facilities to serve this purpose*. As provided in ss. 333.03, the site must not be located within any path of flight approach of any airport. Insofar as is practicable, the site must not adjoin a right-of-way of any railroad or through highway and must not be adjacent to any factory or other property from which noise, odors, or other disturbances, or at which conditions, would be likely to interfere with the educational program. *To the extent praticable, sites must be chosen that will provide safe access from neighborhoods to schools.*

(~~4~~) *(5)* It shall be the responsibility of the board to provide adequate notice to appropriate municipal, county, regional, and state governmental agencies for requested traffic control and safety devices so they can be installed and operating prior to the first day of classes or to satisfy itself that every reasonable effort has been made in sufficient time to secure the installation and operation of such necessary devices prior to the first day of classes. It shall also be the responsibility of the board to review annually traffic control and safety device needs and to request all necessary changes indicated by such review.

(~~5~~) *(6)* Each board may request county and municipal governments to construct and maintain sidewalks and bicycle trails within a 2-mile radius of each educational facility within the jurisdiction of the local government. When a board discovers or is aware of an existing hazard on or near a public sidewalk, street, or highway within a 2-mile radius of a school site and the hazard endangers the life or threatens the health or safety of students who walk, ride bicycles, or are transported regularly between their homes and the school in which they are enrolled, the board shall, within 24 hours after discovering or becoming aware of the hazard, excluding Saturdays, Sundays, and legal holidays, report such hazard to the governmental entity within the jurisdiction of which the hazard is located. Within 5 days after receiving notification by the board, excluding Saturdays, Sundays, and legal holidays, the governmental entity shall investigate the hazardous condition and either correct it or provide such precautions as are practicable to safeguard students until the hazard can be permanently corrected. However, if the governmental entity that has jurisdiction determines upon investigation that it is impracticable to correct the hazard, or if the entity determines that the reported condition does not endanger the life or threaten the health or safety of students, the entity shall, within 5 days after notification by the board, excluding Saturdays, Sundays, and legal holidays, inform the board in writing of its reasons for not correcting the condition. The governmental entity, to the extent allowed by law, shall indemnify the board from any liability with respect to accidents or injuries, if any, arising out of the hazardous condition.

Section 21. Section 235.193 is amended as follows:

235.193 Coordination of planning with local governing bodies.—

(1) It is the policy of this state to require the coordination of planning between boards and local governing bodies to ensure that plans for the construction and opening of public educational facilities are facilitated and coordinated in time and place with plans for residential development, concurrently with other necessary services. Such planning shall include the integration of the *education facilities plan* ~~educational plant survey~~ and applicable policies and procedures of a board with the local comprehensive plan and land development regulations of local *governments.* ~~governing bodies.~~ The planning must include the consideration of allowing students to attend the school located nearest their homes when a new housing development is constructed near a county boundary and it is more feasible to transport the students a short distance to an existing facility in an adjacent county than to construct a new facility or transport students longer distances in their county of residence. The planning must also consider the effects of the location of public education facilities, including the feasibility of keeping central city facilities viable, in order to encourage central city redevelopment and the efficient use of infrastructure and to discourage uncontrolled urban sprawl. *In addition, all parties to the planning process must consult with state and local road departments to assist in implementing the Safe Paths to Schools program administered by the Florida Department of Transportation.*

(2) *No later than six months prior to the transmittal of a public educational facilities element by general purpose local governments meeting the criteria of s. 163.31776(3),* ~~No later than six months prior to the deadline established by the state land planning agency pursuant to s. 163.31776(3) for the transmittal of a public educational facilities element by general purpose local governments,~~ *the school district, the county and the non-exempt municipalities shall enter into an interlocal agreement which establishes a process to develop coordinated and consistent local government public educational facilities elements and district education facilities plan, including a process:*

(a) By which each local government and the school district agree and base their plans on local government projections based on professionally accepted methodology of the amount, type, and distribution of population growth and student enrollment.

(b) To coordinate and share information relating to existing and planned public school facilities and local government plans for development and redevelopment.

(c) To ensure school siting decisions by the school board are consistent with the local comprehensive plan and future land use maps, including appropriate circumstances and criteria under which a school district may request an amendment to the comprehensive plan for school siting, and for early involvement by the local government as the school board identifies potential school sites.

(d) To coordinate and provide formal timely comments during the development, adoption, and amendment of each local government's public educational facilities element and the education facilities plan of the school district to ensure a uniform countywide school facility planning system.

(e) For school district participation in the review of comprehensive plan amendments and rezonings which increase residential density and which are reasonably expected to have an impact on public school facility demand pursuant to s. 163.31777. The interlocal agreement shall express how the school board and local governments will develop the methodology and the criteria for determining if school facility capacity will not be reasonably available at the time of projected school impacts, including uniform, districtwide level-of service standards for all public schools of the same type and availability standards for public schools. The interlocal agreement shall ensure that consistent criteria and capacity determination methodologies including student generation multipliers, are adopted into the school board's district education facilities plan and the local government's public educational facilities element. The interlocal agreement shall also set forth the process and uniform methodology for determining proportionate share mitigation pursuant to s. 163.31777; and,

(f) For the resolution of disputes between the school district and local governments.

(g) That determines the "true cost of school needs." This analysis must provide the number of schools and the funding needed to meet any current backlog and future needs based on local governments' population and growth trends. This analysis should also identify how the current and future needs are funded.

(h) Any school board entering into an interlocal agreement for the purpose of adopting public school concurrency prior to the effective date of this act is not required to amend the interlocal agreement to conform to the provisions of this paragraph if the comprehensive plan amendment adopting public school concurrency is ultimately determined to be in compliance.

(3) Failure to enter into an interlocal agreement as required by s. 235.193(2) shall result in the withholding of funds for school construction available pursuant to ss. 235.187, 235.216, 235.2195, and 235.42 and a prohibition from siting schools. Before the Office of

Educational Facilities of the Commissioner of Education can withhold any funds, the Office shall provide the school board with a notice of intent to withhold funds, which the school board may dispute pursuant to the provisions of chapter 120. The Office shall withhold funds when a final order is issued finding the school board has failed to enter into an interlocal agreement which meets the requirements of this subsection.

(4) The local school board shall provide the local government a school capacity report when the local government notifies the school board that it is reviewing an application for a comprehensive plan amendment or a rezoning which seeks to increase residential density. The report shall provide data and analysis as required by s. 163.31777(2) for the local government's review of such proposed plan amendment or rezoning.

(5) ~~(2)~~ A school board and the local governing body must share and coordinate information related to existing and planned public school facilities; proposals for development, redevelopment, or additional development; and infrastructure required to support the public school facilities, concurrent with proposed development. A school board shall use *information produced by the demographic, revenue and education estimating conferences pursuant to s. 216.136* ~~Department of Education enrollment projections~~ when preparing the *district education facilities plan* ~~5-year district facilities work program~~ pursuant to ss. 235.185, *as modified, and agreed to by the local governments and the Office of Educational Facilities of the Commissioner of Education, in* ~~and a school board shall affirmatively demonstrate in the educational facilities report~~ consideration of local governments' population projections to ensure that the *district education facilities plan* ~~5-year work program~~ not only reflects enrollment projections but also considers applicable municipal and county growth and development projections. *The projections shall be apportioned geographically with assistance from the local governments using local development trend data and the school district student enrollment data from all communities. There must be a reasonable, distribution to all local governments with a county, regardless of the local government's size.* A school board is precluded from siting a new school in a jurisdiction where the school board has failed to provide the annual educational facilities *plan*~~report~~ for the prior year required pursuant to ss. *235.185* ~~235.194~~ unless the failure is corrected.

(6) ~~(3)~~ The location of public educational facilities shall be consistent with the comprehensive plan of the appropriate local governing body developed under part II of chapter 163 and *consistent with* the plan's implementing land development regulations~~, to the extent that the regulations are not in conflict with or the subject regulated is not specifically addressed by this chapter or the State Uniform Building Code, unless mutually agreed by the local government and the board~~.

(7) ~~(4)~~ To improve coordination relative to potential educational facility sites, a board shall provide written notice to the local government that has regulatory authority over the use of the land at least *120* ~~60~~days prior to acquiring or leasing property that may be used for a new public educational facility. The local government, upon receipt of this notice, shall notify the board within 45 days if the site proposed for acquisition or lease is consistent with the future land use element of the local government's comprehensive plan. This preliminary notice does not constitute the local government's determination of consistency pursuant to subsection ~~(5)~~(8).

(8) ~~(5)~~ As early in the design phase as feasible, but at least before commencing construction of a new public educational facility, the local governing body that regulates the use of land shall determine, in writing within 90 days after receiving the necessary information and a school board's request for a determination, whether a proposed public educational facility is consistent with the local comprehensive plan and *consistent with* local land development regulations, to the extent that the regulations are not in conflict with or the subject regulated is not specifically addressed by this chapter or the State Uniform Building Code, unless mutually agreed. If the determination is affirmative, school construction may proceed and further local government approvals are not required, except as provided in this section. Failure of the local governing body to make a determination in writing within 90 days after a school board's request for a determination of consistency shall be considered an approval of the school board's application.

(9) ~~(6)~~ A local governing body may not deny the site applicant based on adequacy of the site plan as it relates solely to the needs of the school. If the site is consistent with the comprehensive plan's~~ future land use~~ , the local government may not deny the application but it may impose reasonable development standards and conditions in accordance with ss. 235.34(1) and consider the site plan and its adequacy as it relates to environmental concerns, health, safety and welfare, and effects on adjacent property. Standards and conditions may not be imposed which conflict with those established in this chapter or the State Uniform Building Code, unless mutually agreed.

(10) ~~(7)~~ This section does not prohibit a local governing body and district school board from agreeing and establishing an alternative process for reviewing a proposed educational facility and site plan, and offsite impacts *pursuant to an interlocal agreement adopted in accordance with s. 235.193*.

(11)~~(8)~~ Existing schools shall be considered consistent with the applicable local government comprehensive plan adopted under part II of chapter 163. ~~The collocation of a new proposed public educational facility with an existing public educational facility, or the expansion of an existing public educational facility is not inconsistent with the local comprehensive plan, if the site is consistent with the comprehensive plan's future land use, and levels of service adopted by the local government for any facilities affected by the proposed location for the new facility are maintained.~~ If a board submits an application to expand an existing school site, the local governing body may impose reasonable development standards and conditions on the expansion only, and in a manner consistent with ss. 235.34(1). Standards and conditions may not be imposed which conflict with those established in this chapter or the State Uniform Building Code, unless mutually agreed. Local government review or approval is not required for:

(a) The placement of temporary or portable classroom facilities; or

(b) Proposed renovation or construction on existing school sites, with the exception of construction that changes the primary use of a facility, includes stadiums, or results in a greater than 5 percent increase in student capacity, or as mutually agreed.

Section 22. Section 235.194 is repealed.

Section 23. Section 235.218, Florida Statutes, is amended to read:

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

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

(a) Frugal production of high-quality projects.

(b) Efficient finance and administration.

(c) Optimal school and classroom size and utilization rate.

(d) Safety.

(e) Core facility space needs and cost-effective capacity improvements that consider demographic projections*, land use patterns, and collocation and shared use with other public facilities*.

(f) Level of district local effort.

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

(3) The clearinghouse shall conduct ongoing evaluations of district educational facilities program performance and productivity, using the measures adopted under this section. If, using these measures, the

clearinghouse finds that a district failed to perform satisfactorily, the clearinghouse must recommend to the district school board actions to be taken to improve the district's performance.

Section 24. Section 235.321, Florida Statutes is amended to read:

235.321 Changes in construction requirements after award of contract.—

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

Section 25. Paragraph (d) of subsection (5) of section 236.25, Florida Statutes, is amended to read:

236.25 District school tax.—

(5)

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

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

Section 26. Section 380.04, Florida Statutes, is amended to read:

380.04 Definition of development.—

(1) The term "development" means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels.

(2) The following activities or uses shall be taken for the purposes of this chapter to involve "development," as defined in this section:

(a) A reconstruction, alteration of the size, or material change in the external appearance of a structure on land.

(b) A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land.

(c) Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any "coastal construction" as defined in s. 161.021.

(d) Commencement of drilling, except to obtain soil samples, mining, or excavation on a parcel of land.

(e) Demolition of a structure.

(f) Clearing of land as an adjunct of construction.

(g) Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

(3) The following operations or uses shall not be taken for the purpose of this chapter to involve "development" as defined in this section:

(a) Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way.

(b) Work by any utility and other persons engaged in the distribution or transmission of gas*, electricity,* or water, for the purpose of inspecting, repairing, renewing, or constructing on *or adjacent to* established rights-of-way any sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks, or the like.

(c) Work for the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure.

(d) The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling.

(e) The use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products; raising livestock; or for other agricultural purposes.

(f) A change in use of land or structure from a use within a class specified in an ordinance or rule to another use in the same class.

(g) A change in the ownership or form of ownership of any parcel or structure.

(h) The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land.

(4) "Development," as designated in an ordinance, rule, or development permit includes all other development customarily associated with it unless otherwise specified. When appropriate to the context, "development" refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of subsection (1).

Section 27. Paragraphs (d) and (e) of subsection (2), paragraph (c) of subsection (3), paragraph (b) of subsection (4), paragraph (a) of subsection (8), paragraphs (c) and (g) of subsection (15), subsection (18), and paragraph (c), (e), and (f) of subsection (19) of section 380.06, Florida Statutes, are amended, to read:

380.06 Developments of regional impact.—

(2) STATEWIDE GUIDELINES AND STANDARDS.—

(d) The guidelines and standards shall be applied as follows:

~~1. Fixed thresholds.—~~

1.~~a.~~ A development that is ~~at or~~ below *100* ~~80~~ percent of all numerical thresholds in the guidelines and standards shall not be required to undergo development-of-regional-impact review.

2.~~b.~~ A development that is at or above *100* ~~120~~ percent of any numerical threshold shall be required to undergo development-of-regional-impact review.

3.~~c.~~ Projects certified under s. 403.973 which create at least 100 jobs and meet the criteria of the Office of Tourism, Trade, and Economic Development as to their impact on an area's economy, employment, and prevailing wage and skill levels that are at or below 100 percent of the numerical thresholds for industrial plants, industrial parks, distribution, warehousing or wholesaling facilities, office development or multiuse projects other than residential, as described in s. 380.0651(3)*(b)*~~(c)~~, *(c)*~~(d)~~, and *(g)*~~(i)~~, are not required to undergo development-of-regional-impact review.

~~2. Rebuttable presumptions.—~~

~~a. It shall be presumed that a development that is between 80 and 100 percent of a numerical threshold shall not be required to undergo development-of-regional-impact review.~~

~~b. It shall be presumed that a development that is at 100 percent or between 100 and 120 percent of a numerical threshold shall be required to undergo development-of-regional-impact review.~~

~~The Administration Commission, upon the recommendation of the state land planning agency, shall implement this paragraph by rule no later than December 1, 1993. The increased guidelines and standards authorized by this paragraph shall not be implemented until the effectiveness of the rule which, among other things, shall set forth the pertinent characteristics of urban central business districts and regional activity centers.~~

(e) With respect to residential, hotel, motel, office, and retail developments, the applicable guidelines and standards shall be increased by 50 percent in urban central business districts and regional activity centers of jurisdictions whose local comprehensive plans are in compliance with part II of chapter 163. With respect to multiuse developments, the applicable guidelines and standards shall be increased by 100 percent in urban central business districts and regional activity centers of jurisdictions whose local comprehensive plans are in compliance with part II of chapter 163, if one land use of the multiuse development is residential and amounts to not less than 35 percent of the jurisdiction's applicable residential threshold. With respect to resort or convention hotel developments, the applicable guidelines and standards shall be increased by 150 percent in urban central business districts and regional activity centers of jurisdictions whose local comprehensive plans are in compliance with part II of chapter 163 and where the increase is specifically for a proposed resort or convention hotel located in a county with a population greater than 500,000 and the local government specifically designates that the proposed resort or convention hotel development will serve an existing convention center of more than 250,000 gross square feet built prior to July 1, 1992. *The applicable guidelines and standards shall be increased by 200 percent for development in any area designated by the Governor as a rural area of critical economic concern pursuant to s. 288.0656 during the effectiveness of the designation.* ~~The Administration Commission, upon the recommendation of the state land planning agency, shall implement this paragraph by rule no later than December 1, 1993. The increased guidelines and standards authorized by this paragraph shall not be implemented until the effectiveness of the rule which, among other things, shall set forth the pertinent characteristics of urban central business districts and regional activity centers.~~

(3) VARIATION OF THRESHOLDS IN STATEWIDE GUIDELINES AND STANDARDS.—The state land planning agency, a regional planning agency, or a local government may petition the Administration Commission to increase or decrease the numerical thresholds of any statewide guideline and standard. The state land planning agency or the regional planning agency may petition for an increase or decrease for a particular local government's jurisdiction or a part of a particular jurisdiction. A local government may petition for an increase or decrease within its jurisdiction or a part of its jurisdiction. A number of requests may be combined in a single petition.

(c) The Administration Commission shall have authority to increase or decrease a threshold in the statewide guidelines and standards ~~up to 50 percent above or below the statewide presumptive threshold~~. The commission may from time to time reconsider changed thresholds and make additional variations as it deems necessary.

(4) BINDING LETTER.—

(b) Unless a developer waives the requirements of this paragraph by agreeing to undergo development-of-regional-impact review pursuant to this section, the state land planning agency or local government with jurisdiction over the land on which a development is proposed may require a developer to obtain a binding letter if:

~~1.~~ the development is ~~at a presumptive numerical threshold or~~ up to 20 percent above a numerical threshold in the guidelines and standards.~~; or~~

~~2. The development is between a presumptive numerical threshold and 20 percent below the numerical threshold and the local government or the state land planning agency is in doubt as to whether the character or magnitude of the development at the proposed location creates a likelihood that the development will have a substantial effect on the health, safety, or welfare of citizens of more than one county.~~

(8) PRELIMINARY DEVELOPMENT AGREEMENTS.—

(a) A developer may enter into a written preliminary development agreement with the state land planning agency to allow a developer to proceed with a limited amount of the total proposed development, subject to all other governmental approvals and solely at the developer's own risk, prior to issuance of a final development order. All owners of the land in the total proposed development shall join the developer as parties to the agreement. Each agreement shall include and be subject to the following conditions:

1. The developer shall comply with the preapplication conference requirements pursuant to subsection (7) within 45 days after the execution of the agreement.

2. The developer shall file an application for development approval for the total proposed development within 3 months after execution of the agreement, unless the state land planning agency agrees to a different time for good cause shown. Failure to timely file an application and to otherwise diligently proceed in good faith to obtain a final development order shall constitute a breach of the preliminary development agreement.

3. The agreement shall include maps and legal descriptions of both the preliminary development area and the total proposed development area and shall specifically describe the preliminary development in terms of magnitude and location. The area approved for preliminary development must be included in the application for development approval and shall be subject to the terms and conditions of the final development order.

4. The preliminary development shall be limited to lands that the state land planning agency agrees are suitable for development and shall only be allowed in areas where adequate public infrastructure exists to accommodate the preliminary development, when such development will utilize public infrastructure. The developer must also demonstrate that the preliminary development will not result in material adverse impacts to existing resources or existing or planned facilities.

5. The preliminary development agreement may allow development which is:

a. Less than *100* ~~or equal to 80~~ percent of any applicable threshold if the developer demonstrates that such development is consistent with subparagraph 4.; or

b. *Equal to or more than 100* ~~Less than 120~~ percent of any applicable threshold if the developer demonstrates that such development is part of a proposed downtown development of regional impact specified in subsection (22) or part of any areawide development of regional impact specified in subsection (25) and that the development is consistent with subparagraph 4.

6. The developer and owners of the land may not claim vested rights, or assert equitable estoppel, arising from the agreement or any expenditures or actions taken in reliance on the agreement to continue with the total proposed development beyond the preliminary development. The agreement shall not entitle the developer to a final development order approving the total proposed development or to particular conditions in a final development order.

7. The agreement shall not prohibit the regional planning agency from reviewing or commenting on any regional issue that the regional agency determines should be included in the regional agency's report on the application for development approval.

8. The agreement shall include a disclosure by the developer and all the owners of the land in the total proposed development of all land or

development within 5 miles of the total proposed development in which they have an interest and shall describe such interest.

9. In the event of a breach of the agreement or failure to comply with any condition of the agreement, or if the agreement was based on materially inaccurate information, the state land planning agency may terminate the agreement or file suit to enforce the agreement as provided in this section and s. 380.11, including a suit to enjoin all development.

10. A notice of the preliminary development agreement shall be recorded by the developer in accordance with s. 28.222 with the clerk of the circuit court for each county in which land covered by the terms of the agreement is located. The notice shall include a legal description of the land covered by the agreement and shall state the parties to the agreement, the date of adoption of the agreement and any subsequent amendments, the location where the agreement may be examined, and that the agreement constitutes a land development regulation applicable to portions of the land covered by the agreement. The provisions of the agreement shall inure to the benefit of and be binding upon successors and assigns of the parties in the agreement.

11. Except for those agreements which authorize preliminary development for substantial deviations pursuant to subsection (19), a developer who no longer wishes to pursue a development of regional impact may propose to abandon any preliminary development agreement executed after January 1, 1985, including those pursuant to s. 380.032(3), provided at the time of abandonment:

a. A final development order under this section has been rendered that approves all of the development actually constructed; or

b. The amount of development is less than *100* ~~80~~ percent of all numerical thresholds of the guidelines and standards, and the state land planning agency determines in writing that the development to date is in compliance with all applicable local regulations and the terms and conditions of the preliminary development agreement and otherwise adequately mitigates for the impacts of the development to date.

In either event, when a developer proposes to abandon said agreement, the developer shall give written notice and state that he or she is no longer proposing a development of regional impact and provide adequate documentation that he or she has met the criteria for abandonment of the agreement to the state land planning agency. Within 30 days of receipt of adequate documentation of such notice, the state land planning agency shall make its determination as to whether or not the developer meets the criteria for abandonment. Once the state land planning agency determines that the developer meets the criteria for abandonment, the state land planning agency shall issue a notice of abandonment which shall be recorded by the developer in accordance with s. 28.222 with the clerk of the circuit court for each county in which land covered by the terms of the agreement is located.

(15) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

(c) The development order shall include findings of fact and conclusions of law consistent with subsections (13) and (14). The development order:

1. Shall specify the monitoring procedures and the local official responsible for assuring compliance by the developer with the development order.

2. Shall establish compliance dates for the development order, including a deadline for commencing physical development and for compliance with conditions of approval or phasing requirements, and shall include a termination date that reasonably reflects the time required to complete the development.

3. Shall establish a date until which the local government agrees that the approved development of regional impact shall not be subject to downzoning, unit density reduction, or intensity reduction, unless the local government can demonstrate that substantial changes in the conditions underlying the approval of the development order have occurred or the development order was based on substantially inaccurate information provided by the developer or that the change is clearly established by local government to be essential to the public health, safety, or welfare.

4. Shall specify the requirements for the *biennial* ~~annual~~ report designated under subsection (18), including the date of submission, parties to whom the report is submitted, and contents of the report, based upon the rules adopted by the state land planning agency. Such rules shall specify the scope of any additional local requirements that may be necessary for the report.

5. May specify the types of changes to the development which shall require submission for a substantial deviation determination under subsection (19).

6. Shall include a legal description of the property.

(g) A local government shall not issue permits for development subsequent to the termination date or expiration date contained in the development order unless:

1. The proposed development has been evaluated cumulatively with existing development under the substantial deviation provisions of subsection (19) subsequent to the termination or expiration date;

2. The proposed development is consistent with an abandonment of development order that has been issued in accordance with the provisions of subsection (26); or

3. The project has been determined to be an essentially built-out development of regional impact through an agreement executed by the developer, the state land planning agency, and the local government, in accordance with s. 380.032, which will establish the terms and conditions under which the development may be continued. If the project is determined to be essentially built-out, development may proceed pursuant to the s. 380.032 agreement after the termination or expiration date contained in the development order without further development-of-regional-impact review subject to the local government comprehensive plan and land development regulations or subject to a modified development-of-regional-impact analysis. As used in this paragraph, an "essentially built-out" development of regional impact means:

a. The development is in compliance with all applicable terms and conditions of the development order except the built-out date; and

b.(I) The amount of development that remains to be built is less than the substantial deviation threshold specified in paragraph (19)(b) for each individual land use category, or, for a multiuse development, the sum total of all unbuilt land uses as a percentage of the applicable substantial deviation threshold is equal to or less than *150* ~~100~~ percent; or

(II) The state land planning agency and the local government have agreed in writing that the amount of development to be built does not create the likelihood of any additional regional impact not previously reviewed.

(18) *BIENNIAL* ~~ANNUAL~~ REPORTS.—The developer shall submit *a biennial* ~~an annual~~ report on the development of regional impact to the local government, the regional planning agency, the state land planning agency, and all affected permit agencies *in alternate years* on the date specified in the development order*, unless the development order by its terms requires more frequent monitoring*. If the ~~annual~~ report is not received, the regional planning agency or the state land planning agency shall notify the local government. If the local government does not receive the ~~annual~~ report or receives notification that the regional planning agency or the state land planning agency has not received the report, the local government shall request in writing that the developer submit the report within 30 days. The failure to submit the report after 30 days shall result in the temporary suspension of the development order by the local government. *If no additional development pursuant to the development order has occurred since the submission of the previous report, then a letter from the developer stating that no development has*

occurred shall satisfy the requirement for a report. Development orders which require annual reports may be amended to require biennial reports at the option of the local government.

(19) SUBSTANTIAL DEVIATIONS.—

(c) An extension of the date of buildout of a development, or any phase thereof, by 7 or more years shall be presumed to create a substantial deviation subject to further development-of-regional-impact review. An extension of the date of buildout, or any phase thereof, of ~~5 years or more but less than 7 years shall be presumed not to create a substantial deviation. These presumptions may be rebutted by clear and convincing evidence at the public hearing held by the local government. An extension of~~ less than 7 ~~5~~ years is not a substantial deviation. For the purpose of calculating when a buildout, phase, or termination date has been exceeded, the time shall be tolled during the pendency of administrative or judicial proceedings relating to development permits. Any extension of the buildout date of a project or a phase thereof shall automatically extend the commencement date of the project, the termination date of the development order, the expiration date of the development of regional impact, and the phases thereof by a like period of time.

(e)~~1. A proposed change which, either individually or, if there were previous changes, cumulatively with those changes, is equal to or exceeds 40 percent of any numerical criterion in subparagraphs (b)1.-15., but which does not exceed such criterion, shall be presumed not to create a substantial deviation subject to further development-of-regional-impact review. The presumption may be rebutted by clear and convincing evidence at the public hearing held by the local government pursuant to subparagraph (f)5.~~

1.~~2.~~ Except for a development order rendered pursuant to subsection (22) or subsection (25), a proposed change to a development order that individually or cumulatively with any previous change is less than *60* ~~40~~ percent of any numerical criterion contained in subparagraphs (b)*1.-12.*~~1.-15.~~ and does not exceed any other criterion *is not a substantial deviation*, ~~or that involves an extension of the buildout date of a development, or any phase thereof, of less than 5 years~~ is not subject to the public hearing requirements of subparagraph (f)3., and is not subject to a determination pursuant to subparagraph (f)5. Notice of the proposed change shall be made to the *local government and the* regional planning council ~~and the state land planning agency~~. Such notice shall include a description of previous individual changes made to the development, including changes previously approved by the local government, and shall include appropriate amendments to the development order. The following changes, individually or cumulatively with any previous changes, are not substantial deviations:

a. Changes in the name of the project, developer, owner, or monitoring official.

b. Changes to a setback that do not affect noise buffers, environmental protection or mitigation areas, or archaeological or historical resources.

c. Changes to minimum lot sizes.

d. Changes in the configuration of internal roads that do not affect external access points.

e. Changes to the building design or orientation that stay approximately within the approved area designated for such building and parking lot, and which do not affect historical buildings designated as significant by the Division of Historical Resources of the Department of State.

f. Changes to increase the acreage in the development, provided that no development is proposed on the acreage to be added.

g. Changes to eliminate an approved land use, provided that there are no additional regional impacts.

h. Changes required to conform to permits approved by any federal, state, or regional permitting agency, provided that these changes do not create additional regional impacts.

i. Any other change which the state land planning agency agrees in writing is similar in nature, impact, or character to the changes enumerated in sub-subparagraphs a.-h. and which does not create the likelihood of any additional regional impact.

This subsection does not require a development order amendment for any change listed in sub-subparagraphs a.-i. unless such issue is addressed either in the existing development order or in the application for development approval, but, in the case of the application, only if, and in the manner in which, the application is incorporated in the development order.

2.~~3.~~ Except for the change authorized by sub-subparagraph *1.f.* ~~2.f.~~, any addition of land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.

3.~~4.~~ Any submittal of a proposed change to a previously approved development shall include a description of individual changes previously made to the development, including changes previously approved by the local government. The local government shall consider the previous and current proposed changes in deciding whether such changes cumulatively constitute a substantial deviation requiring further development-of-regional-impact review.

4.~~5.~~ The following changes to an approved development of regional impact shall be presumed to create a substantial deviation. Such presumption may be rebutted by clear and convincing evidence.

a. A change proposed for 15 percent or more of the acreage to a land use not previously approved in the development order. Changes of less than 15 percent shall be presumed not to create a substantial deviation.

b. Except for the types of uses listed in subparagraph (b)*13.*~~16.~~, any change which would result in the development of any area which was specifically set aside in the application for development approval or in the development order for preservation, buffers, or special protection, including habitat for plant and animal species, archaeological and historical sites, dunes, and other special areas.

c. Notwithstanding any provision of paragraph (b) to the contrary, a proposed change consisting of simultaneous increases and decreases of at least two of the uses within an authorized multiuse development of regional impact which was originally approved with three or more uses specified in s. 380.0651(3)*(b)*~~(c)~~, *(c)*~~(d)~~, *(d)*~~(f)~~, and *(e)*~~(g)~~ and residential use.

(f)1. The state land planning agency shall establish by rule standard forms for submittal of proposed changes to a previously approved development of regional impact which may require further development-of-regional-impact review. At a minimum, the standard form shall require the developer to provide the precise language that the developer proposes to delete or add as an amendment to the development order.

2. The developer shall submit, simultaneously, to the local government, the regional planning agency, and the state land planning agency the request for approval of a proposed change. *Those changes described in subparagraph (e)1. do not need to be submitted to the state land planning agency; however, if the proposed change does not qualify under subparagraph (e)1., the local government or the regional planning agency shall request that the state land planning agency review the proposed change.*

3. No sooner than 30 days but no later than 45 days after submittal by the developer to the local government, the state land planning agency, and the appropriate regional planning agency, the local government shall give 15 days' notice and schedule a public hearing to consider the change that the developer asserts does not create a substantial deviation. This public hearing shall be held within 90 days after submittal of the proposed changes, unless that time is extended by the developer.

4. The appropriate regional planning agency or the state land planning agency shall review the proposed change and, no later than 45

days after submittal by the developer of the proposed change, unless that time is extended by the developer, and prior to the public hearing at which the proposed change is to be considered, shall advise the local government in writing whether it objects to the proposed change, shall specify the reasons for its objection, if any, and shall provide a copy to the developer. ~~A change which is subject to the substantial deviation criteria specified in sub-subparagraph (e)5.e. shall not be subject to this requirement.~~

5. At the public hearing, the local government shall determine whether the proposed change requires further development-of-regional-impact review. The provisions of paragraphs (a) and (e), the thresholds set forth in paragraph (b), and the presumptions set forth in paragraphs (c) and (d) and *subparagraph (e)2.* ~~subparagraphs (e)1. and 3.~~ shall be applicable in determining whether further development-of-regional-impact review is required.

6. If the local government determines that the proposed change does not require further development-of-regional-impact review and is otherwise approved, or if the proposed change is not subject to a hearing and determination pursuant to subparagraphs 3. and 5. and is otherwise approved, the local government shall issue an amendment to the development order incorporating the approved change and conditions of approval relating to the change. The decision of the local government to approve, with or without conditions, or to deny the proposed change that the developer asserts does not require further review shall be subject to the appeal provisions of s. 380.07. However, the state land planning agency may not appeal the local government decision if it did not comply with subparagraph 4*., except for a change to a development order made pursuant to subparagraph (e)1., if the approved change is not consistent with this and other provisions of this section.* The state land planning agency may not appeal a change to a development order made pursuant to subparagraph *(e)1.* ~~(e)2.~~ for developments of regional impact approved after January 1, 1980, unless the change would result in a significant impact to a regionally significant archaeological, historical, or natural resource not previously identified in the original development-of-regional-impact review.

Section 28. Paragraphs (b), (d), (f), and (j) of said subsection are amended, to read:

380.0651 Statewide guidelines and standards.—

(3) The following statewide guidelines and standards shall be applied in the manner described in s. 380.06(2) to determine whether the following developments shall be required to undergo development-of-regional-impact review:

(b) Attractions and recreation facilities.—Any sports, entertainment, amusement, or recreation facility, including, but not limited to, a sports arena, stadium, racetrack, tourist attraction, amusement park, or pari-mutuel facility, the construction or expansion of which:

1. For single performance facilities:

a. Provides parking spaces for more than 2,500 cars; or

b. Provides more than 10,000 permanent seats for spectators.

2. For serial performance facilities*,*~~:~~

~~a. Provides parking spaces for more than 1,000 cars; or~~

~~b.~~ provides more than 4,000 permanent seats for spectators.

For purposes of this subsection, "serial performance facilities" means those using their parking areas or permanent seating more than one time per day on a regular or continuous basis.

3. For multiscreen movie theaters of at least 8 screens and 2,500 seats:

a. Provides parking spaces for more than 1,500 cars; or

b. Provides more than 6,000 permanent seats for spectators.

(d) Office development.—Any proposed office building or park operated under common ownership, development plan, or management that:

1. Encompasses 300,000 or more square feet of gross floor area; or

~~2. Has a total site size of 30 or more acres; or~~

2.~~3.~~ Encompasses more than 600,000 square feet of gross floor area in a county with a population greater than 500,000 and only in a geographic area specifically designated as highly suitable for increased threshold intensity in the approved local comprehensive plan and in the strategic regional policy plan.

(f) Retail and service development.—Any proposed retail, service, or wholesale business establishment or group of establishments which deals primarily with the general public onsite, operated under one common property ownership, development plan, or management that:

1. Encompasses more than 400,000 square feet of gross area; *or*

~~2. Occupies more than 40 acres of land; or~~

2.~~3.~~ Provides parking spaces for more than 2,500 cars.

(j) Residential development.—No rule may be adopted concerning residential developments which treats a residential development in one county as being located in a less populated adjacent county unless more than 25 percent of the development is located within 2 or less miles of the less populated adjacent county. *However, residential development shall not be treated as though it is in a less populated county if the affected counties have entered into an interlocal agreement to specify development review standards for affected developments within 2 or less miles.*

Section 29. Section 570.70, Florida Statutes, is created to read:

570.70 Legislative findings.—The Legislature finds and declares that:

(1) A thriving rural economy with a strong agricultural base, a healthy natural environment, and viable rural communities is an essential part of Florida. Rural areas include the largest remaining intact ecosystems and best examples of remaining wildlife habitats as well as a majority of privately owned land targeted by local, state, and federal agencies for natural resource protection.

(2) The growth of Florida's population can result in the conversion of agricultural and rural lands into residential or commercial development areas.

(3) The agricultural, rural, natural resource, and commodity values of rural lands are vital to the state's economy, productivity, rural heritage, and quality of life.

(4) The purpose of this act is to bring under public protection lands that serve to limit subdivision and conversion of agricultural and natural areas that provide economic, open space, water, and wildlife benefits by acquiring land or related interests in land such as perpetual, less-than-fee acquisitions, agricultural protection agreements, and resource conservation agreements.

Section 30. Section 570.71, Florida Statutes, is created to read:

570.71 Conservation easements and agreements.—

(1) The department, on behalf of the Board of Trustees of the Internal Improvement Trust Fund, may allocate moneys to acquire perpetual, less-than-fee interest in land, to enter into agricultural protection agreements, and to enter into resource conservation agreements for any of the following public purposes:

(a) Promotion and improvement of wildlife habitat.

(b) Protection and enhancement of water bodies, aquifer recharge areas, wetlands, and watersheds.

(c) Perpetuation of open space on lands with significant natural areas.

(d) Protection of agricultural lands threatened by conversion to other uses.

(2) To achieve the purposes of this act, beginning no later than July 1, 2002, and every year thereafter, the department shall accept applications for project proposals that:

(a) Purchase conservation easements as defined in s. 704.06.

(b) Purchase rural land protection easements pursuant to this act.

(c) Fund resource conservation agreements pursuant to this act.

(d) Fund agricultural protection agreements pursuant to this act.

(3) Rural land protection easements shall be perpetual rights or interests in agricultural land which are appropriate to retain such land in predominantly its current state and to prevent the subdivision and conversion of such land into other uses. Such easements shall prohibit only the following:

(a) Construction or placement of buildings, roads, billboards or other advertising, utilities, or structures on the land, except those structures and unpaved roads necessary for agricultural operations or structures necessary for other activities allowed under the easement, and except for linear facilities described in s. 704.06(11);

(b) Subdivision of the land;

(c) Dumping or placement of trash, waste, or offensive materials on the land; and

(d) Activities that affect the natural hydrology of the land or that detrimentally affect water conservation, erosion control, soil conservation, or fish and wildlife habitat, except those required for environmental restoration; federal, state, or local government regulatory programs; or best management practices.

(4) Resource conservation agreements shall be contracts for services that provide annual payments to landowners for services that actively improve habitat and water restoration or conservation on their lands over and above that which is already required by law or that provide recreational opportunities. Such agreements shall be for a term of not less than 5 years and not more than 10 years. Property owners shall become eligible to enter into a resource conservation agreement only upon entering into a conservation easement or rural land protection easement.

(5) Agricultural protection agreements shall be for terms of 30 years and shall provide payments to landowners having significant natural areas on their land. Public access and public recreational opportunities may be negotiated at the request of the landowner.

(a) For the length of the agreement, the landowner shall agree to prohibit:

1. Construction or placement of buildings, roads, billboards or other advertising, utilities, or structures on the land, except those structures and unpaved roads necessary for agricultural operations or structures necessary for other activities allowed under the agreement, and except for linear facilities described in s. 704.06(11);

2. Subdivision of the land;

3. Dumping or placement of trash, waste, or offensive materials on the land; and

4. Activities that affect the natural hydrology of the land or that detrimentally affect water conservation, erosion control, soil conservation, or fish and wildlife habitat.

(b) As part of the agricultural protection agreement, the parties shall agree that the state shall have a right to buy a conservation easement or rural land protection easement at the end of the 30-year term or prior to the landowner transferring or selling the property, whichever occurs later. If the landowner tenders the easement for the purchase and the state does not timely exercise its right to buy the easement, the landowner shall be released from the agricultural agreement. The purchase price of the easement shall be established in the agreement and shall be based on the value of the easement at the time the agreement is entered into, plus a reasonable escalator multiplied by the number of full calendar years following the date of the commencement of the agreement. The landowner may transfer or sell the property before the expiration of the 30-year term, but only if the property is sold subject to the agreement and the buyer becomes the successor in interest to the agricultural protection agreement. Upon mutual consent of the parties, a landowner may enter into a perpetual easement at any time during the term of an agricultural protection agreement.

(6) Payment for conservation easements and rural land protection easements shall be a lump-sum payment at the time the easement is entered into, payable from proceeds derived from revenues distributed pursuant to ss. 201.15 and 215.619.

(7) Landowners entering into an agricultural protection agreement may receive up to 50 percent of the purchase price at the time the agreement is entered into, and remaining payments on the balance shall be equal annual payments over the term of the agreement, payable from proceeds derived from revenues distributed pursuant to ss. 201.15 and 215.619, subject to the provisions of s. 11(e), Art. VII of the State Constitution. Payments for agricultural protection agreements may not exceed 10 percent of the total funds appropriated.

(8) Payments for resource conservation agreements shall be equal annual payments over the term of the agreement, payable from proceeds derived from revenues distributed pursuant to s. 201.15.

(9) Easements purchased pursuant to this act may not prevent landowners from transferring the remaining fee value with the easement.

(10) The department, in consultation with the Department of Environmental Protection, water management districts, the Department of Community Affairs, and the Florida Fish and Wildlife Conservation Commission, shall adopt rules that establish an application process, a process and criteria for setting priorities for use of funds consistent with the purposes specified in s. 570.71(1) and giving preference to ranch and timber lands managed using sustainable practices, an appraisal process, and a process for title review and compliance and approval of the rules by the Board of Trustees of the Internal Improvement Trust Fund.

(11) The department is directed to seek funds from federal sources to use in combination with state funds to carry out the purposes of this section.

Section 31. *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 32. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page ,
remove from the bill: entire title

and insert in lieu thereof: A bill to be entitled An act relating to growth management; amending 163.3174, F.S.; providing for school board representation on the local planning agency; amending s. 163.3177, F.S.; conforming language; providing that an agricultural land use category shall be eligible for the location of public schools in a local government comprehensive plan in rural counties under certain conditions; directing the department to authorize up to five local governments to designate rural land stewardship areas; requiring a written agreement; providing requirements for comprehensive plan amendments for such designations; providing that owners of land within such areas may convey development rights in return for the assignment of transferable rural land use credits; providing requirements with respect to such credits; specifying incentives that should be provided such landowners; requiring reports; providing intent; creating s. 163.31776, F.S.; providing legislative intent and findings; requiring that a local government comprehensive plan include a public educational facilities element; providing that the state land planning agency establish a

schedule for adoption of such elements; exempting certain municipalities from adopting such elements; requiring local governments and the school board to enter into an interlocal agreement and providing requirements with respect thereto; providing requirements for such elements; providing requirements for future land use maps; specifying the process for adoption of such elements; specifying the effect of a local government's failure to transmit such element according to the adopted schedule; creating s. 163.31777, F.S.; requiring that local governments consider the adequacy of public school facilities when considering certain comprehensive plan amendment and rezoning applications; providing duties of the school board; requiring denial of such applications under certain conditions; amending s. 163.3180, F.S.; providing requirements with respect to the public educational facilities element when school concurrency is imposed by local option; amending s. 163.3184; F.S.; revising the definition of "affected person"; providing additional agencies to which a local government must transmit a proposed comprehensive plan or plan amendment; removing provisions relating to transmittal of copies by the state land planning agency; providing that a local government may request review by the state land planning agency at the time of transmittal of an amendment; revising time periods with respect to submission of comments to the agency by other agencies, notice by the agency of its intent to review, and issuance by the agency of its report; providing for priority review of certain amendments; clarifying language; providing that the agency shall not review an amendment certified as having no objections received; providing for compilation and transmittal by the local government of a list of persons who will receive an informational statement concerning the agency's notice of intent to find a plan or plan amendment in compliance or not in compliance; directing the agency to provide a model form; revising requirements relating to publication of the agency's notice of intent; deleting a requirement that the notice be sent to certain persons; amending s. 163.3187, F.S.; revising requirements relating to small scale development amendments which are exempt from the limitation on the frequency of amendments to a local comprehensive plan; revising acreage requirements; revising a condition relating to residential land use; removing a provision that allows a local government to elect to have such amendments subject to review under s. 163.3184(3)-(6), F.S.; amending s. 163.3191, F.S.; conforming language; creating s. 163.3198, F.S.; directing the state land planning agency to develop fiscal analysis models for determining the costs and revenues of local government land use decisions; creating a commission to oversee development of fiscal impact models; providing for field tests of the models developed; providing for approval of a uniform model by the commission and submission of a report and recommendations to the Governor and Legislature; providing for a $500,000 appropriation to the Department of Community Affairs to implement program; creating s. 163.3202(6); providing legislative intent regarding electric utilities and substations; providing prohibition on local governments regarding substations; prohibits denial of substation under certain conditions; amending s. 163.3215, F.S.; revising procedures for challenge of a development order by an aggrieved or adversely affected party on the basis of inconsistency with a local comprehensive plan; providing the relief that may be sought; providing that petition to the circuit court for certiorari is the sole action for such challenge if the local government has adopted an ordinance establishing a local development review process that includes specified minimum components; removing a requirement that a verified complaint be filed with the local government prior to seeking judicial review; amending s. 235.002, F.S.; revising legislative intent and findings with respect to educational facilities; amending s. 235.15, F.S.; removing specific need assessment criteria for a school district's educational plant survey and providing that the survey shall be submitted as part of the district's educational facilities plan; providing that such surveys are deemed to meet state constitutional requirements, subject to State Board of Education approval; amending s. 235.175, F.S.; providing legislative purpose with respect to the district educational facilities plans; amending s. 235.18, F.S.; conforming language; amending s. 235.185, F.S.; providing definitions; providing requirements for preparation of an annual tentative educational facilities plan by each school district; providing requirements for long-range planning; providing requirements for the district's facilities work program; providing for submission of the tentative plan to local governments for review and comment; providing for annual adoption of the plan; providing for execution of the plan; amending s. 235.188, F.S.; conforming language; amending s. 235.19, F.S.; removing a requirement that the Commissioner of Education prescribe recommended sizes for new educational facility sites; amending s. 235.193, F.S.; requiring school districts and local governments to enter into an interlocal agreement and providing requirements with respect thereto; specifying effect of failure to enter into the interlocal agreement; requiring the school board to provide a local government certain information when it is considering certain comprehensive amendment or rezoning applications; revising requirements relating to school board responsibilities in planning with local governments; revising a notice requirement regarding proposed use of property for an educational facility; providing for inclusion of an alternative process for proposed facility review in the required interlocal agreement; repealing s. 235.194, F.S., which requires school boards to submit an annual general educational facilities report to local governments; amending ss. 235.218, 235.321, and 236.25, F.S.; conforming language; amending s. 380.04, F.S.; amending s. 380.06, F.S., relating to developments of regional impact; removing the rebuttable presumptions with respect to application of the statewide guidelines and standards and revising the fixed thresholds; revising application of thresholds for development allowed under a preliminary development agreement; revising the definition of an essentially built-out development of regional impact with respect to multiuse developments; providing for submission of biennial, rather than annual, reports by the developer; authorizing submission of a letter, rather than a report, under certain circumstances; providing for amendment of development orders with respect to report frequency; providing that an extension of the date of buildout of less than 7 years is not a substantial deviation; revising provisions relating to determination of whether a change constitutes a substantial deviation based on its percentage of the specified numerical criteria; revising notice requirements; providing that changes that are less than specified numerical criteria need not be submitted to the state land planning agency and specifying the agency's right to appeal with respect to such changes; deleting an exemption from review by the regional planning agency and state land planning agency for certain changes; amending s. 380.0651, F.S.; revising the guidelines and standards for attractions and recreation facilities, office development, retail and service development, and residential development; creating s. 570.70, F.S.; providing legislative findings; creating s. 570.71, F.S.; providing for the purchase of rural land protection easements by the Department of Agriculture and Consumer Services; providing criteria; providing for conservation easements, resource conservation agreements, and agricultural protection agreements; prescribing allowable land uses; requiring rulemaking; providing for an application process; providing for an option to purchase property; directing the department to seek funds from federal sources; providing a severability clause; providing an effective date.

WHEREAS, it is in the best interests of the people of the State of Florida to ensure sound planning for new population growth in Florida, and

WHEREAS, Florida's population is expected to increase by 50 percent from 16 million to 24 million over the next three decades, and the number of school age children is projected to increase sharply around 2020 as the baby boom echo generation's children reach school age, with commensurate impacts to the state's public infrastructure, including our public education facilities, and

WHEREAS, our growth management system should fully integrate the planning of public education facilities, should accurately forecast the costs associated with the construction, operation and maintenance of infrastructure, and should adequately address our existing infrastructure deficits, and

WHEREAS, as we respond to new growth and continue to address our existing infrastructure deficits, communities should make land use decisions with the knowledge of all relevant expenses and revenues associated with those decisions, as the future health of our state economy and the livability of our communities depends on appropriately addressing our infrastructure needs,

NOW, THEREFORE,

Rep. Alexander moved the adoption of the amendment.

Representative(s) Alexander offered the following:

(Amendment Bar Code: 344763)

Amendment 1 to Amendment 1—On page 14, line 4,
remove from the amendment: *actual public school*

and insert in lieu thereof: *capital outlay fulltime equivalent*

Rep. Alexander moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Murman, Fasano, and Diaz-Balart offered the following:

(Amendment Bar Code: 655505)

Amendment 2 to Amendment 1—On page 18, lines 6-22,
remove from the amendment: all of said lines

and insert in lieu thereof: *to s. 235.185. "Financially feasible" means that a capital improvements program will be financed for each year of the planning period, without a financial deficit, based on projected revenues from existing and committed revenue sources so that the adopted level-of-service standard will be achieved and maintained in the planning period. Revenue sources may include, but are not limited to, ad valorem taxes, state revenue distributions, proceeds from the sale of bonds, sales tax proceeds, or other general tax sources. Local option revenue sources requiring approval by a referendum of the electors shall be deemed an existing or committed revenue source only after approval in the required referendum. The current level and amount of impact fees collected by a local government may be included in the calculation of financial feasibility;*

Rep. Murman moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Murman, Fasano, and Diaz-Balart offered the following:

(Amendment Bar Code: 380517)

Amendment 3 to Amendment 1—On page 21, lines 28 and 29,
remove from the amendment: all of said lines

and insert in lieu thereof:
residential development if the school facility capacity will not be reasonably available at the

REPRESENTATIVE MELVIN IN THE CHAIR

Rep. Murman moved the adoption of the amendment to the amendment, which was adopted. The vote was:

Session Vote Sequence: 187

Yeas—70

Arza	Crow	Goodlette	Lynn
Atwater	Cusack	Gottlieb	Machek
Ausley	Detert	Green	Maygarden
Ball	Diaz de la Portilla	Greenstein	McGriff
Barreiro	Diaz-Balart	Harrell	Mealor
Bean	Dockery	Henriquez	Murman
Bendross-Mindingall	Farkas	Heyman	Needelman
Benson	Fasano	Joyner	Negron
Bilirakis	Fiorentino	Justice	Paul
Brummer	Flanagan	Kosmas	Peterman
Bucher	Frankel	Kottkamp	Pickens
Byrd	Garcia	Kravitz	Prieguez
Cantens	Gardiner	Lacasa	Rich
Carassas	Gelber	Lerner	Ritter
Clarke	Gibson	Littlefield	Romeo
Ross	Seiler	Sorensen	Wilson
Rubio	Slosberg	Weissman	Wishner
Ryan	Sobel		

Nays—40

Alexander	Brown	Johnson	Miller
Andrews	Brutus	Jordan	Richardson
Argenziano	Bullard	Kallinger	Russell
Attkisson	Fields	Kendrick	Simmons
Baker	Gannon	Kilmer	Siplin
Baxley	Haridopolos	Kyle	Smith
Bennett	Harper	Lee	Stansel
Bense	Hogan	Mack	Trovillion
Berfield	Holloway	Mayfield	Wallace
Betancourt	Jennings	Meadows	Waters

Votes after roll call:
Yeas—Wiles
Yeas to Nays—Goodlette
Nays to Yeas—Smith

Representative(s) Cantens offered the following:

(Amendment Bar Code: 204329)

Amendment 4 to Amendment 1—On page 22, line 8,

insert:

(4) However, a local government may approve a comprehensive plan amendment or rezoning that impacts public school facility demand provided the proposed development does not decrease available school capacity beyond 15 students or the equivalent as measured by the public educational facilities element. In a single school year, the cumulative effect of this exemption cannot decrease available capacity by more than 5% of the total school capacity as measured by the public educational facilities element.

Rep. Cantens moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Attkisson offered the following:

(Amendment Bar Code: 574225)

Amendment 5 to Amendment 1 (with title amendment)—On page 23, between lines 9 and 10, of the amendment

insert:

5(a) By mutual agreement within the local general purpose government, the applicant for a comprehensive plan amendment, applicant for rezoning, or an approved development may satisfy any proportionate share mitigation required as follows:

(i) The local government shall designate by ordinance a geographic area to be known as a Neighborhood School Construction Zone. The zone shall include the area within the proposed comprehensive pan amendment, rezoning designation or approved development.

(ii) The local general purpose government shall also create by ordinance a neighborhood school construction trust fund. All revenues allocated to and deposited in the trust fund shall be used to fund educational facilities construction within the neighborhood school construction zone pursuant to an approved educational facilities plan.

(b) Upon creation of a neighborhood school zone, all educational facilities impact fees collected within the Neighborhood School Construction Zone shall be deposited in the trust fund for facilities construction within the mitigation district. Provided further, all interlocal agreements between local general purpose governments and school districts shall provide for such allocation.

(c) In the event the local general purpose government and the applicant agree pursuant to paragraph (a) of this subsection to the described proportionate share mitigation, additional annual funding of

the trust fund shall be in an amount not less than the increment in the income, proceeds, revenues and funds of the school district derived from or held in connection with the undertaking and carrying out of residential development within the educational facilities mitigation district. Such increment shall be determined annually and shall be that amount equal to 95% of the difference between:

(i) The amount of ad valorem taxes levied each year by the school district within the Neighborhood School Construction Zone pursuant to section 236.25(1), F.S., exclusive of any amount for any debt service millage, on taxable real property contained within the geographic boundaries of the educational facilities mitigation district; and

(ii) The amount of ad valorem taxes which would have been produced pursuant to section 236.25(1), F.S., by the rate upon which the tax is levied each year by the school district, exclusive of any debt service millage, upon the total assessed value of the taxable real property in the educational facilities mitigation district as shown upon the most recent assessment roll used in connection with the taxation of such property by the school district prior to the effective date of the ordinance providing for the funding of the trust fund.

(d) An approved applicant may petition the local general purpose government for funds to build an educational facility. The facility shall be built according to Florida law, located geographically within the established education facilities mitigation district, and adhere to the following requirements:

(i) For schools operated by the school district, the school must be included in the district's approved facilities plan or approved by the elected school board.

(ii) for schools organized and operated pursuant to section 228.056, Florida Statutes, the application for the school must be approved according to the requirements of law prior to petitioning the local general purpose government for funding.

(e) Should the funds generated pursuant to this section be insufficient to fully fund the proposed public school, the difference between the amount needed to construct the school and the local revenue source, up to 35% of the construction costs, shall be funded as follows:

(i) For district operated schools the difference will be funded pursuant to other local sources of revenue per agreement with the local school district.

(ii) For schools approved pursuant to section 228.056, Florida Statutes, the difference shall be funded with funds generated pursuant to section 228.0561, Florida Statutes.

(iii) No schools shall be built costing more than the Florida Smart Schools Clearinghouse annual estimate of student station costs.

(iv) The Florida Smart Schools Clearinghouse shall oversee this section as a 3 year pilot project beginning July 1, 2001. The pilot project will be for up to 6 counties selected by the Florida Smart Schools Clearinghouse. A report showing the feasibility and long term effects of the Neighborhood School Construction Fund shall be made to the Governor, Senate President and Speaker of the House.

And the title is amended as follows:

On page 110, line 5, after the semicolon, of the amendment

insert: creating a Neighborhood School Construction Zone pilot project; providing for procedures; providing that impact fees within the zone must be place in a facilities construction trust fund for that zone; providing additional funding; provides that the Florida Smart Schools Clearinghouse oversees the pilot projects and that it must submit a report regarding the programs feasibility.

Rep. Attkisson moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Harper offered the following:

(Amendment Bar Code: 405763)

Amendment 6 to Amendment 1 (with title amendment)—On page 51, between lines 3 & 4,

insert:

Section 14. Subsection (1) of section 163.356, Florida Statutes, is amended to read:

163.356 Creation of community redevelopment agency.—

(1) Upon a finding of necessity as set forth in s. 163.355, and upon a further finding that there is a need for a community redevelopment agency to function in the county or municipality to carry out the community redevelopment purposes of this part, any county or municipality may create a public body corporate and politic to be known as a "community redevelopment agency." *A county or municipality having a population equal to or greater than 50,000 may create, by a vote of at least a majority plus one of the entire governing body of the county or municipality, more than one community redevelopment agency.* Each such agency shall be constituted as a public instrumentality, and the exercise by a community redevelopment agency of the powers conferred by this part shall be deemed and held to be the performance of an essential public function. ~~The~~ Community redevelopment *agencies* ~~agency~~ of a county *have* ~~has~~ the power to function within the corporate limits of a municipality only as, if, and when the governing body of the municipality has by resolution concurred in the community redevelopment plan *or plans* proposed by the governing body of the county.

And the title is amended as follows:

On page 112, line 15, after "review;"

insert: amending s. 163.356, F.S.; authorizing certain counties and municipalities to create more than one community redevelopment agency;

Rep. Harper moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Murman offered the following:

(Amendment Bar Code: 485523)

Amendment 7 to Amendment 1 (with title amendment)—On page 53, between lines 3 and 4, of the amendment

insert:

Section 15. Subsection (1) of section 235.061, Florida Statutes, is amended to read:

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

(1) The Commissioner of Education shall adopt rules establishing standards for relocatables intended for long-term use as classroom space at a public elementary school, middle school, or high school. "Long-term use" means the use of relocatables at the same educational plant for a period of 4 years or more. These rules must be implemented by July 1, 1998, and each relocatable acquired by a district school board after the effective date of the rules and intended for long-term use must comply with the standards. The rules shall require that, by July 1, *2002* ~~2001~~, relocatables that fail to meet the standards may not be used as classrooms. The standards shall protect the health, safety, and welfare of occupants by requiring compliance with the Uniform Building Code for Public Educational Facilities or other locally adopted state minimum building codes to ensure the safety and stability of construction and onsite installation; fire and moisture protection; air quality and ventilation; appropriate wind resistance; and compliance with the requirements of the Americans with Disabilities Act of 1990. If appropriate, the standards must also require relocatables to provide access to the same technologies available to similar classrooms within the main school facility and, if appropriate, to be accessible by adequate covered walkways. By July 1, 2000, the commissioner shall adopt

standards for all relocatables intended for long-term use as classrooms. A relocatable that is subject to this section and does not meet the standards shall not be reported as providing satisfactory student stations in the Florida Inventory of School Houses.

And the title is amended as follows:

On page 112, line 17, of the amendment

after the semicolon insert: amending s. 235.061, F.S.; revising the date after which relocatables that fail to meet standards may not be used as classrooms;

Rep. Murman moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Murman, Fasano, and Diaz-Balart offered the following:

(Amendment Bar Code: 343667)

Amendment 8 to Amendment 1—On page 60, line 21 through page 61, line 2
remove from the amendment: all of said lines

and insert in lieu thereof:

(d) "Financially feasible" means that a capital improvements program will be financed for each year of the planning period, without a financial deficit, based on projected revenues from existing and committed revenue sources so that the adopted level-of-service standard will be achieved and maintained in the planning period. Revenue sources may include, but are not limited to, ad valorem taxes, state revenue distributions, proceeds from the sale of bonds, sales tax proceeds, or other general tax sources. Local option revenue sources requiring approval by a referendum of the electors shall be deemed an existing or committed revenue source only after approval in the required referendum. The current level and amount of impact fees collected by a local government may be included in the calculation of financial feasibility.

Rep. Murman moved the adoption of the amendment to the amendment.

On motion by Rep. Murman, further consideration of **Amendment 8 to Amendment 1** was temporarily postponed under Rule 11.10.

Representative(s) Bennett offered the following:

(Amendment Bar Code: 105127)

Amendment 9 to Amendment 1 (with title amendment)—On page 103, between lines 5 and 6,

insert:

Section 24. Subsection (4) is added to section 333.06, Florida Statutes, to read:

333.06 Airport zoning requirements.—

(4) ADOPTION OF AIRPORT MASTER PLAN AND NOTICE TO AFFECTED LOCAL GOVERNMENT.—An airport master plan shall be prepared by each publicly owned and operated airport licensed by the Department of Transportation under chapter 330. The authorized entity having responsibility for governing the operation of the airport, when either requesting from or submitting to a state or federal government agency with funding or approval jurisdiction a "finding of no significant impact," an environmental assessment, a site selection study, an airport master plan, or any amendment to an airport master plan, shall submit simultaneously a copy of said request, submittal, assessment, study, plan, or amendment by certified mail to all affected local governments. For the purposes of this subsection, "affected local government" means any city or county having jurisdiction over the airport and any city or county located within 2 miles of the boundaries of the land subject to the airport master plan.

Section 25. Paragraph (b) of subsection (19) of section 380.06, Florida Statutes, is amended, paragraphs (i), (j), (k), (l), (m), and (n) are added to subsection (24) of said section to read:

380.06 Developments of regional impact.—

(19) SUBSTANTIAL DEVIATIONS.—

(b) Any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the following criteria shall constitute a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review without the necessity for a finding of same by the local government:

1. An increase in the number of parking spaces at an attraction or recreational facility by 5 percent or 300 spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 5 percent or 1,000 spectators, whichever is greater.

~~2. A new runway, a new terminal facility, a 25-percent lengthening of an existing runway, or a 25-percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates. However, if an airport is located in two counties, a 10-percent lengthening of an existing runway or a 20-percent increase in the number of gates of an existing terminal is the applicable criteria.~~

2.~~3.~~ An increase in the number of hospital beds by 5 percent or 60 beds, whichever is greater.

3.~~4.~~ An increase in industrial development area by 5 percent or 32 acres, whichever is greater.

4.~~5.~~ An increase in the average annual acreage mined by 5 percent or 10 acres, whichever is greater, or an increase in the average daily water consumption by a mining operation by 5 percent or 300,000 gallons, whichever is greater. An increase in the size of the mine by 5 percent or 750 acres, whichever is less.

5.~~6.~~ An increase in land area for office development by 5 percent or 6 acres, whichever is greater, or an increase of gross floor area of office development by 5 percent or 60,000 gross square feet, whichever is greater.

~~7. An increase in the storage capacity for chemical or petroleum storage facilities by 5 percent, 20,000 barrels, or 7 million pounds, whichever is greater.~~

~~8. An increase of development at a waterport of wet storage for 20 watercraft, dry storage for 30 watercraft, or wet/dry storage for 60 watercraft in an area identified in the state marina siting plan as an appropriate site for additional waterport development or a 5-percent increase in watercraft storage capacity, whichever is greater.~~

6.~~9.~~ An increase in the number of dwelling units by 5 percent or 50 dwelling units, whichever is greater.

7.~~10.~~ An increase in commercial development by 6 acres of land area or by 50,000 square feet of gross floor area, or of parking spaces provided for customers for 300 cars or a 5-percent increase of any of these, whichever is greater.

8.~~11.~~ An increase in hotel or motel facility units by 5 percent or 75 units, whichever is greater.

9.~~12.~~ An increase in a recreational vehicle park area by 5 percent or 100 vehicle spaces, whichever is less.

10.~~13.~~ A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.

11.~~14.~~ A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds *150* ~~100~~ percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when *150* ~~100~~ percent has been reached or exceeded.

12.~~15.~~ A 15-percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional-impact review.

13.~~16.~~ Any change which would result in development of any area which was specifically set aside in the application for development approval or in the development order for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The further refinement of such areas by survey shall be considered under sub-subparagraph *(e)4.b.* ~~(e)5.b.~~

The substantial deviation numerical standards in subparagraphs *3.*~~4.~~, *5.*~~6.~~, *7.*~~10.~~, *11.*~~14.~~, excluding residential uses, and *12.*~~15.~~, are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Office of Tourism, Trade, and Economic Development as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs *3.*~~4.~~, *5.*~~6.~~, *6.*~~9.~~, *7.*~~10.~~, *8.*~~11.~~, and *11.*~~14.~~ are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.

(24) STATUTORY EXEMPTIONS.—

(i) Any proposed facility for the storage of any petroleum product is exempt from the provisions of this section, if such facility is consistent with a local comprehensive plan that is in compliance with s. 163.3177 or is consistent with a comprehensive port master plan that is in compliance with s. 163.3178.

(j) Any proposal to increase development at a waterport existing on the effective date of this act or any new waterport development is exempt from the provisions of this section, unless such proposed development is located within a county identified in s. 370.12(2)(f). Such a county shall be exempt after a manatee protection plan has been adopted by the county and submitted for approval to the Fish and Wildlife Conservation Commission, or on October 1, 2003, whichever is earlier.

(k) Any development located within a sector plan adopted pursuant to s. 163.3245 which is consistent with the sector plan is exempt from the provisions of this section. Should s. 163.3245 be repealed, any approved development within a sector plan shall maintain this exemption. However, any development-of-regional-impact development order that is vested from the sector plan may be enforced under s. 380.11.

(l) Any development or expansion of an airport or airport-related or aviation-related development is exempt from the provisions of this section.

(m) Any development or expansion located within an area designated in the comprehensive plan for urban infill development, urban redevelopment, downtown revitalization, or urban infill and redevelopment under s. 163.2517, is exempt from the provisions of this section, unless such development is located within a coastal high-hazard area.

(n) Any development or expansion of a brownfield site or area designated as such in accordance with ss. 376.77-376.85 is exempt from the provisions of this section, if such development or expansion is consistent with the local comprehensive plan.

Section 26. Paragraphs (a) and (e) of subsection (3) of section 380.0651, Florida Statutes, are repealed.

Section 27. *(1) Nothing contained in this act abridges or modifies any vested or other right or any duty or obligation pursuant to any development order or agreement which is applicable to a development of regional impact on the effective date of this section. An airport, marina, or petroleum storage facility which has received a development-of-regional-impact development order pursuant to s. 380.06, Florida Statutes 2000, but is no longer required to undergo development-of-regional-impact review by operation of s. 380.06(24)(i), (j), or (l), Florida Statutes, as created by this act, or by operation of the repeal of s. 380.0651(3)(a) or (e), Florida Statutes, by this act, shall be governed by the following procedures:*

(a) The development shall continue to be governed by the development-of-regional-impact development order, and may be completed in reliance upon and pursuant to the development order. The development-of-regional-impact development order may be enforced by the local government as provided by ss. 380.06(17) and 380.11, Florida Statutes 2000.

(b) If requested by the developer or landowner, the development-of-regional-impact development order may be amended or rescinded by the local government consistent with the local comprehensive plan and land development regulations, and pursuant to the local government procedures governing local development orders.

(2) An airport, marina, or petroleum storage facility with an application for development approval pending on the effective date of this act, or a notification of proposed change pending on the effective date of this act, may elect to continue such review pursuant to s. 380.06, Florida Statutes 2000. At the conclusion of the pending review, including any appeals pursuant to s. 380.07, Florida Statutes 2000, the resulting development order shall be governed by the provisions of subsection (1).

And the title is amended as follows:

On page 115, line 6, of the amendment
remove: all of said line

and insert in lieu thereof: development; amending s. 333.06, F.S.; requiring each publicly owned licensed airport to prepare an airport master plan; requiring the entity which governs the operation of such an airport to submit copies of certain documents to all affected local governments; removing provisions which specify that certain changes in airport facilities, increases in the storage capacity for chemical or petroleum storage facilities, or development at a waterport constitute a substantial deviation and require further development-of-regional-impact review; exempting certain proposed facilities for the storage of any petroleum product from development-of-regional-impact requirements; exempting proposed waterport development in certain counties from such requirements and providing application of such exemption to counties identified in s. 370.12(2)(f), F.S.; providing for maintenance of the exemption from development-of-regional-impact review for developments under s. 163.3245, F.S., relating to optional sector plans, if said section is repealed; exempting certain development or expansion of airports or airport-related development from development-of-regional-impact requirements; exempting development or expansion within certain areas from development-of-regional-impact requirements; repealing s. 380.0651(3)(a) and (e), F.S., which provide the development-of-regional-impact statewide guidelines and standards for airports and port facilities; providing application with respect to airports, marinas, and petroleum storage facilities which have received a development-of-regional-impact development order, or which have an application for development approval or notification of proposed change pending, on the effective date of the act; creating s. 570.70, F.S.;

Rep. Bennett moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 8 to Amendment 1** which was adopted.

Representative(s) Bennett offered the following:

(Amendment Bar Code: 303681)

Amendment 10 to Amendment 1 (with title amendment)—On page 39, line 31, through page 44, line 24,
remove from the amendment: all of said lines

and insert in lieu thereof:

Section 10. Section 163.3198, Florida Statutes, is created to read:

163.3198 Development of a uniform fiscal impact analysis model for evaluating the cost of infrastructure to support development.—

(1) The Legislature finds that the quality of growth in this state will benefit greatly by the adoption of a uniform fiscal impact analysis tool

that can be used by local governments to determine the costs and benefits of new development. To facilitate informed decisionmaking and accountability by local government, the analysis model must itemize and calculate the costs and fiscal impacts of infrastructure needs created by proposed development, as well as the anticipated revenues needed for infrastructure associated with the project. It is intended that the model be a minimum base model for implementation by all local governments. Local governments are not required to implement the model until the Legislature approves such implementation, and local governments are not prevented from using other fiscal or economic analysis tools before or after adoption of the uniform fiscal analysis model. The Legislature intends that the analysis provide local government decisionmakers with a clearer understanding of the fiscal impact of new development on the community and its resources.

(2) A three-member technical advisory committee with one member each to be selected by the Governor, the President of the Senate, and the Speaker of the House of Representatives, respectively, shall be created to advise the secretary concerning the development of a fiscal analysis model. The appointments must be made prior to July 1, 2001.

(a) The technical advisory committee shall advise the state land planning agency concerning:

1. The development of a fiscal analysis model;

2. The selection of one or more models;

3. Changes that may be made to the model during the testing period, as needed; and

4. Recommendations on the implementation of the model.

(b) Each member of the technical advisory committee is entitled to reimbursement for per diem and travel expenses, as provided in s. 112.061, while carrying out the official business of the committee.

(c) The technical advisory committee shall meet at the call of the secretary and shall be dissolved upon the submittal of the report and recommendations required in subsection (4).

(3)(a) The state land planning agency shall develop one or more fiscal analysis models for determining the estimated costs and revenues of proposed development. The analysis provided by the model is a tool for government decisionmaking, does not constitute an automatic approval or disapproval of new development, and applies to all public and private projects and all land use categories.

(b) The model must be capable of estimating the capital, operating, and maintenance costs, and revenues for infrastructure the need for which is created by new development based on the type, scale, and location of various land uses. For the purposes of developing the model, estimated costs include those associated with provision of school facilities; transportation facilities; water supply; sewer; stormwater; solid waste services; police, fire, and emergency medical services; publicly provided energy services; parks and recreation services; and publicly provided telecommunications. Estimated revenues include all revenues attributable to the proposed development which are used to construct, operate, or maintain the listed infrastructure. The model may be developed with capabilities of estimating other costs and benefits directly related to new development, including economic costs and benefits. The Legislature recognizes the potential limitations of such models in fairly quantifying important quality-of-life issues, such as the intangible benefits and costs associated with development, including, but not limited to, overall impact on community character, housing costs, compatibility, and impacts to natural and historic resources, and the Legislature affirms its intention that this model not be used as the only determinant of the acceptability of new development.

(c) The model must be capable of identifying infrastructure deficits or backlogs and the costs associated with addressing such needs.

(d) As part of its development of a fiscal analysis model, the state land planning agency shall develop a format by which the local governments shall report to the public, at least annually, the cumulative fiscal impact of their local planning decisions.

(4) By January 1, 2003, the state land planning agency shall transmit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report detailing the estimated costs of implementation, recommendations for a uniform fiscal analysis model, and recommendations for statewide implementation of such a model. If the state land planning agency determines that a uniform fiscal analysis model is unfeasible, the agency may recommend that the model or its application be modified. The report must also include recommendations for any changes to existing growth management laws and policies necessary to implement the model. However, this model is not intended to serve as a replacement for concurrency. The report must also include recommendations for state technical and financial assistance to help local governments in implementing the uniform fiscal analysis model and recommendations for incentives to local governments to encourage identification of areas in which infrastructure development will be encouraged. It is not the intent of this section to repeal concurrency.

And the title is amended as follows:

On page 111, lines 19-23, of the amendment
remove: all of said lines

and insert in lieu thereof: of proposed development; providing requirements with respect thereto; providing for an advisory committee; providing for

Rep. Bennett moved the adoption of the amendment to the amendment.

On motion by Rep. Bennett, further consideration of **Amendment 10 to Amendment 1** was temporarily postponed under Rule 11.10.

Representative(s) Sorensen offered the following:

(Amendment Bar Code: 400945)

Amendment 11 to Amendment 1 (with title amendment)—On page 103, between lines 5 and 6, of the amendment

insert:

Section 9. *Sections 380.06 and 380.0651, F.S., stand repealed on June 1, 2005, and shall be reviewed prior to that date.*

(a) Nothing contained in this section abridges or modifies any vested or other right or any duty or obligation pursuant to any development order or agreement which is applicable to a development of regional impact on June 1, 2005. Any development which has received a development-of-regional-impact development order pursuant to s. 380.06 prior to that date shall be governed by the following procedures:

1. The development shall continue to be governed by the development-of-regional-impact development order, and may be completed in reliance upon and pursuant to the development order. The development-of-regional-impact development order may be enforced by the local government as provided by ss. 380.06(17) and 380.11.

2. If requested by the developer or landowner, the development-of-regional-impact development order may be amended or rescinded by the local government consistent with the local comprehensive plan and land development regulations, and pursuant to the local government procedures governing local development orders.

(b) A development with an application for development approval pending on June 1, 2005, or a notification of proposed change pending on June 1, 2005, may elect to continue such review pursuant to s. 380.06. At the conclusion of the pending review, including any appeals pursuant to s. 380.07, the resulting development order shall be governed by the provisions of paragraph (b).

(c) The Legislative Committee on Intergovernmental Relations is directed to perform an interim study regarding potential alternatives to the development-of-regional-impact process provided by ss. 380.06 and 380.0651, Florida Statutes. This study shall also address nonreplacement of the development-of-regional-impact process. A report shall be presented to the Speaker of the House of Representatives and the President of the Senate by September 1, 2003.

And the title is amended as follows:

On page 115, line 6, after "development; of the amendment

insert: providing for future review and repeal of ss. 380.06 and 380.0651, F.S.; providing application with respect to developments which have received a development-of-regional-impact development order, or which have an application for development approval or notification of proposed change pending, on that future repeal date; directing the Legislative Committee on Intergovernmental Relations to study alternatives to the development-of-regional-impact process and provide a report;

Rep. Sorensen moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Sorensen offered the following:

(Amendment Bar Code: 031767)

Amendment 12 to Amendment 1 (with title amendment)—On page 53, between lines 3 and 4, of the amendment

insert:

Section 15. Subsection (2) and paragraphs (a) and (f) of subsection (3) of section 212.055, Florida Statutes, are amended to read:

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

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(a)1. The governing authority in each county may levy a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax shall be pursuant to ordinance enacted by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. If the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax.

2. If the surtax was levied pursuant to a referendum held before July 1, 1993, the surtax may not be levied beyond the time established in the ordinance, or, if the ordinance did not limit the period of the levy, the surtax may not be levied for more than 15 years. The levy of such surtax may be extended only by approval of a majority of the electors of the county voting in a referendum on the surtax.

(b) A statement which includes a brief general description of the projects to be funded by the surtax and which conforms to the requirements of s. 101.161 shall be placed on the ballot by the governing authority of any county which enacts an ordinance calling for a referendum on the levy of the surtax or in which the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions calling for a referendum on the surtax. The following question shall be placed on the ballot:

. . . . FOR the	. . . . –cent sales tax
. . . . AGAINST the	. . . . –cent sales tax

(c) Pursuant to s. 212.054(4), the proceeds of the surtax levied under this subsection shall be distributed to the county and the municipalities within such county in which the surtax was collected, according to:

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population, which agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population; or

2. If there is no interlocal agreement, according to the formula provided in s. 218.62.

Any change in the distribution formula must take effect on the first day of any month that begins at least 60 days after written notification of that change has been made to the department.

(d)1. The proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources and to finance the closure of county-owned or municipally owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection. Any use of such proceeds or interest for purposes of landfill closure prior to July 1, 1993, is ratified. Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure, except that any county with a population of less than 75,000 that is required to close a landfill by order of the Department of Environmental Protection may use the proceeds or any interest accrued thereto for long-term maintenance costs associated with landfill closure. Counties, as defined in s. 125.011(1), and charter counties may, in addition, use the proceeds and any interest accrued thereto to retire or service indebtedness incurred for bonds issued prior to July 1, 1987, for infrastructure purposes, and for bonds subsequently issued to refund such bonds. Any use of such proceeds or interest for purposes of retiring or servicing indebtedness incurred for such refunding bonds prior to July 1, 1999, is ratified.

2. For the purposes of this paragraph, "infrastructure" means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and such equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

3. Notwithstanding any other provision of this subsection, a discretionary sales surtax imposed or extended after the effective date of this act may provide for an amount not to exceed 15 percent of the local option sales surtax proceeds to be allocated for deposit to a trust fund within the county's accounts created for the purpose of funding economic development projects of a general public purpose targeted to improve local economies, including the funding of operational costs and incentives related to such economic development. The ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.

(e) School districts, counties, and municipalities receiving proceeds under the provisions of this subsection may pledge such proceeds for the purpose of servicing new bond indebtedness incurred pursuant to law. Local governments may use the services of the Division of Bond Finance of the State Board of Administration pursuant to the State Bond Act to issue any bonds through the provisions of this subsection. In no case may a jurisdiction issue bonds pursuant to this subsection more frequently than once per year. Counties and municipalities may join together for the issuance of bonds authorized by this subsection.

(f) Counties and municipalities shall not use the surtax proceeds to supplant or replace user fees or to reduce ad valorem taxes existing prior to the levy of the surtax authorized by this subsection.

(g)1. Notwithstanding paragraph (d), a county that has a population of 50,000 or less on April 1, 1992, or any county designated as an area

of critical state concern on the effective date of this act, and that imposed the surtax before July 1, 1992, may use the proceeds and interest of the surtax for any public purpose if:

a. The debt service obligations for any year are met;

b. The county's comprehensive plan has been determined to be in compliance with part II of chapter 163; and

c. The county has adopted an amendment to the surtax ordinance pursuant to the procedure provided in s. 125.66 authorizing additional uses of the surtax proceeds and interest.

2. A municipality located within a county that has a population of 50,000 or less on April 1, 1992, or within a county designated as an area of critical state concern on the effective date of this act, and that imposed the surtax before July 1, 1992, may not use the proceeds and interest of the surtax for any purpose other than an infrastructure purpose authorized in paragraph (d) unless the municipality's comprehensive plan has been determined to be in compliance with part II of chapter 163 and the municipality has adopted an amendment to its surtax ordinance or resolution pursuant to the procedure provided in s. 166.041 authorizing additional uses of the surtax proceeds and interest. Such municipality may expend the surtax proceeds and interest for any public purpose authorized in the amendment.

3. Those counties designated as an area of critical state concern which qualify to use the surtax for any public purpose may use only up to 10 percent of the surtax proceeds for any public purpose other than for infrastructure purposes authorized by this section.

(h) Notwithstanding paragraph (d), a county in which 40 percent or more of the just value of real property is exempt or immune from ad valorem1 taxation, and the municipalities within such a county, may use the proceeds and interest of the surtax for operation and maintenance of parks and recreation programs and facilities established with the proceeds of the surtax.

(i) Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (3), (4), and (5) in excess of a combined rate of 1 percent. *However, if the county is levying local option sales surtaxes under this subsection and subsection (3) only, the combined rate shall not exceed 1.5 percent.*

(3) SMALL COUNTY SURTAX.—

(a) The governing authority in each county that has a population of 50,000 or less on April 1, 1992, may levy a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax shall be pursuant to ordinance enacted by an extraordinary vote of the members of the county governing authority if the surtax revenues are expended for operating purposes. If the surtax revenues are expended for the purpose of servicing bond indebtedness, the surtax shall be approved by a majority of the electors of the county voting in a referendum on the surtax. *However, any local government levying the local government infrastructure surtax under subsection (2) at the rate of 1 percent shall not levy the surtax under this subsection at a rate of 0.5 percent, so that the combined rates equal 1.5 percent as authorized by paragraph (2)(i), unless the surtax under this subsection is approved by a majority of the electors of the county voting in a referendum on the surtax.*

(f) Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (2), (4), and (5) in excess of a combined rate of 1 percent*, except as provided in paragraph (2)(i)*.

And the title is amended as follows:

On page 112, line 15, after "judicial review" of the amendment

insert: amending s. 212.055, F.S.; increasing the maximum allowable combined rate for the local government infrastructure surtax and small county surtax; requiring referendum approval of the small county surtax at such increased combined rate;

Rep. Sorensen moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Sorensen offered the following:

(Amendment Bar Code: 200655)

Amendment 13 to Amendment 1 (with title amendment)—On page 53, between lines 3 and 4, of the amendment

insert:

Section 15. Effective January 1, 2003, section 163.325, Florida Statutes, is created to read:

163.325 Local government infrastructure financial assistance.—

(1) The purpose of this section is to facilitate the use of existing federal, state, and local financial resources by providing local governments with financial assistance to address local infrastructure needs. These funds may be used for public education facilities; for joint-use facilities; to revitalize existing infrastructure within a downtown business center; or to expedite a county or municipal infrastructure project.

(2) For the purposes of this section:

(a) "Bonds" means bonds, certificates, or other obligations of indebtedness issued by the Florida Local Government Infrastructure Financing Corporation under this section and s. 163.3251.

(b) "Corporation" means the Florida Local Government Infrastructure Financing Corporation.

(c) "Local government" means a county or municipality.

(3)(a) The department may provide financial assistance through any program authorized under this section, including, but not limited to, making loans, providing loan guarantees, purchasing loan insurance or other credit enhancements, and buying or refinancing local debt. This financial assistance shall be administered in accordance with this section. The department shall administer all programs operated from funds secured through the activities of the Florida Local Government Infrastructure Financing Corporation under s. 163.3251 to fulfill the purposes of this section.

(b) The department may make, or request the corporation to make, loans to local governments, which local governments may pledge any revenue available to them to repay any funds borrowed.

(c) The department shall administer financial assistance so that at least 15 percent of the funding made available each year under this section is reserved for use by small communities during the year it is reserved.

(4) The department shall prepare an annual report detailing the amount loaned, interest earned, and loans outstanding at the end of each fiscal year.

(5) Prior to approval of financial assistance, the applicant shall:

(a) Submit evidence of credit worthiness, loan security, and a loan repayment schedule in support of a request for a loan.

(b) Provide assurance that records will be kept using generally accepted accounting principles and that the department, the Auditor General, or their agents will have access to all records pertaining to the financial assistance provided.

(c) Provide assurance that the subject facilities, systems, or activities will be properly operated and maintained.

(d) Identify the revenues to be pledged and document their sufficiency for loan repayment and pledged revenue coverage in support of a request for a loan.

(e) Provide assurance that financial information will be provided as required by the department.

(f) Submit project planning documentation demonstrating a cost comparison of alternative methods, environmental soundness, public participation, and financial feasibility for any proposed project or activity.

(g) Submit a certification stating the percentage of its revenues that is allocated for infrastructure needs, the current ad valorem millage levied, and the percentage and amount of any local option surtaxes levied.

(6) The department shall adopt a priority system by rule. In developing the priority system, the department shall give priority to projects that:

(a) Are located within a sustainable community, urban infill area, urban revitalization area, or blighted area;

(b) Have matching local government funds;

(c) Are located within a local government that is levying the maximum ad valorem millage rate allowed under s. 9, Art. VII of the State Constitution;

(d) Are located within a local government where constitutional officers' expenses are greater than 75 percent of the local government's budget; or

(e) Are located within a local government where more than 30 percent of the local government's revenues are allocated to infrastructure needs.

(7) If a local government becomes delinquent on its loan, the department shall so certify to the Chief Financial Officer, who shall forward the amount delinquent to the department from any unobligated funds due to the local government under any revenue-sharing or tax-sharing fund established by the state, except as otherwise provided by the State Constitution. Certification of delinquency shall not limit the department from pursuing other remedies available for default on a loan. The department may impose a penalty for delinquent loan payments in an amount not to exceed an interest rate of 18 percent per annum on the amount due, in addition to charging the cost to handle and process the debt. Penalty interest shall accrue on any amount due and payable beginning on the 30th day following the date upon which payment is due.

(8) Funds for the loans authorized under this section shall be managed as follows:

(a) A nonlapsing trust fund with revolving loan provisions to be known as the "Local Government Infrastructure Revolving Loan Trust Fund" shall be established in the State Treasury prior to January 1, 2003, to be used as a revolving fund by the department to carry out the purposes 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 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. Investment earnings thereon shall be deposited into the trust fund. Proceeds from the sale of loans shall be deposited into the trust fund. All moneys available in the trust fund, including investment earnings, are designated to carry out the purpose of this section. The principal and interest payments of all loans held by the trust fund shall be deposited in the trust fund.

(b) The department may obligate moneys available in the trust fund for payment of amounts payable under any service contract entered into by the department under s. 163.3251, subject to annual appropriation by the Legislature. Amounts on deposit in the trust fund in each fiscal year shall first be applied or allocated for the repayment of amounts payable by the department under this paragraph and appropriated each year by the Legislature before making or providing for other disbursement from the trust fund.

(c) Under the provisions of s. 19(f)(3), Art. III of the State Constitution, the Local Government Infrastructure Revolving Loan Trust Fund shall be exempt from the termination provisions of s. 19(f)(2), Art. III of the State Constitution.

(9) The department may adopt rules regarding program administration; project eligibilities and priorities, including the development and management of project priority lists; financial assistance application requirements associated with planning, design, construction, and implementation activities, including environmental and engineering requirements; financial assistance agreement conditions; disbursement and repayment provisions; auditing provisions; program exceptions; the procedural and contractual relationship between the department and the corporation under s. 163.3251; and other provisions consistent with the purposes of this section.

Section 16. Effective January 1, 2003, section 163.3251, Florida Statutes, is created to read:

163.3251 Florida Local Government Infrastructure Financing Corporation.—

(1) The Florida Local Government Infrastructure Financing Corporation is created as a nonprofit public benefit corporation for the purpose of financing or refinancing the costs of local government infrastructure projects and activities described in s. 163.325. The projects and activities described in that section are found to constitute a public governmental purpose and be necessary for the health, safety, and welfare of all residents. The fulfillment of the purposes of the corporation promotes the health, safety, and welfare of the people of the state and serves essential governmental functions and a paramount public purpose. The activities of the corporation are specifically limited to assisting the department in implementing financing activities to provide funding for the programs authorized by s. 163.325. All other activities relating to the purposes for which the corporation raises funds are the responsibility of the department, including, but not limited to, development of program criteria, review of applications for financial assistance, decisions relating to the number and amount of loans, and enforcement of the terms of any financial assistance agreements provided through funds raised by the corporation. The corporation shall terminate upon fulfillment of the purposes of this section.

(2) The corporation shall be governed by a board of directors consisting of the Governor's budget director or the budget director's designee, the Chief Financial Officer or the Chief Financial Officer's designee, and the Secretary of Community Affairs or the secretary's designee. The executive director of the State Board of Administration shall be the chief executive officer of the corporation, shall direct and supervise the administrative affairs of the corporation, and shall control, direct, and supervise operation of the corporation. The corporation shall have such other officers as may be determined by the board of directors.

(3) The corporation shall have all the powers of a corporate body under the laws of this state to the extent not inconsistent with or restricted by this section, including, but not limited to, the power to:

(a) Adopt, amend, and repeal bylaws not inconsistent with this section.

(b) Sue and be sued.

(c) Adopt and use a common seal.

(d) Acquire, purchase, hold, lease, and convey any real and personal property as may be proper or expedient to carry out the purposes of the corporation and this section, and to sell, lease, or otherwise dispose of that property.

(e) Elect or appoint and employ such officers, agents, and employees as the corporation considers advisable to operate and manage the affairs of the corporation, which officers, agents, and employees may be officers or employees of the department or the state agencies represented on the board of directors of the corporation.

(f) Borrow money and issue notes, bonds, certificates of indebtedness, or other obligations or evidence of indebtedness described in s. 163.325.

(g) Operate, as specifically directed by the department, any program to provide financial assistance authorized under s. 163.325, which may be funded from any funds received under a service contract with the

department, from the proceeds of bonds issued by the corporation, or from any other funding sources obtained by the corporation.

(h) Sell all or any portion of the loans issued under s. 163.325 to accomplish the purposes of this section and s. 163.325.

(i) Make and execute any contracts, trust agreements, and other instruments and agreements necessary or convenient to accomplish the purposes of the corporation and this section.

(j) Select, retain, and employ professionals, contractors, or agents, which may include the Division of Bond Finance of the State Board of Administration, as are necessary or convenient to enable or assist the corporation in carrying out its purposes and this section.

(k) Do any act or thing necessary or convenient to carry out the purposes of the corporation and this section.

(4) The corporation shall evaluate all financial and market conditions necessary and prudent for the purpose of making sound, financially responsible, and cost-effective decisions in order to secure additional funds to fulfill the purposes of this section and s. 163.325.

(5) The corporation may enter into one or more service contracts with the department under which the corporation shall provide services to the department in connection with financing the functions, projects, and activities provided for in s. 163.325. The department may enter into one or more service contracts with the corporation and provide for payments under those contracts pursuant to s. 163.325, subject to annual appropriation by the Legislature. The service contracts may provide for the transfer of all or a portion of the funds in the Local Government Infrastructure Revolving Loan Trust Fund to the corporation for use by the corporation for costs incurred by the corporation in its operations, including, but not limited to, payment of debt service, reserves, or other costs in relation to bonds issued by the corporation, for use by the corporation at the request of the department to directly provide the types of local financial assistance provided for by s. 163.325, or for payment of the administrative costs of the corporation. The department shall not transfer funds under any service contract with the corporation without specific appropriation for such purpose in the General Appropriations Act, except for administrative expenses incurred by the State Board of Administration or other expenses necessary under documents authorizing or securing previously issued bonds of the corporation. The service contracts may also provide for the assignment or transfer to the corporation of any loans made by the department. The service contracts may establish the operating relationship between the department and the corporation and shall require the department to request the corporation to issue bonds before any issuance of bonds by the corporation, to take any actions necessary to enforce the agreements entered into between the corporation and other parties, and to take all other actions necessary to assist the corporation in its operations. In compliance with s. 287.0641 and other applicable provisions of law, the obligations of the department under the service contracts do not constitute a general obligation of the state or a pledge of the faith and credit or taxing power of the state, nor may the obligations be construed in any manner as an obligation of the State Board of Administration or entities for which it invests funds, or of the department except as provided in this section as payable solely from amounts available under any service contract between the corporation and the department, subject to appropriation. In compliance with this subsection and s. 287.0582, service contracts must expressly include the following statement: "The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature."

(6) The corporation may issue and incur notes, bonds, certificates of indebtedness, or other obligations or evidences of indebtedness payable from and secured by amounts received from payment of loans and other moneys received by the corporation, including, but not limited to, amounts payable to the corporation by the department under a service contract entered into under subsection (5). The corporation shall not issue bonds in excess of an amount authorized by general law or an appropriations act except to refund previously issued bonds. The proceeds of the bonds may be used for the purpose of providing funds for projects and activities provided for under subsection (1) or for refunding bonds previously issued by the corporation. The corporation may select a financing team and issue obligations through competitive bidding or negotiated contracts, whichever is most cost-effective. Any such indebtedness of the corporation does not constitute a debt or obligation of the state or a pledge of the faith and credit or taxing power of the state.

(7) The corporation is exempt from taxation and assessments of any nature whatsoever upon its income and any property, assets, or revenues acquired, received, or used in the furtherance of the purposes provided by s. 163.325. The obligations of the corporation incurred under subsection (6) and the interest and income on the obligations and all security agreements, letters of credit, liquidity facilities, or other obligations or instruments arising out of, entered into in connection with, or given to secure payment of the obligations are exempt from all taxation; however, this exemption does not apply to any tax imposed by chapter 220 on the interest, income, or profits on debt obligations owned by corporations.

(8) The corporation shall validate any bonds issued under this section, except refunding bonds, which may be validated at the option of the corporation, by proceedings under chapter 75. The validation complaint shall be filed only in the Circuit Court for Leon County. The notice required under s. 75.06 shall be published in Leon County, and the complaint and order of the circuit court shall be served only on the State Attorney for the Second Judicial Circuit. Sections 75.04(2) and 75.06(2) do not apply to a validation complaint filed as authorized by this subsection. The validation of the first bonds issued under this section may be appealed to the Supreme Court, and the appeal shall be handled on an expedited basis.

(9) The corporation and the department shall not take any action that will materially and adversely affect the rights of holders of any obligations issued under this section as long as the obligations are outstanding.

(10) The corporation is not a special district for purposes of chapter 189 or a unit of local government for purposes of part III of chapter 218. The provisions of chapters 120 and 215, except the limitation on interest rates provided by s. 215.84, which applies to obligations of the corporation issued under this section, and the provisions of part I of chapter 287, except ss. 287.0582 and 287.0641, do not apply to this section, the corporation created by this section, the service contracts entered into under this section, or debt obligations issued by the corporation as provided by this section.

(11) The benefits or earnings of the corporation may not inure to the benefit of any private person, except persons receiving loans under s. 163.325.

(12) Upon dissolution of the corporation, title to all property owned by the corporation reverts to the department.

(13) The corporation may contract with the State Board of Administration to serve as trustee with respect to debt obligations issued by the corporation as provided by this section; to hold, administer, and invest proceeds of those debt obligations and other funds of the corporation; and to perform other services required by the corporation. The State Board of Administration may perform those services and may contract with others to provide all or a part of those services and to recover the costs and expenses of providing those services.

(14) The Auditor General may conduct a financial audit of the accounts and records of the corporation.

Section 17. Effective June 1, 2003, subsection (3) of section 199.292, Florida Statutes, is amended to read:

199.292 Disposition of intangible personal property taxes.—All intangible personal property taxes collected pursuant to this chapter shall be placed in a special fund designated as the "Intangible Tax Trust Fund." The fund shall be disbursed as follows:

(3) Of the remaining intangible personal property taxes collected, *25 percent of* the balance shall be transferred to the *Local Government Infrastructure Revolving Loan Trust Fund, and the remaining balance shall be transferred to the* General Revenue Fund of the state.

Section 18. Section (3) of section 215.211, Florida Statutes, is amended to read:

215.211 Service charge; elimination or reduction for specified proceeds.—

(3) Notwithstanding the provisions of s. 215.20(1), the service charge provided in s. 215.20(1), which is deducted from the proceeds of the local option fuel tax distributed under s. 336.025, shall be *eliminated June 1, 2003.* ~~reduced as follows:~~

~~(a) For the period July 1, 2005, through June 30, 2006, the rate of the service charge shall be 3.5 percent.~~

~~(b) Beginning July 1, 2006, and thereafter, no service charge shall be deducted from the proceeds of the local option fuel tax distributed under s. 336.025.~~

The increased revenues derived from this subsection shall be deposited in the State Transportation Trust Fund and used to fund the County Incentive Grant Program and the Small County Outreach Program. Up to 20 percent of such funds shall be used for the purpose of implementing the Small County Outreach Program as provided in this act. Notwithstanding any other laws to the contrary, the requirements of ss. 339.135, 339.155, and 339.175 shall not apply to these funds and programs.

Section 19. Effective June 1, 2003, paragraph (c) of subsection (1) and subsection (2) of section 336.021, Florida Statutes, are amended to read:

336.021 County transportation system; levy of ninth-cent fuel tax on motor fuel and diesel fuel.—

(1)

(c) Local option taxes collected on sales or use of diesel fuel in this state shall be distributed in the following manner:

1. The fiscal year of July 1, 1995, through June 30, 1996, shall be the base year for all distributions.

2. Each year the tax collected, less *the deduction provided for in paragraph (2)(b),* the service and administrative charges enumerated in s. 215.20*,* and the allowances allowed under s. 206.91, on the number of gallons reported, up to the total number of gallons reported in the base year, shall be distributed to each county using the distribution percentage calculated for the base year.

3. After the distribution of taxes pursuant to subparagraph 2., additional taxes available for distribution shall first be distributed pursuant to this subparagraph. A distribution shall be made to each county in which a qualified new retail station is located. A qualified new retail station is a retail station that began operation after June 30, 1996, and that has sales of diesel fuel exceeding 50 percent of the sales of diesel fuel reported in the county in which it is located during the 1995-1996 state fiscal year. The determination of whether a new retail station is qualified shall be based on the total gallons of diesel fuel sold at the station during each full month of operation during the 12-month period ending March 31, divided by the number of full months of operation during those 12 months, and the result multiplied by 12. The amount distributed pursuant to this subparagraph to each county in which a qualified new retail station is located shall equal the local option taxes due on the gallons of diesel fuel sold by the new retail station during the year ending March 31, less the service charges enumerated in s. 215.20 and the dealer allowance provided for by s. 206.91. Gallons of diesel fuel sold at the qualified new retail station shall be certified to the department by the county requesting the additional distribution by June 15, 1997, and by May 1 in each subsequent year. The certification shall include the beginning inventory, fuel purchases and sales, and the ending inventory for the new retail station for each month of operation during the year, the original purchase invoices for the period, and any other information the department deems reasonable and necessary to establish the certified gallons. The department may review and audit the retail dealer's records provided to a county to establish the gallons sold by the new retail station. Notwithstanding the provisions of this subparagraph, when more than one county qualifies for a distribution pursuant to this subparagraph and the requested distributions exceed the total taxes available for distribution, each county shall receive a prorated share of the moneys available for distribution.

4. After the distribution of taxes pursuant to subparagraph 3., all additional taxes available for distribution shall be distributed based on vehicular diesel fuel storage capacities in each county pursuant to this subparagraph. The total vehicular diesel fuel storage capacity shall be established for each fiscal year based on the registration of facilities with the Department of Environmental Protection as required by s. 376.303 for the following facility types: retail stations, fuel user/nonretail, state government, local government, and county government. Each county shall receive a share of the total taxes available for distribution pursuant to this subparagraph equal to a fraction, the numerator of which is the storage capacity located within the county for vehicular diesel fuel in the facility types listed in this subparagraph and the denominator of which is the total statewide storage capacity for vehicular diesel fuel in those facility types. The vehicular diesel fuel storage capacity for each county and facility type shall be that established by the Department of Environmental Protection by June 1, 1997, for the 1996-1997 fiscal year, and by January 31 for each succeeding fiscal year. The storage capacities so established shall be final. The storage capacity for any new retail station for which a county receives a distribution pursuant to subparagraph 3. shall not be included in the calculations pursuant to this subparagraph.

(2)(a) The tax collected by the department pursuant to subsection (1)*, except for the deduction provided for by paragraph (b),* shall be transferred to the Ninth-cent Fuel Tax Trust Fund, which fund is created for distribution to the counties pursuant to paragraph (1)(d). The department shall deduct the administrative costs incurred by it in collecting, administering, enforcing, and distributing back to the counties the tax, which administrative costs may not exceed 2 percent of collections authorized by this section. The total administrative cost shall be prorated among those counties levying the tax according to the following formula, which shall be revised on July 1 of each year: Two-thirds of the amount deducted shall be based on the county's proportional share of the number of dealers who are registered for purposes of chapter 212 on June 30th of the preceding state fiscal year, and one-third of the amount deducted shall be based on the county's share of the total amount of the tax collected during the preceding state fiscal year. The department has the authority to prescribe and publish all forms upon which reports shall be made to it and other forms and records deemed to be necessary for proper administration and collection of the tax levied by any county and shall adopt rules necessary to enforce this section, which rules shall have the full force and effect of law. The provisions of ss. 206.026, 206.027, 206.028, 206.051, 206.052, 206.054, 206.055, 206.06, 206.07, 206.075, 206.08, 206.09, 206.095, 206.10, 206.11, 206.12, 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18, 206.199, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22, 206.24, 206.27, 206.28, 206.41, 206.416, 206.44, 206.45, 206.48, 206.49, 206.56, 206.59, 206.626, 206.87, 206.872, 206.873, 206.8735, 206.874, 206.8741, 206.8745, 206.94, and 206.945 shall, as far as practicable, be applicable to the levy and collection of the tax imposed pursuant to this section as if fully set out in this section.

(b) Notwithstanding any provision to the contrary, the department shall transfer 7 percent of the tax collected pursuant to subsection (1) to the Local Government Infrastructure Revolving Loan Trust Fund, to be used for purposes provided for in s. 163.325.

(c)~~(b)~~ The provisions of s. 206.43(7) shall apply to the incorrect reporting of the tax levied under this section.

And the title is amended as follows:

On page 112, line 15, after "judicial review" of the amendment

insert: creating s. 163.325, F.S.; providing definitions; authorizing the department to provide specified types of financial assistance to local governments for infrastructure needs and providing requirements with respect thereto; requiring an annual report; providing application requirements; directing the department to adopt a priority system;

providing penalties for delinquent loans; providing for management of loan funds; providing that a Local Government Infrastructure Revolving Loan Trust Fund shall be established and providing requirements with respect thereto; providing for rules; creating s. 163.3251, F.S.; creating the Florida Local Government Infrastructure Financing Corporation to assist the department in implementing financing activities and provide funding for such financial assistance; providing for termination of the corporation; providing for a board of directors; providing powers and duties of the corporation; providing requirements with respect to service contracts with the department; authorizing issuance of bonds and other obligations; providing an exemption from taxation; providing requirements for validating bonds; providing status of the corporation and applicability of laws; providing for contracts with the State Board of Administration; providing for audits; amending s. 199.292, F.S.; providing for deposit of a portion of intangible personal property tax proceeds in the Local Government Infrastructure Revolving Loan Trust Fund;

Rep. Sorensen moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Sorensen offered the following:

(Amendment Bar Code: 482993)

Amendment 14 to Amendment 1 (with title amendment)—On page 53, between lines 3 and 4, of the amendment

insert:

Section 15. Section 163.3244, Florida Statutes, is amended to read:

163.3244 Sustainable communities *certification* ~~demonstration project~~.—

(1) The Department of Community Affairs *shall create* ~~is authorized to undertake~~ a sustainable communities *certification program for communities that have implemented best planning practices through their local government comprehensive plans and specific planning or design initiatives, thereby reducing the need for state review of amendments to local government comprehensive plans. One of the purposes of the certification program is to address the extrajurisdictional effects of development occurring within the certified area and to assume development-of-regional-impact review authority from the department. It is the intent of the Legislature that the department and other executive agencies under the Governor give priority to and direct infrastructure spending to areas within the certified communities.* ~~demonstration project. Up to five local governments may be designated under this section. At least three of the local governments shall be located totally or in part within the boundaries of the South Florida Water Management District. In selecting the local governments to participate in this demonstration project, the department shall assure participation by local governments of different sizes and characteristics. It is the intent of the Legislature that this demonstration project shall be used to further six broad principles of sustainability: restoring key ecosystems; achieving a more clean, healthy environment; limiting urban sprawl; protecting wildlife and natural areas; advancing the efficient use of land and other resources; and creating quality communities and jobs.~~

(2) A local government may apply to the department in writing requesting consideration for *certification as a sustainable community* ~~designation under the demonstration program~~. The local government shall describe its reasons for applying for this *certification* ~~designation~~ and support its application with documents regarding its compliance with criteria set forth in this section.

(3) In determining whether to *certify* ~~designate~~ all or part of a local government as a sustainable community, the department shall:

(a) Assure that the local government has set an urban development boundary or functionally equivalent mechanisms, based on projected needs and adequate data and analysis, that will:

1. Encourage urban infill at appropriate densities and intensities, separate urban and rural uses, and discourage urban sprawl ~~development patterns~~ while preserving public open space and planning for buffer-type land uses and rural development consistent with their respective character along and outside of the urban boundary.

2. Assure protection of key natural areas and agricultural lands.

3. Ensure the cost-efficient provision of public infrastructure and services.

(b) Consider and assess the extent to which the local government has adopted programs in its local comprehensive plan or land development regulations which:

1. Promote infill development and redevelopment, including prioritized and timely permitting processes in which applications for local development permits within the urban development boundary are acted upon expeditiously for proposed development which is consistent with the local comprehensive plan.

2. Promote the development of housing for low-income and very-low-income households or specialized housing to assist elders and the disabled to remain at home or in independent living arrangements.

3. Achieve effective intergovernmental coordination.

4. Promote economic diversity and growth while encouraging the retention of rural character, where rural areas exist, and the protection and restoration of the environment.

5. Provide and maintain public urban and rural open space and recreational opportunities.

6. Manage transportation and land uses to support public transit and promote opportunities for pedestrian and nonmotorized transportation.

7. Use urban design principles to foster individual community identity, create a sense of place, and promote pedestrian-oriented safe neighborhoods and town centers.

8. Redevelop blighted areas.

9. Improve disaster preparedness programs and the ability to protect lives and property, especially in coastal high-hazard areas.

10. Encourage clustered, mixed-use development which incorporates greenspace and residential development within walking distance of commercial development.

11. Demonstrate financial and administrative capabilities to implement the designation.

12. Demonstrate a record of effectively adopting, implementing, and enforcing its comprehensive plan.

(c) Consider and assess the extent to which the local government has the support of its regional planning council governing board in favor of the designation.

(4) The department shall *certify* ~~designate~~ all or part of a local government as a sustainable community by written agreement, which shall be considered final agency action. The agreement shall include the basis for the *certification* ~~designation~~, any conditions necessary to comply with the intent of this section, including procedures for mitigation of extrajurisdictional *effects* ~~impacts~~ of development*, a 5-year work plan identifying local government and department tasks that will promote the intent of this section, a commitment to effectively adopt, implement, and enforce the local government's comprehensive plan* ~~in jurisdictions where developments of regional impact would be abolished or modified~~, and criteria for evaluating the success of the *certification* ~~designation~~. Subsequent to executing the agreement, the department may remove the local government's *certification* ~~designation~~ if it determines that the local government is not meeting the terms of the *certification* ~~designation~~ agreement. If an affected person, as defined by s. 163.3184(1)(a), determines that a local government is not complying with the terms of the *certification* ~~designation~~ agreement, he or she may petition for administrative review of local government compliance with

the terms of the agreement, using the procedures and timeframes for notice and conditions precedent described in s. 163.3213.

(5) Upon *certification* ~~designation~~ as a sustainable community~~, the local government shall receive the following benefits~~:

(a) All comprehensive plan amendments affecting areas within the urban growth boundary or functional equivalent shall be adopted and reviewed in the manner described in ss. 163.3184(1), (2), (7), (14), (15), and (16) and 163.3187, such that state and regional agency review is eliminated. The department shall not issue an objections, recommendations, and comments report on proposed plan amendments or a notice of intent on adopted plan amendments; however, affected persons, as defined by s. 163.3184(1)(a), may file a petition for administrative review pursuant to the requirements of s. 163.3187(3)(a) to challenge the compliance of an adopted plan amendment. Plan amendments that would change the adopted urban development boundary, impact lands outside the urban development boundary, or impact lands within the coastal high-hazard area shall be reviewed pursuant to ss. 163.3184 and 163.3187.

(b) *The local government shall assume the review authority of the department and regional planning council for developments of regional impact* ~~Developments~~ within the urban growth boundary and outside the coastal high-hazard area ~~are exempt from review pursuant to ss. 380.06 and 380.061 to the extent established in the designation agreement~~.

(c) The Executive Office of the Governor shall work with *the Department of Community Affairs and* other departments to emphasize programs *and set priorities for funding within areas* in *certified* ~~designated~~ local governments in the areas of *education* ~~job creation~~; crime prevention; environmental protection and restoration programs; ~~solid waste recycling;~~ transportation improvements, including highways, transit, and nonmotorized transportation projects; sewage treatment system improvements; ~~expedited and prioritized funding initiatives;~~ and other programs that will *direct development within the urban development boundary of certified* ~~assist~~ local governments ~~to create and maintain self-sustaining communities~~.

(6) The Secretary of ~~the Department of~~ Environmental Protection, the Secretary of Community Affairs, the Secretary of Transportation, the Commissioner of Agriculture, the executive director of the Fish and Wildlife Conservation Commission, and the executive directors of the five water management districts *and the 11 regional planning councils* shall have the authority to enter into agreements with landowners, developers, businesses, industries, individuals, and governmental agencies as may be necessary to effectuate the provisions of this section.

(7) Once *certified* ~~designated~~ as a sustainable community pursuant to this section, the local government shall provide a progress report to the department ~~and the Advisory Council on Intergovernmental Relations each year~~ on the *first* anniversary date of its designation *and thereafter, biennially,* that identifies plan amendments adopted during the year *or 2-year period*, updates the future land use map, and advises whether the local government continues to comply with the *certification* ~~designation~~ agreement. ~~Beginning December 1, 1997, and each year thereafter, the department shall provide a report to the Speaker of the House of Representatives and the President of the Senate regarding the successes and failures of this demonstration project. The report shall include any recommendations for legislative action to modify or repeal the project.~~

(8) The *certification* ~~designation~~ of a local government as a sustainable community under this section shall *continue* ~~be~~ for a period of 5 years, unless otherwise revoked or renewed by the department. The *certification* ~~designation~~ may be renewed *for additional 5-year periods* if the department determines that the local government is complying with the terms of its agreement. *Those local governments designated as a sustainable community demonstration project shall have their designation renewed for an additional 5-year period, which may be renewed for additional 5-year periods pursuant to this subsection.* ~~, showing continuing progress toward sustainable goals, and the demonstration project is still in effect.~~

~~(9) This section shall stand repealed on June 30, 2001, and shall be reviewed by the Legislature prior to that date.~~

~~(10) If this section is repealed, all designations shall terminate as of the effective date of the repeal.~~

And the title is amended as follows:

On page 112, line 15, after "judicial review;" of the amendment

insert: amending s. 163.3244, F.S.; providing for a sustainable communities certification program in lieu of the sustainable communities demonstration project; revising requirements for certification agreements; providing that a certified local government shall assume review authority for certain developments of regional impact; revising programs to be emphasized in such areas and providing for certain funding priorities; revising report requirements; providing for renewal of local governments designated as a sustainable community demonstration project; eliminating the scheduled June 30, 2001, repeal of said section;

Rep. Sorensen moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 10 to Amendment 1**, which failed of adoption.

Representative(s) Sorensen offered the following:

(Amendment Bar Code: 733981)

Amendment 15 to Amendment 1 (with title amendment)—On page 1, between lines 16 and 17,

insert:

Section 1. Section 163.2524, Florida Statutes, is created to read:

163.2524 Revitalization manual.—The Department of Community Affairs shall create and compile a single document, available on the Internet, that lists and cross-references all existing and future revitalization tools, resources, training, and programs. The department is directed to coordinate with state and federal agencies in the compilation of this document.

And the title is amended as follows:

On page 108, line 24, of the amendment
remove: amending

and insert in lieu thereof: creating s. 163.2524, F.S.; directing the Department of Community Affairs to compile a revitalization manual; amending

Rep. Sorensen moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Sorensen offered the following:

(Amendment Bar Code: 661137)

Amendment 16 to Amendment 1 (with title amendment)—On page 23, between lines 12 and 13, of the amendment

insert:

Section 5. Subsection (5) and paragraph (a) of subsection (12) of section 163.3180, Florida Statutes, are amended to read:

163.3180 Concurrency.—

(5)(a) The Legislature finds that under limited circumstances dealing with transportation facilities, countervailing planning and public policy goals may come into conflict with the requirement that adequate public facilities and services be available concurrent with the impacts of such development. The Legislature further finds that often the unintended result of the concurrency requirement for transportation facilities is the discouragement of urban infill development and redevelopment. Such unintended results directly conflict with the goals

and policies of the state comprehensive plan and the intent of this part. Therefore, exceptions from the concurrency requirement for transportation facilities may be granted as provided by this subsection.

(b) A local government may grant an exception from the concurrency requirement for transportation facilities if the proposed development is otherwise consistent with the adopted local government comprehensive plan and is a project that promotes public transportation. ~~or is located within an area designated in the comprehensive plan for:~~

(c) A local government shall grant an exception from the concurrency requirement for transportation facilities if the proposed development is located within an area designated in the comprehensive plan for:

1. Urban infill development,

2. Urban redevelopment,

3. Downtown revitalization, or

4. Urban infill and redevelopment under s. 163.2517.

(d)~~(c)~~ The Legislature also finds that developments located within urban infill, urban redevelopment, existing urban service, or downtown revitalization areas or areas designated as urban infill and redevelopment areas under s. 163.2517 which pose only special part-time demands on the transportation system should be excepted from the concurrency requirement for transportation facilities. A special part-time demand is one that does not have more than 200 scheduled events during any calendar year and does not affect the 100 highest traffic volume hours.

(e)~~(d)~~ A local government shall establish guidelines for granting the exceptions authorized in paragraphs (b) and *(d)*~~(c)~~ in the comprehensive plan. These guidelines must include consideration of the impacts on the Florida Intrastate Highway System, as defined in s. 338.001. The exceptions may be available only within the specific geographic area of the jurisdiction designated in the plan. Pursuant to s. 163.3184, any affected person may challenge a plan amendment establishing these guidelines and the areas within which an exception could be granted.

(f) A local government shall establish guidelines for designating the exception areas authorized in paragraph (c) in the comprehensive plan. These guidelines must include consideration of the impacts on the Florida Intrastate Highway System, as defined in s. 338.001. The exceptions may be available only within the specific geographic area of the jurisdiction designated in the plan. Pursuant to s. 163.3184, any affected person may challenge a plan amendment establishing these guidelines and the areas within which an exception could be granted.

(12) When authorized by a local comprehensive plan, a multiuse development of regional impact may satisfy the transportation concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. 380.06 by payment of a proportionate-share contribution for local and regionally significant traffic impacts, if:

(a) The development of regional impact meets or exceeds the guidelines and standards of s. 380.0651(3)*(g)*~~(i)~~ and rule 28-24.032(2), Florida Administrative Code, and includes a residential component that contains at least 100 residential dwelling units or 15 percent of the applicable residential guideline and standard, whichever is greater;

The proportionate-share contribution may be applied to any transportation facility to satisfy the provisions of this subsection and the local comprehensive plan, but, for the purposes of this subsection, the amount of the proportionate-share contribution shall be calculated based upon the cumulative number of trips from the proposed development expected to reach roadways during the peak hour from the complete buildout of a stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain the adopted level of service, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted level of service. For purposes of this subsection, "construction cost" includes all associated costs of the improvement.

And the title is amended as follows:

On page 110, line 6-8, after the semicolon of the amendment remove: all of said lines

and insert in lieu thereof: revising provisions relating to exceptions from the concurrency requirement for transportation facilities; requiring that such an exception be granted under certain conditions;

Rep. Sorensen moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Sorensen offered the following:

(Amendment Bar Code: 471819)

Amendment 17 to Amendment 1 (with title amendment)—On page 23, between lines 12 and 13, of the amendment

insert:

Section 5. Subsections (1) and (2) of section 163.3181, Florida Statutes, are amended to read:

163.3181 Public participation in the comprehensive planning process; intent; alternative dispute resolution.—

(1) It is the intent of the Legislature that the public participate in the comprehensive planning process *and the land use decision process at the earliest possible point and* to the fullest extent possible. Towards this end, local planning agencies and local governmental units are directed to adopt procedures designed to provide effective public participation in the comprehensive planning process and to provide real property owners with notice of all official actions which will regulate the use of their property. The provisions and procedures required in this act are set out as the minimum requirements towards this end.

(2)*(a) Prior to and* during consideration of the proposed plan or amendments thereto*, or of development orders requiring a public hearing pursuant to local ordinance,* by the local planning agency or by the local governing body, the procedures shall provide for broad dissemination of the proposals and alternatives, opportunity for written comments, public hearings as provided herein, provisions for open discussion, communications programs, information services, and consideration of and response to public comments.

(b) Local governments shall include in their citizen participation procedures a requirement that public notice be given within 15 days after application, and be user-friendly. Formal public hearing notice shall be modified to clearly identify in plain language the nature of the amendment or application under consideration.

(c) Conspicuous signs that are located on site and consistent with local sign ordinances shall also be a requirement in citizen participation procedures for all site specific future land use map amendments requiring a public hearing. Local governments shall determine the information required. The applicant shall bear the cost of any required signs.

(d) Local governments shall include in their citizen participation procedures a requirement that applicants for comprehensive plan amendments articulate a citizen involvement plan at the time of the application. The department may develop technical assistance documents on citizen participation plans.

(e) The department shall develop best management practices to increase citizen involvement and articulate how local governments will achieve their citizen participation goals throughout the planning and development review processes. These best management practices shall:

1. Encourage local governments to use plain language in all notices.

2. Encourage local governments to develop citizen involvement plans.

3. Recommend additional forms of notice beyond traditional legal notices in the local newspaper.

And the title is amended as follows:

On page 110, between lines 8 and 9, of the amendment

insert: amending s. 163.3181, F.S.; revising provisions relating to public participation in the comprehensive planning process; providing requirements for local governments' citizen participation procedures; providing for assistance from the department;

Rep. Sorensen moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Attkisson and Greenstein offered the following:

(Amendment Bar Code: 370637)

Amendment 18 to Amendment 1—On page 45, line 9 through line 22,
remove from the amendment: all of said lines

and insert in lieu thereof:

(b) Nothing in this part shall prohibit a local government from adopting land development regulations which establish reasonable standards for setbacks, buffering, and landscaping or to require consistency with the local comprehensive plan for a substation that will be operated by an electric utility. Compliance with any such adopted standards creates a presumption that a substation is compatible with adjacent land uses.

(c) If an electric utility demonstrates by competent substantial evidence that it meets all criteria for approval of an application for a development permit fot the location, construction, and operation of a substation, the local government may not deny the application unless the preponderance of the evidence demonstrates the application does not meet the requirements of the comprehensive plan, land development regulations, or is otherwise incompatible with adjacent land uses.

Rep. Attkisson moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Greenstein offered the following:

(Amendment Bar Code: 330785)

Amendment 19 to Amendment 1—On page 83, line 13,
remove from the amendment: all of said line

and insert in lieu thereof: *constructing on established rights-of-way any*

Rep. Greenstein moved the adoption of the amendment to the amendment. Subsequently, **Amendment 19 to Amendment 1** was withdrawn.

Representative(s) Attkisson offered the following:

(Amendment Bar Code: 474609)

Amendment 20 to Amendment 1 (with title amendment)—On page 1, between lines 16 & 17,

insert:

Section 1. *All non-public schools in the state shall be exempt from all impact fees.*

And the title is amended as follows:

On page 108, line 2, after the semicolon

and insert: providing that all non-public schools shall be exempt from impact fees;

Rep. Attkisson moved the adoption of the amendment to the amendment, which was adopted.

THE SPEAKER IN THE CHAIR

The question recurred on the adoption of **Amendment 1**, as amended.

Reconsideration

On motion by Rep. Fasano, the House reconsidered the vote by which **Amendment 18 to Amendment 1** was adopted. The question recurred on the adoption of the amendment to the amendment, which was withdrawn.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted. The vote was:

Session Vote Sequence: 188

Yeas—72

The Chair	Brown	Harper	Mealor
Alexander	Brummer	Harrell	Melvin
Allen	Byrd	Harrington	Miller
Andrews	Cantens	Hart	Murman
Arza	Carassas	Hogan	Needelman
Attkisson	Clarke	Johnson	Negron
Atwater	Crow	Jordan	Paul
Baker	Detert	Kallinger	Pickens
Ball	Diaz de la Portilla	Kendrick	Prieguez
Barreiro	Diaz-Balart	Kilmer	Rubio
Baxley	Dockery	Kottkamp	Russell
Bean	Farkas	Kravitz	Simmons
Bennett	Fasano	Kyle	Smith
Bense	Flanagan	Lee	Spratt
Benson	Garcia	Lynn	Stansel
Berfield	Gibson	Mack	Trovillion
Bilirakis	Goodlette	Mayfield	Wallace
Bowen	Haridopolos	Maygarden	Waters

Nays—35

Ausley	Gannon	Justice	Ryan
Bendross-Mindingall	Gelber	Kosmas	Seiler
Betancourt	Gottlieb	Lerner	Siplin
Bucher	Greenstein	Machek	Slosberg
Bullard	Henriquez	McGriff	Sobel
Cusack	Heyman	Peterman	Weissman
Fields	Holloway	Rich	Wiles
Fiorentino	Jennings	Richardson	Wilson
Frankel	Joyner	Romeo	

Votes after roll call:
Yeas—Sorensen
Nays to Yeas—Wiles

Representative(s) Kendrick and Wiles offered the following:

(Amendment Bar Code: 052427)

Amendment 2 (with title amendment)—On page 6, line 10,

insert:

Section 1. Section 380.30, Florida Statutes, is created to read:

380.30 Outer continental shelf support facilities.—

(1) Definitions.—For the purposes of this section:

(a) "Board of Trustees" means the Board of Trustees of the Internal Improvement Trust Fund.

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

(2) Permit required; permit fees.—

(a) It is the policy of this state, as set forth in s. 187.201(9)(b)8., to avoid the exploration and development of mineral resources when such exploration and development threaten marine, aquatic, and estuarine resources.

(b) In keeping with this policy, the Legislature finds a need to regulate persons who provide support to offshore operations that could adversely impact coastal resources.

(3) No person shall provide port facilities, equipment, supplies, or other support to a person conducting activities related to the exploration or production of oil or gas within the Eastern Gulf of Mexico that is east and south of the lateral seaward boundary between Florida and Alabama, which is permitted under the Outer Continental Shelf Lands Act, as amended, including leases and approvals under 43 U.S.C. s. 1331, as amended, unless such person first obtains an outer continental shelf activity support permit from the board of trustees.

(4) The board of trustees shall issue an outer continental shelf activity support permit only if the board of trustees determines that the activity or activities for which the applicant intends to provide port facilities, equipment, supplies, or other support:

1. Will not threaten marine, aquatic, or estuarine resources of the state;

2. Will have a net positive impact on marine, aquatic, and estuarine resources; and

3. Is in the public interest.

(5) The Department shall issue permits on an annual basis. The Department shall charge an application fee and an annual renewal fee. All moneys collected by the department under this act shall be deposited in the Ecosystem Management and Restoration Trust Fund, and shall be used to administer the program.

(6) In the event that there is an accidental or an intentional spill as a result of activities permitted under the Outer Continental Shelf Lands Act, as amended, including leases and approvals under 43 U.S.C. s. 1331, the Department shall have the authority to assess any persons or companies responsible for the spill to cover the full costs associated with restoring the shoreline, marine resources and any other environmental or habitat resource within the sovereign lands of the state.

(7) The department is granted authority to promulgate rules for the permitting forms and procedures required by this section.

And the title is amended as follows:

On page 1, line 2, after the semicolon
remove from the title of the bill: the entire title

and insert in lieu thereof: creating s. 380.30, F.S.; providing definitions; requiring a permit from the Board of Trustees of the Internal Improvement Trust Fund for certain activities that support activities permitted under the federal Outer Continental Shelf Lands Act, as amended; providing application and renewal fees; specifying conditions for issuance of permits; granting rulemaking authority for forms and procedures;

Rep. Kendrick moved the adoption of the amendment. Subsequently, **Amendment 2** was withdrawn.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

On motion by Rep. Byrd, the House moved to the consideration of CS/CS/HB 1533 on Special Orders.

Bill Subject to Special Rule

CS/CS/HB 1533—A bill to be entitled An act relating to education governance reorganization; amending s. 229.001, F.S.; revising a short title to delete obsolete language; amending s. 229.002, F.S.; revising the policy and guiding principles of the Legislature relating to education governance; amending s. 229.003, F.S.; revising the timeframe for education governance reorganization; revising the titles of the education governance officers; revising the name of the Florida On-Line High School to conform with changes made by the bill; revising the membership of university boards of trustees and making appointees subject to Senate confirmation; abolishing the Board of Regents, the State Board of Community Colleges, and the Postsecondary Education Planning Commission; transferring the powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, other funds, administrative authority, administrative rules, pending issues, and existing contracts of the Board of Regents to the Florida Board of Education, of the State Board of Community Colleges to the Florida Board of Education, and of the Postsecondary Education Planning Commission to the Center for Education Policy Research and Improvement, respectively; creating the Center for Education Policy Research and Improvement within OPPAGA; transferring the Articulation Coordinating Committee and the Education Standards Commission by type two transfer from the Department of Education to the Florida Board of Education; requiring the Commissioner of Education to commence reorganization of the department and specifying offices and divisions; requiring the merger of the powers, duties, and staffs of the State Board of Independent Colleges and Universities and the State Board of Nonpublic Career Education, with an exception, into a single Commission for Independent Education; creating s. 229.0031, F.S.; creating the Center for Education Policy Research and Improvement; providing duties of the center; establishing membership and duties of an advisory council to the center; providing for funding and staff; providing for the appointment and employment of an executive director; amending s. 229.004, F.S.; revising the timeframe for the creation of the Florida Board of Education; deleting the requirement that the board be part time; revising the duties and responsibilities of the board; conforming terminology with changes made by the bill; providing cross references to newly created missions and goals and guidelines; amending s. 229.005, F.S.; revising provisions relating to qualifications of Florida education governance officers to conform terminology to changes made by the bill and to provide cross references to newly created missions and goals; requiring the Commissioner of Education to work with the board and oversee the chancellors and the executive director; deleting references to requirements of the Florida Constitution relating to education; requiring the Chancellor of Public Schools, the Chancellor of Colleges and Universities, the Chancellor of Community Colleges, and the Executive Director of Independent Education to work as division vice presidents of the seamless K-20 education system; revising the name of the Florida On-Line High School to conform with changes made by the bill; amending s. 229.006, F.S.; deleting obsolete language relating to the creation and already-accomplished duties of the Education Governance Reorganization Transition Task Force; revising the timeframe for the reorganization; requiring the task force to provide guidance and monitoring of the reorganization implementation process and to report to the Governor, the Legislature, the chief transition officer, and the public on its progress; revising the timeframe and recipients of the final report of the task force; creating s. 229.0061, F.S.; establishing guidelines for the implementation, structure, functions, and organization of Florida's K-20 education system; creating s. 229.007, F.S.; establishing Florida's K-20 education performance accountability system; providing legislative intent; establishing the mission, goals, and systemwide measures; creating s. 229.0072, F.S.; establishing a reorganization implementation process; requiring the Governor to appoint university boards of trustees and a Florida Board of Education; providing for appointment of a chief transition officer and specifying duties of the officer; establishing duties of the Florida Board of Education relating to the transition and implementation of the K-20 system; requiring the Florida Board of Education to appoint advisory bodies as necessary and develop and recommend a new School Code; requiring the Commissioner of Education to work with the Florida Board of Education to achieve full implementation of the seamless K-20 system and to commence reorganization of the department as required by the act; creating s. 229.0073, F.S.; establishing the chief transition officer's Education Reorganization Workgroup to direct and oversee reorganization of the Department of Education; providing requirements for reorganization to include the establishment of offices and divisions; providing duties of the offices; transferring the SMART Schools Clearinghouse to the Office of Educational Facilities and SMART Schools Clearinghouse within the Office of the Commissioner of Education; creating s. 229.0074, F.S.; establishing the mission of the Division of Independent Education; providing for membership and duties of the executive director; combining and transferring the powers and duties of the State Board of Independent Colleges and Universities and the State Board of Nonpublic Career Education, with an exception, to the Commission for Independent Education; providing for membership and duties of the commission; creating s. 229.008, F.S.; providing for establishment and

membership of boards of trustees of universities in the State University System; providing for protections from civil liability; creating s. 229.0081, F.S.; establishing powers and duties of university boards of trustees; creating s. 229.0082, F.S.; establishing powers and duties of university presidents; creating s. 229.0083, F.S.; providing legislative intent regarding the School Readiness Act; clarifying and providing responsibilities of the Florida Partnership for School Readiness, the Agency for Workforce Innovation, the Department of Education, and parents relating to school readiness; providing for the addition of members to the Florida Partnership for School Readiness; providing for the development of minimum child care licensing standards; transferring the Florida Partnership for School Readiness from the Executive Office of the Governor to the Agency for Workforce Innovation; transferring the Child Care Executive Partnership Program, child care and early childhood resource and referral, and the subsidized child care program including statewide staff to the Agency for Workforce Innovation; transferring the prekindergarten early intervention, migrant prekindergarten, and Florida First Start programs, including statewide staff, to the Agency for Workforce Innovation; amending s. 216.136, F.S.; deleting certain duties of the Social Services Estimating Conference; adding staff of the Agency for Workforce Innovation to the School Readiness Program Estimating Conference; amending ss. 232.01, 236.08104, and 445.023, F.S.; conforming language and correcting cross references; effective January 1, 2002, repealing ss. 228.061(1) and (2), 230.23(4)(o), 230.2303, 230.2305, and 230.2306, F.S., relating to preschool and prekindergarten early intervention programs in the public schools, school board provision of early childhood and basic skills development, the Florida First Start Program, the prekindergarten early intervention program, and prekindergarten children service needs assessments; effective July 1, 2002, repealing ss. 230.23166, 232.01(1)(d), 234.01(1)(e), and 236.083(1)(f), F.S., relating to teenage parent programs, school attendance for married or pregnant students, transportation for pregnant students or student parents, and the annual allocation for such transportation; effective January 1, 2002, repealing ss. 402.28, 402.281(1), 402.3015, 402.3027, 402.3028, 402.305(18), 402.3052, 402.3135(2)(c), and 402.45(2) and (6), F.S., relating to Child Care Plus, the Gold Seal Quality Care program rating system, the subsidized child care program, observation and assessment of young children in subsidized child care programs, referral for assessment, the child care technical review panel, the child development associate training grants program, provision of assistance to Child Care Plus facilities, and certain requirements for the community resource mother or father program; effective January 1, 2002, repealing ss. 391.304(1)(a), 411.01(4)(l), (q), (s), and (t), (5)(g), and (9)(c), 411.201, 411.202, 411.203, 411.205, 411.22, 411.221, 411.222, 411.223, 411.224, 411.23, and 411.231, F.S., relating to Department of Health coordination with the Department of Education and specified councils, specified duties of the Florida Partnership for School Readiness and school readiness coalition grants and bonuses, the Florida Prevention, Early Assistance, and Early Childhood Act, legislative intent for prevention and early assistance, the prevention and early assistance strategic plan, the State Coordinating Council for School Readiness Programs, uniform standards for preventive health care, a family support planning process, and the short title and legislative intent for the Children's Early Investment Program; creating s. 229.0084, F.S.; providing a statement of legislative findings and intent regarding liability for student achievement and the autonomy of independent K-12 schools and home education programs; amending s. 228.082, F.S.; revising the name of the Florida On-Line High School to the Florida Virtual High School, which school shall be housed within the Commissioner of Education's Office of Technology and Information Services and monitored by the commissioner; stating the mission of the Florida Virtual High School; deleting obsolete language; revising the duties of the school's board of trustees; requiring the Department of Education to maximize federal indirect cost allowed on federal grants; requiring appropriation for expenditure of funds received from indirect cost allowance; effective June 30, 2002, repealing s. 229.8065, F.S., relating to expenditures for the Knott Data Center and projects, contracts, and grants programs; amending s. 229.085, F.S.; removing an exemption for personnel employed by projects funded by contracts and grants; providing for recommendations on performance-based funding for the State University System; repealing s. 235.217(1)(b), (c), and (d), (2), (3)(a), (c), (d), and (e), (4), and (5), F.S., relating to membership and certain duties of the SMART Schools Clearinghouse; repealing ss. 240.145, 240.147, 240.209(2), 240.227, 240.307, and 240.311(4), F.S., relating to the Postsecondary Education Planning Commission, the powers and duties of the commission, the Board of Regents appointment of a Chancellor of the State University System, powers and duties of university presidents, the appointment of members of the State Board of Community Colleges, and the appointment of an executive director of the community college system; providing effective dates.

—was taken up, having been read the second time by title on April 25.

Representative(s) Wiles offered the following:

(Amendment Bar Code: 234981)

Amendment 1 (with title amendment)—On page 12, line 5, through page 79, line 31,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 3. Section 229.003, Florida Statutes, is amended to read:

229.003 Florida education governance reorganization.—

(1) Effective *July 1, 2002,* ~~January 7, 2003,~~ the Florida Board of Education, created pursuant to s. 229.004, shall be responsible for overseeing kindergarten through graduate school education, in accordance with *the implementation process in s. 229.0072 and* the policies and guiding principles in s. 229.002 *and the mission and goals of s. 229.007*.

~~(2) Effective January 7, 2003, the Florida Board of Education shall appoint the Commissioner of Education.~~

(2) ~~(3)~~ Effective *July 1, 2002,* ~~January 7, 2003,~~ there *are* ~~is~~ established *the following education governance officers in addition to the Commissioner of Education*:

(a) ~~A~~ Chancellor of *Public Schools,* ~~K-12 Education~~ appointed by the Commissioner of Education.

(b) ~~A~~ Chancellor of *Colleges and* ~~State~~ Universities, appointed by the Commissioner of Education.

(c) ~~A~~ Chancellor of Community Colleges ~~and Career Preparation~~, appointed by the Commissioner of Education.

(d) ~~An~~ Executive Director of *Independent* ~~Nonpublic and Nontraditional~~ Education, appointed by the Commissioner of Education.

Each chancellor and executive director shall be subject to confirmation by the Florida Board of Education and shall serve at the pleasure and under the authority of the Commissioner of Education.

(3) ~~(4) Effective July 1, 2000,~~ The Governor shall appoint a seven-member board of trustees for the Florida *Virtual* ~~On-Line~~ High School*,* which shall be a body corporate with all the powers of a body corporate.

(4) ~~(5)~~ Effective *July 1, 2002,* ~~January 7, 2003,~~ the Governor shall appoint for each university in the State University System, *an 11-member* ~~a nine-member~~ board of trustees*,* which shall be a body corporate with all the powers of a body corporate. *In addition to the 11 members, a student body president shall serve as an ex officio nonvoting member of the board of trustees. There shall be no state residency requirement for university board members, but the Governor shall consider diversity and regional representation. Each appointee is subject to confirmation by the Senate in the regular legislative session immediately following his or her appointment* ~~All members of the board of trustees of Florida Atlantic University must reside within the service area of the university; three must be residents of Broward County, three must be residents of Palm Beach County, and three may be residents of any county within the service area~~.

(5) Effective July 1, 2002:

(a) The Board of Regents is abolished.

(b) All of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the Board of Regents are transferred by a type two transfer, pursuant to s. 20.06(2), to the Florida Board of Education.

(c) The State Board of Community Colleges is abolished.

(d) All of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the State Board of Community Colleges are transferred by a type two transfer, pursuant to s. 20.06(2), from the Department of Education to the Florida Board of Education.

(e) The Postsecondary Education Planning Commission is abolished.

(f) The Center for Education Policy Research and Improvement is created and assigned for administrative purposes to the Office of Program Policy Analysis and Government Accountability (OPPAGA).

(g) All personnel, unexpended balances of appropriations, and allocations of the Postsecondary Education Planning Commission are transferred to the Center for Education Policy Research and Improvement.

(h) The Articulation Coordinating Committee and the Education Standards Commission are transferred by a type two transfer, pursuant to s. 20.06(2), from the Department of Education to the Florida Board of Education.

(i) Notwithstanding the provisions of s. 20.15, the Commissioner of Education shall commence the reorganization of the Department of Education in accordance with s. 229.0073, which shall include an Office of the Commissioner of Education comprised of the general areas of operation that are common to all delivery sectors and, in addition, shall include:

1. The creation of an Office of Technology and Information Services, an Office of Workforce and Economic Development, an Office of Educational Facilities and SMART Schools Clearinghouse, and an Office of Student Financial Assistance.

2. The creation of a Division of Colleges and Universities.

3. The creation of a Division of Community Colleges.

4. The creation of a Division of Public Schools.

5. The creation of a Division of Independent Education.

6. The merger of the powers, duties, and staffs of the State Board of Independent Colleges and Universities and the State Board of Nonpublic Career Education, except as relating to any independent nonprofit college or university whose students are eligible to receive the William L. Boyd, IV, Florida resident access grants pursuant to s. 240.605, into a single Commission for Independent Education administratively housed within the Division of Independent Education.

~~(6) Effective January 7, 2003, the powers and duties of the following entities are relocated to the Florida Board of Education, which shall retain all related funding and budget authority for purposes of a single, seamless kindergarten through graduate school education system and single or coordinated budget and may retain or redistribute the powers and duties of each entity in accordance with the policies and guiding principles of s. 229.002, and the entities shall cease to exist:~~

~~(a) The Board of Regents.~~

~~(b) The State Board of Community Colleges.~~

~~(c) The State Board of Independent Colleges and Universities.~~

~~(d) The State Board of Nonpublic Career Education.~~

~~(e) The Division of Workforce Development of the Department of Education.~~

~~(f) The Postsecondary Education Planning Commission.~~

~~(g) The Articulation Coordination Committee.~~

~~(h) The Division of Human Resource Development of the Department of Education.~~

~~(i) The Division of Support Services of the Department of Education.~~

~~(j) The Division of Administration of the Department of Education.~~

~~(k) The Division of Financial Services of the Department of Education.~~

~~(l) The Division of Technology of the Department of Education.~~

~~(m) The Office of Student Financial Assistance of the Department of Education.~~

~~(n) The Division of Universities of the Department of Education.~~

~~(o) The Division of Community Colleges of the Department of Education.~~

Section 4. Section 229.0031, Florida Statutes, is created to read:

229.0031 Center for Education Policy Research and Improvement.—Effective July 1, 2002, there is created the Center for Education Policy Research and Improvement to conduct and review education research, provide independent analysis on education progress, and provide independent evaluation of education issues of statewide concern. The center shall have an independent advisory council and shall be housed for administrative purposes in the Office of Program Policy Analysis and Government Accountability. Administrative functions of the center shall be provided by the Office of Legislative Services pursuant to joint policies of the Legislature.

(1) The center shall:

(a) Provide state policymakers, educators, and the public with objective and timely information that supports the seamless K-20 education system and the K-20 education accountability process designed to provide all students an opportunity for a high-quality education, in accordance with the policies and guiding principles of s. 229.002 and the performance accountability system in s. 229.007.

(b) Annually review and make recommendations to the Legislature regarding the activities of research centers and institutes supported with state funds in order to assess the return on the state's investment in research conducted by public postsecondary education institutions. Such recommendations shall include the responses of the university presidents.

(c) Explore national and state emerging educational issues and examine how these issues should be addressed by education institutions in Florida.

(d) Prepare and submit for approval by the Florida Board of Education a long-range performance plan for K-20 education in Florida. Annually review the implementation of the plan and make recommendations for improvement.

(e) Annually report on the progress of public schools and postsecondary education institutions toward meeting educational goals and standards as defined by s. 229.007. Recommend to the Legislature and the Florida Board of Education legislation and rules for the educational accountability system that support the policies and guiding principles of s. 229.002.

(f) Evaluate and report on issues pertaining to student learning gains.

(g) Recommend to the Florida Board of Education revisions and new initiatives to further improve the K-20 education accountability system.

(h) Provide public education institutions and the public with information on the K-20 education accountability system and recommend refinements and improvements.

(i) Apply for and receive grants for the study of K-20 education system improvement consistent with its responsibilities.

(j) Conduct annual studies upon the request of the Legislature or the Florida Board of Education.

(2) The center shall operate under the guidance of an independent nine-member advisory council and the guiding principles of s. 229.002.

(3) The advisory council shall be composed of five members appointed by the Governor, two members appointed by the Speaker of the House of Representatives, and two members appointed by the President of the Senate. Each member shall be appointed for a term of 6 years. However, for purposes of continuity, the Governor shall appoint two members, the Speaker of the House of Representatives shall appoint one member, and the President of the Senate shall appoint one member for a first term of 4 years. Members appointed for 4 years shall be eligible for one reappointment. Advisory council members shall not include elected officials or employees of public or independent education entities. Members shall serve without compensation, but shall be reimbursed for per diem and travel as provided in s. 112.061. Members who miss two consecutive meetings shall be subject to replacement by the appointing officer. The advisory council shall meet at least four times per year and shall advise the center executive director and staff on all matters pertaining to the duties and responsibilities of the center. The advisory council shall annually evaluate the performance of the center executive director and shall report such evaluations to the Governor.

(4) The executive director of the Center for Education Policy Research and Improvement shall direct the activities of the center and appoint and supervise all staff. The executive director shall have broad knowledge and experience in educational accountability, governance, policy, research, and practice. The executive director shall be appointed by the Governor and confirmed by the Florida Board of Education, and shall serve at the pleasure of the advisory council. The executive director shall staff the meetings of the advisory council and shall document and communicate the findings and recommendations of the advisory council. The executive director shall report to the Florida Board of Education on at least a quarterly basis to inform the board of the center's findings.

(5) The center shall be staffed and funded as provided for in the General Appropriations Act. The center shall have access to all education performance and accountability data collected or maintained by the Department of Education. During the reorganization of the Department of Education as provided for in this act, staff and funding may be transferred from the Department of Education to the center to fulfill its statutory functions.

Section 5. Section 229.004, Florida Statutes, is amended to read:

229.004 Florida Board of Education.—

(1)(a) *In accordance with the implementation process in s. 229.0072* ~~Effective January 7, 2003~~, the Florida Board of Education is established as a body corporate. The board shall be a ~~part-time~~ citizen board consisting of seven members appointed by the Governor to staggered 4-year terms, subject to confirmation by the Senate*, provided, however, that Senate confirmation is not required for the members of the Florida Board of Education to perform the duties as prescribed in this education governance reorganization implementation act. Members of the board shall serve without compensation, but shall be entitled to reimbursement of travel and per diem expenses in accordance with s. 112.061.* Members may be reappointed by the Governor for additional terms *not to exceed 8 years of consecutive service*.

(b) *The Governor shall appoint the first chair of the Florida Board of Education who shall serve for 2 years. After expiration of the 2-year term and at the first regular meeting of the board after July 1, the Florida Board of Education shall select a chair and a vice chair from its appointed members. The chair shall serve a 2-year term and may be reselected for one additional consecutive term.* ~~The Florida Board of Education shall have a chairperson who shall be appointed by the Governor.~~

(2) The primary duties of the board shall be to establish education goals and objectives consistent with the policies and guiding principles of s. 229.002 *and the mission and goals of s. 229.007* and, together with the Commissioner of Education, to oversee the implementation of *and enforce compliance with* the education policies established by the Legislature. The board, and the commissioner, shall establish, operate, and maintain optimal efficiency of an Office of the *Commissioner of Education pursuant to s. 229.0061(2)(c) in accordance with the guidelines of ss. 229.0061 and 229.0073* ~~Board of Education~~.

(3) In performing its duties, the board, together with the Commissioner of Education, shall:

(a) Ensure accountability and responsiveness to Florida's citizens, including the establishment of a Citizen Information Center that utilizes quick response and customer-friendly methodologies.

(b) Establish and aggressively enforce efficient and effective performance management objectives.

(c) Maximize the effectiveness of local, state, and federal education linkages and funds.

(d) Issue guidelines for the development of legislative budget requests for operations and fixed capital outlay for the coordinated K-20 system.

(e)~~(d)~~ Recommend ~~one budget or~~ a coordinated budget *and long-range program plans* based on consistent policies for a seamless kindergarten through graduate school education.

(f)~~(e)~~ Adopt cohesive rules, within statutory authority, for education systemwide issues*, including rules governing systemwide access to educational opportunities,* and ensure that rules adopted for the various education delivery systems are compatible.

(g)~~(f)~~ Ensure articulation and coordination within and across the entire education delivery system.

(h)~~(g)~~ Provide ongoing public information regarding performance results for the entire kindergarten through graduate school education system and each of its components.

(4) The board, with the Commissioner of Education, shall *be responsible for*:

(a) *The* work *of* ~~with~~ the Chancellor of *Public Schools* ~~K-12 Education~~ to establish, and maintain optimal efficiency of, *a Division* ~~an Office~~ of *Public Schools, within the guidelines of ss. 229.0061 and 229.0073, and to achieve the mission and goals of s. 229.007* ~~K-12 Education~~.

(b) *The* work *of* ~~with~~ the Chancellor of *Colleges and* ~~State~~ Universities to establish, and maintain optimal efficiency of, *a Division* ~~an Office~~ of *Colleges and* ~~State~~ Universities*, within the guidelines of ss. 229.0061 and 229.0073, and to achieve the mission and goals of s. 229.007*.

(c) *The* work *of* ~~with~~ the Chancellor of Community Colleges ~~and Career Preparation~~ to establish, and maintain optimal efficiency of, *a Division* ~~an Office~~ of Community Colleges*, within the guidelines of ss. 229.0061 and 229.0073, and to achieve the mission and goals of s. 229.007* ~~and Career Preparation~~.

(d) *The* work *of* ~~with~~ the Executive Director of *Independent* ~~Nonpublic and Nontraditional~~ Education to establish, and maintain optimal efficiency of, *a Division* ~~an Office~~ of *Independent* ~~Nonpublic and Nontraditional~~ Education*, within the guidelines of ss. 229.0061 and 229.0073* ~~Services~~.

Section 6. Section 229.005, Florida Statutes, is amended to read:

229.005 Florida education governance officers.—

(1) COMMISSIONER OF EDUCATION.—The Commissioner of Education shall *work with the Florida Board of Education and oversee*

the other education governance officers to focus ~~be appointed by the Board of Education from candidates of national caliber and respected and proven organizational leadership with established experience in administering broad-based policy. The commissioner shall be a person who is eminently capable of focusing~~ the entire kindergarten through graduate school education system *on accomplishing* ~~to accomplish~~ the policies and guiding principles of s. 229.002 *and achieving the mission and goals of s. 229.007*. The commissioner shall ~~have the ability to successfully~~ provide education policy and planning direction, program development, performance management, and funding allocation recommendations across the spectrum of kindergarten through graduate school education.~~, and the ability to achieve and safeguard the will of the people of Florida as expressed in s. 1, Art. IX of the Florida Constitution, that "adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require."~~

(2) CHANCELLOR OF *PUBLIC SCHOOLS* ~~K-12 EDUCATION~~.—The Chancellor of *Public Schools* ~~K-12 Education~~ shall be appointed by the Commissioner of Education based on his or her ability to *work as a division vice president of the seamless K-20 education system with the Florida Board of Education and the other education governance officers to* comply with the policies and guiding principles of s. 229.002*, to achieve the mission and goals of s. 229.007*, to enhance the quality of *public* K-12 education in Florida, *and* to maximize the equity of *public* K-12 education in Florida by moving the focus to the school site and the individual student.~~, and to achieve and safeguard the will of the people of Florida as expressed in s. 1, Art. IX of the Florida Constitution, that "adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education. . . ."~~

(3) CHANCELLOR OF *COLLEGES AND* ~~STATE~~ UNIVERSITIES.—The Chancellor of *Colleges and* ~~State~~ Universities shall be appointed by the Commissioner of Education based on his or her ability to *work as a division vice president of the seamless K-20 education system with the Florida Board of Education and the other education governance officers to* comply with the policies and guiding principles of s. 229.002*, to achieve the mission and goals of s. 229.007*, to enhance the national reputation and quality of education and ~~educational~~ research in Florida's *colleges and* ~~state~~ universities, and to work directly with each of the *college and* ~~state~~ university presidents and boards of trustees in focusing on the education and ~~educational~~ research needs of the individual *college or* university and its students.

(4) CHANCELLOR OF COMMUNITY COLLEGES ~~AND CAREER PREPARATION~~.—The Chancellor of Community Colleges ~~and Career Preparation~~ shall be appointed by the Commissioner of Education based on his or her ability to *work as a division vice president of the seamless K-20 education system with the Florida Board of Education and the other education governance officers to* comply with the policies and guiding principles of s. 229.002*, to achieve the mission and goals of s. 229.007*, to enhance the quality of education in Florida's community colleges, and to work directly with each of the community college presidents and boards of trustees in focusing on the education needs of the communities and students they serve.

(5) EXECUTIVE DIRECTOR OF *INDEPENDENT* ~~NONPUBLIC AND NONTRADITIONAL~~ EDUCATION.—The Executive Director of *Independent* ~~Nonpublic and Nontraditional~~ Education shall be appointed by the Commissioner of Education based on his or her ability to *work as a division vice president of the seamless K-20 education system with the Florida Board of Education and the other education governance officers to* comply with the policies and guiding principles of s. 229.002, *to protect the independence, autonomy, and nongovernmental status of independent education in Florida,* to enhance the quality and expand the offerings and innovations of *independent* ~~nonpublic and nontraditional~~ education in Florida, to establish partnerships with *independent* ~~nonpublic~~ education providers at all levels to achieve these goals, and to work directly with the Board of Trustees of the Florida *Virtual* ~~On Line~~ High School and with Florida's private school associations, home education associations, *independent* ~~nonpublic~~ career education institutions, and independent colleges and universities to maximize educational choice and enhance the options, educational alternatives, and student-focused delivery for their students.

Section 7. Subsections (1), (4), (5), (6), and (7) of section 229.006, Florida Statutes, are amended to read:

229.006 Education Governance Reorganization Transition Task Force.—

(1) In order to accomplish a smooth transition ~~on January 7, 2003,~~ from the elected State Board of Education to the appointed Florida Board of Education, there shall be established the Education Governance Reorganization Transition Task Force. ~~All members of the task force shall be appointed as soon as feasible but not later than October 1, 2000.~~ The task force shall be comprised of:

(a) Five members appointed by the Governor;

(b) Three members appointed by the President of the Senate; and

(c) Three members appointed by the Speaker of the House of Representatives.

The transition task force shall ~~be charged with the duty to identify issues, conduct research, develop the necessary procedural and substantive framework, and~~ make recommendations to the Legislature for an orderly ~~3-year~~ phase-in for a seamless education continuum and a ~~single or~~ coordinated kindergarten through graduate school budget in accordance with the policies and guiding principles of s. 229.002~~, so that the Florida Board of Education may immediately begin its work on January 7, 2003, with maximum effectiveness~~.

(4) *Having completed its recommendations to the Legislature* ~~by March 1, 2001~~, the transition task force shall *redirect its focus to provide guidance and monitoring of the implementation process pursuant to s. 229.0072 and to regularly report to the Governor, the Legislature, the chief transition officer, and the public on the progress of the reorganization implementation process. If any implementation activity is determined by a majority vote of the task force to be inconsistent with the intent of this act, the chair of the task force shall report such activity directly to the State Board of Education, and the State Board of Education shall act immediately to resolve the dispute.* ~~recommend to the Legislature:~~

~~(a) How best to achieve education system integration by:~~

~~1. Combining appropriate education functions and policies into or under the new Florida Board of Education.~~

~~2. Devolving the education delivery services and operational decisions to the appropriate location of delivery to students, specifically the schools, community colleges, colleges, universities, area technical centers, and other education institutions or places where the students receive their education.~~

~~3. Providing for a single or coordinated kindergarten through graduate school education budget.~~

~~(b) How best to achieve economies in education services, including recommendations concerning consolidation of information systems and integrated performance and financial accounting systems, while maximizing effectiveness within existing resources and staff.~~

~~(c)1. Which, if any, current education staff functions and resources should be eliminated, transferred, or realigned within the proposed new education organizational structure.~~

~~2. A recommended salary structure for the Commissioner of Education and for the chancellors.~~

~~(d) Whether an Office of Policy Research should be established to explore emerging issues, locate successful and innovative educational programs, and make recommendations to the Governor, the Florida Board of Education, and the Legislature and, if so, its mission, staffing, and location.~~

~~(c) The optimal mission of the Florida On-Line High School and a methodology for the operation and funding of the school to achieve that mission.~~

~~(f) The optimal location and structure of the Florida Partnership for School Readiness.~~

~~(5) By March 1, 2002, the transition task force shall recommend to the Legislature:~~

~~(a) Standards, definitions, and guidelines for universities, colleges, community colleges, schools, and other education institutions to ensure the quality of education, systemwide coordination, and efficient progress toward attainment of their appropriate missions.~~

~~(b) Rules and procedures as necessary to be followed by university boards of trustees, community college boards of trustees, and other boards of trustees, as determined appropriate, for recruitment and selection of presidents, procedures for annual evaluations of presidents, and procedures for interaction between presidents, the boards of trustees, and the new Florida Board of Education.~~

~~(c) A systemwide strategic plan for postsecondary institutions that considers the role, in their respective communities, of each of the institutions.~~

~~(d) Methodologies for degree program approval, establishment of matriculation and tuition fees, and coordination of colleges' and universities' budget requests.~~

~~(e) Any additional statutory changes needed during the 2002 legislative session to complete the education governance reorganization transition.~~

~~(6) By March 1, 2003, the transition task force shall recommend to the Legislature:~~

~~(a) Statutory changes necessary to accomplish the policies and guiding principles of s. 229.002, including, but not limited to, statutory changes necessitated by the repeal and review provisions of subsection 3(8) of this act.~~

~~(b) Rulemaking authority for the new Florida Board of Education and a plan and timetable for transition or coordination of existing education sector agency rules and rulemaking authority recommendations, if any, for education agencies.~~

~~(c) Waiver authority, if any, for the Commissioner of Education or the Florida Board of Education.~~

(5)~~(7)~~ By *March* ~~May~~ 1, 2003, the transition task force shall have completed its duties and shall make its final report to the Governor, *the Florida Board of Education, the Commissioner of Education,* the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of each chamber. The final report shall include, but is not limited to:

(a) A summary of the work and recommendations of the task force *and the status of full implementation of the K-20 education system*.

(b) The status of all pending and completed actions on orders and rules, all enforcement matters, and all delegations, interagency agreements, and contracts with federal, state, regional, and local governments and private entities.

(c) Identification of any remaining or potential duplication in the administration of state education laws and rules, with specific recommendations to eliminate such duplication and promote more efficient administration.

Section 8. Section 229.0061, Florida Statutes, is created to read:

229.0061 Florida's K-20 education system; guidelines for implementation; guidelines for structure, functions, and organization.—

(1) GUIDELINES FOR IMPLEMENTATION.—

(a) Florida's seamless K-20 education system shall be a decentralized system in which as many commissions, boards, councils, and other excess layers of bureaucracy as possible are eliminated.

(b) Florida's K-20 education system shall rely on a single entity, the Florida Board of Education, as its single strategic voice. If the board desires assistance on matters of policy research or other issues, the board shall be authorized to appoint a committee or committees to assist it on any and all issues within the K-20 education system on an ad hoc basis.

(c) Members of the Florida Board of Education shall focus on high-level policy decisions.

(d) It is essential to the success of Florida's seamless K-20 education system to have a fully operational systemwide technology plan based on a common set of data definitions.

(2) GUIDELINES FOR STRUCTURE, FUNCTIONS, AND ORGANIZATION.—

(a) Roles of the Legislature, the Florida Board of Education, the education governance officers, and the institutional boards of trustees and school boards.—The Legislature shall establish education policy, enact education laws, and appropriate and allocate education resources. The Florida Board of Education shall enforce all laws, rules, and guidelines and shall timely provide direction, resources, assistance, intervention when needed, and strong incentives and disincentives to force accountability for results. In terms of major areas of responsibility, the Legislature, the Florida Board of Education, the education governance officers, and the institutional boards of trustees and school boards shall each perform essential constituent roles.

(b) Florida Board of Education.—The Florida Board of Education shall serve as the body corporate for Florida's seamless K-20 education system; implement the coordinated education vision; and, together with the commissioner, chancellors, and executive director, oversee the success of that vision. The Florida Board of Education shall:

1. Enforce systemwide education policies and goals.

2. Recommend annually the coordinated education budget and authorize the allocation of resources in accordance with law and rule. Any program recommended by the Florida Board of Education which requires state funding for more than 1 year must be presented in a multiyear budget plan.

3. Adopt long-term and short-term education plans.

4. Enforce education accountability standards and measures of all components of the K-20 education system.

5. Accurately and continuously assess data and monitor and report performance.

6. Provide high-quality assistance and intervention when and where needed.

7. Provide timely and accurate information on all public and independent education services.

8. Recommend to the Legislature the missions of the public colleges and universities and community colleges.

(c) Commissioner of Education.—The Commissioner of Education shall serve as secretary and executive director of the State Board of Education. The commissioner shall propose action on all issues that come before the state board and be responsible for enforcing compliance with the mission and goals of the seamless K-20 education system by all education delivery sectors. The commissioner's office shall operate all statewide functions necessary to support the Florida Board of Education and the seamless K-20 education system, including the following areas:

1. Legal.

2. Communications, including a Citizen Information Center that provides quick response and uses customer-friendly methods.

3. Strategic planning and budget development.

4. General administration.

5. Assessment and accountability.

6. Data management, education technology, and an education data warehouse.

7. Access and opportunity, including student financial assistance.

8. Policy research and development, except the Center for Education Policy Research and Improvement.

9. Florida Board of Education personnel.

10. Workforce and economic development.

11. Educational facilities.

12. Technology and information services.

13. Student financial assistance.

14. Inspector General.

(d) Chancellors and executive director.—The chancellors of the public schools, community colleges, and colleges and universities divisions and the Executive Director of the Division of Independent Education shall serve the Florida Board of Education and the Commissioner of Education in the role of division vice presidents of the K-20 education system and as governance officers and critical members of the state-level education leadership team. They shall each be held responsible for providing leadership, administering programs, resolving disputes, providing technical assistance, and timely recommending action plans to the commissioner for sanctions or intervention when needed, as well as making recommendations to the board and the commissioner for strategic planning and budget development for their respective education delivery sectors. They shall support the governing policies and responsibilities of the board and the commissioner and bear primary responsibility for the achievement of the mission and goals of the K-20 education system by their education delivery sectors, as applicable to their sectors. They shall reinforce the policies and principles of the seamless K-20 education system in every venue and at every opportunity, and work together to facilitate horizontal communications and interactions between the education delivery sectors. Specifically, as applicable, each education governance officer shall:

1. Serve as the head of the division.

2. Supervise all employees and work of the division.

3. Properly and timely inform education institutions and the public as to legislative action, including funding, grant opportunities, and substantive policy changes affecting the division.

4. Direct the review of expenditures of public funds in accordance with legislative intent.

5. Evaluate the performance of each education institution under the division and report performance results to the public, the Legislature, the Commissioner of Education, the Florida Board of Education, and the institution and its governing board.

6. Direct institutional governing boards to take corrective action to improve unsatisfactory performance pursuant to law and rules of the Florida Board of Education.

7. Direct and oversee the development of the division's accountability system and recommend changes to the Commissioner of Education and the Florida Board of Education.

8. Direct the division's activities in order to coordinate with other divisions to provide a seamless education system.

9. Direct the provision of state services to institutions under the division.

10. Direct the development of the division's legislative budget request and work cooperatively with the commissioner and other governance officers to develop a coordinated budget request.

11. Serve as the primary point of contact and communication for the division.

(e) Institutional boards of trustees and school boards.—Each institutional board of trustees and school board shall:

1. Provide strategic planning and budget development for their institution or school district.

2. Implement and maintain high-quality education programs within law and rules of the Florida Board of Education.

3. Measure and enforce performance.

4. Provide timely and accurate reporting of information.

5. Provide direct input on education issues to the education governance officers.

6. Have broad latitude within law and rules of the Florida Board of Education in developing local policies and local programs to meet the needs of their students, their communities, and area employers.

7. Hold presidents and appointed superintendents responsible for institution and school performance.

8. Be responsible for the fiscal accountability of their institution or school district.

9. Be responsible for compliance with all laws, rules of the Florida Board of Education, and performance accountability requirements.

(f) Presidents and superintendents.—Each institutional president and school district superintendent shall:

1. Be responsible for efficient and effective budget and program administration.

2. Provide strong leadership to accomplish their education missions and goals.

3. Closely monitor education performance.

4. Provide timely and accurate financial and performance data.

5. Link instructional staff evaluations to student performance.

(g) Ad hoc advisory committees.—Advisory bodies shall be appointed on an ad hoc basis by the Florida Board of Education to serve the board, commissioner, and chancellors when and as needed by studying and recommending action on major issues that affect the direction and quality of education, providing public forums for debate, and safeguarding a coordinated systemwide approach to education policy decisions.

Section 9. Section 229.007, Florida Statutes, is created to read:

229.007 Florida's K-20 education performance accountability system; legislative intent; mission, goals, and systemwide measures.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature that:

(a) The performance accountability system implemented to assess the effectiveness of Florida's seamless K-20 education delivery system provide answers to the following questions in relation to its mission and goals:

1. What is the public getting in return for funds it invests in education?

2. How is Florida's K-20 education system performing in terms of educating its students?

3. How are the major delivery sectors performing to promote student achievement?

4. How are individual schools and postsecondary education institutions performing their responsibility to educate their students as measured by how students are performing and how much they are learning?

(b) The Florida Board of Education recommend to the Legislature systemwide performance standards; the Legislature establish systemwide performance measures and standards; and the systemwide measures and standards provide Floridians with information on what the public is getting in return for the funds it invests in education and how well the K-20 system educates its students.

(c) The Florida Board of Education establish performance measures and set performance standards for individual components of the public education system, including individual schools and postsecondary education institutions, which measures and standards are based primarily on student achievement.

(2) MISSION, GOALS, AND SYSTEMWIDE MEASURES.—The mission of Florida's K-20 education system, when it becomes fully operational, shall be to increase the proficiency of all students within one seamless, efficient system, by providing them with the opportunity to expand their knowledge and skills through learning opportunities and research valued by students, parents, and communities, and to maintain an accountability system that measures student progress toward the following goals:

(a) Highest student achievement, as measured by: student FCAT performance and annual learning gains; the number and percentage of schools that improve at least one school performance grade designation or maintain a school performance grade designation of "A" pursuant to s. 229.57; graduation or completion rates at all learning levels; and other measures identified in law or rule.

(b) Seamless articulation and maximum access, as measured by: the percentage of students who demonstrate readiness for the educational level they are entering, from kindergarten through postsecondary education and into the workforce; the number and percentage of students needing remediation; the percentage of Floridians who complete associate, baccalaureate, professional, and postgraduate degrees; the number and percentage of credits that articulate; the extent to which each set of exit-point requirements matches the next set of entrance-point requirements; and other measures identified in law or rule.

(c) Skilled workforce and economic development, as measured by: the number and percentage of graduates employed in their areas of preparation; the percentage of Floridians with high school diplomas and postsecondary education credentials; the percentage of business and community members who find that Florida's graduates possess the skills they need; and other measures identified in law or rule.

(d) Quality efficient services, as measured by: cost per completer or graduate; average cost per noncompleter at each educational level; cost disparity across institutions offering the same degrees; the percentage of education customers at each educational level who are satisfied with the education provided; and other measures identified in law or rule.

Section 10. Section 229.0072, Florida Statutes, is created to read:

229.0072 Reorganization implementation process.—In order to best achieve the legislative purpose of the Florida Education Governance Reorganization Implementation Act:

(1) The Governor shall appoint the members of the boards of trustees of the state universities in accordance with s. 229.008.

(2) Effective July 1, 2002, the Governor shall appoint a seven-member Florida Board of Education. The Florida Board of Education shall be housed within, and operate under the direction of, the State Board of Education. The Florida Board of Education shall appoint a chief transition officer who shall serve as the board's primary liaison with all entities involved in the reorganization of education. The chief transition officer shall be responsible directly to the Florida Board of Education and shall serve as staff to the board on all action items relating to the reorganization. During the reorganization implementation period, the chief transition officer shall:

(a) Be responsible for proposing actions regarding all education governance reorganization implementation issues.

(b) Be responsible for integration of the Department of Education as it is reorganized into an agency of the Governor.

(c) Serve as secretary of the Florida Board of Education.

(d) Serve as the head of the Education Reorganization Workgroup.

(e) Serve as the head of the K-20 education leadership team.

(3) The Florida Board of Education shall establish a detailed procedure for the implementation of a systemwide K-20 technology plan which includes a month-by-month timeline with monthly progress reports to the board.

(4) Subject to review and approval of the State Board of Education, the Florida Board of Education shall:

(a) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon it. The rules shall be submitted to the State Board of Education. If any rule is not disapproved by the State Board of Education within 45 days after its receipt, the rule shall be filed immediately with the Department of State.

(b) Prepare and submit a coordinated K-20 education budget to the Governor and Legislature that clearly defines the individual needs of the divisions within the Department of Education. No school district shall use public funds to support activities of an employee organization. The Florida Board of Education shall adopt rules implementing this restriction on the use of public funds and shall not allow such use of public funds to be included in its recommended budget, except for collective bargaining negotiations.

(c) Establish a work plan and timeline for the orderly implementation of the transition, including a fully detailed plan and timeline for the devolution of duties, as appropriate, to the university boards of trustees.

(d) Establish accountability standards for existing legislative performance goals, standards, and measures, and order the development of mechanisms to implement new legislative goals, standards, and measures.

(e) Supervise the coordination of institutions and delivery sectors.

(f) Establish policies for university and community college boards of trustees to follow in selecting presidents.

(g) Approve plans and reports, and take other necessary actions pertaining to the supervision of education.

(h) Effectuate the timely implementation of the seamless K-20 education system.

(i) Establish advisory boards to provide the support needed to address issues such as public education facilities planning; student issues; instructional issues; distance learning and technology; academic quality, freedom, and responsibility; and research.

(j) Develop and review recommendations on issues of statewide importance, such as technology systems and facilities.

(k) Adopt criteria and implementation plans for future growth issues, such as new colleges and universities and campus mergers; and provide for cooperative agreements between and within public and private education sectors.

(l) Advise the State Board of Education regarding the issuance of bonds.

(m) Appoint advisory bodies, as necessary, on an ad hoc basis.

(n) Develop and recommend to the Education Governance Reorganization Transition Task Force, the Governor, the chief transition officer, the Commissioner of Education, and the Legislature, no later than January 1, 2003, for adoption during 2003, a clear, concise new

School Code, comprised of the revision of chapters 228-246, to accomplish the implementation, administration, and operation of Florida's seamless K-20 education system in accordance with the guidelines included in s. 229.0061.

(o) Receive, review, and make decisions regarding charter school appeals, which decisions shall be binding notwithstanding any provision of law to the contrary.

(5) Effective July 1, 2002, the Commissioner of Education shall:

(a) Work with the Florida Board of Education to achieve full implementation of the seamless K-20 education system.

(b) Commence reorganization of the Department of Education as a state agency of the Governor in accordance with legislative guidelines pursuant to s. 229.0073, the requirements of s. 229.003(5), and requests of the Florida Board of Education as approved by the State Board of Education.

(c) As secretary of the State Board of Education, assist the chief transition officer in determining the agenda for the Florida Board of Education and provide the Florida Board of Education and the State Board of Education the full support of the reorganized Department of Education.

Section 11. Section 229.0073, Florida Statutes, is created to read:

229.0073 Reorganization of the Department of Education.—Effective July 1, 2002, notwithstanding the provisions of s. 20.15, the chief transition officer's Education Reorganization Workgroup is established to direct and provide oversight for the reorganization of Florida's K-20 Department of Education. The workgroup shall be comprised of the Commissioner of Education, the Governor or his designee, the chief transition officer, the Chancellor of Colleges and Universities, the Chancellor of Community Colleges, the Chancellor of Public Schools, and the Executive Director of Independent Education, who shall consult with the legislative members of the Education Governance Reorganization Transition Task Force. The reorganization shall:

(1) Eliminate duplication across divisions; achieve greater efficiencies in financial and human resources and education services; and identify functions, resources, and services that should be eliminated, transferred, or realigned.

(2) Include a review and assessment of all bureaus, offices, divisions, and functions of the department reorganized pursuant to this section.

(3) Establish an Office of the Commissioner of Education that includes the general areas of operation that are common to all delivery sectors, such as administration, communication, legal services, financial aid, and government and public relations, in order to increase efficiency, improve service delivery to students, and fully support the operational needs of the Florida Board of Education.

(4) Establish the following divisions within the department:

(a) Division of Public Schools (K-12).—The state's public elementary, middle, junior high, and high schools, as well as combination schools, charter schools, district magnet programs, and area technical centers.

(b) Division of Community Colleges.—The state's 28 public community colleges.

(c) Division of Colleges and Universities.—The state's public universities and colleges and the 4-year independent colleges and universities whose students are eligible to receive the William L. Boyd, IV, Florida resident access grants pursuant to s. 240.605, to enable more effective articulation between these public and private institutions. The division chancellor shall administer those provisions of chapter 246 that apply to the independent colleges and universities within the division and shall establish a liaison responsible for partnerships that enhance articulation between and communication with Florida's 4-year independent colleges and universities.

(d) Division of Independent Education.—The independent education providers within the state, including home education programs that meet the requirements of s. 232.0201, private K-12 institutions as described in s. 229.808, independent colleges and universities, except those identified under paragraph (c), and private postsecondary career preparation and vocational training institutions.

1. The division shall be under an executive director and shall house a new commission, appointed by the Governor, to oversee licensing of independent postsecondary institutions, consumer protection, and program improvement. The commission shall have the powers and duties of the State Board of Independent Colleges and Universities specified in chapter 246, except the powers and duties relating to those institutions identified under paragraph (c), and of the State Board of Nonpublic Career Education.

2. The division shall serve as the advocate for and liaison to the independent education providers identified in this paragraph.

3. The executive director of the division shall establish a mechanism for regular interaction and input from independent education providers in the development of policies that provide seamless articulation for all students.

4. The division shall afford students and parents educational options apart from the public K-20 system.

(5) Establish the following offices within the Office of the Commissioner of Education which shall coordinate their activities with all other divisions and offices:

(a) Office of Technology and Information Services.—In conjunction with the Chancellor of Public Schools, the Chancellor of Community Colleges, and the Chancellor of Colleges and Universities, the office shall be responsible for developing a systemwide technology plan, making budget recommendations to the commissioner, providing data collection and management for the system, and coordinating services with other state, local, and private agencies. The office shall develop a method to address the need for a statewide approach to planning and operations of library and information services to achieve a single K-20 education system library information portal and a unified higher education library management system. The Florida Virtual High School shall be administratively housed within the office.

(b) Office of Workforce and Economic Development.—The office shall evaluate the role of each sector of education in Florida's workforce and economic development, assess the specific work skills and variety of careers provided, and report to the Florida Board of Education the effectiveness of each sector.

(c) Office of Educational Facilities and SMART Schools Clearinghouse.—The office shall validate all educational plant surveys and verify Florida Inventory of School Houses (FISH) data. The office shall provide technical assistance to public school districts when requested. The office, staff, property, and functions of the SMART Schools Clearinghouse are transferred by a type two transfer, pursuant to s. 20.06(2), from the Department of Management Services to the Office of Educational Facilities and SMART Schools Clearinghouse within the Office of the Commissioner of Education.

(d) Office of Student Financial Assistance.—The office shall provide access to and administer state and federal grants, scholarships, and loans to those students seeking financial assistance for postsecondary study pursuant to program criteria and eligibility requirements.

(6) Establish a K-20 education leadership team, including, but not limited to, the chief transition officer and the education governance officers. The leadership team shall be responsible for systemwide horizontal and vertical communication, and assisting the achievement of the seamless K-20 education system.

Section 12. Section 229.0074, Florida Statutes, is created to read:

229.0074 Division of Independent Education.—

(1) The mission of the Division of Independent Education is to enhance the opportunity to raise the educational attainment levels of students pursuing their education in nongovernment settings by

representing their interests, and those of the institutions that serve them, in the Department of Education. The Division of Independent Education has no authority over the institutions or students in Florida's independent education sector. The Commission for Independent Education, administratively housed within the division, shall have such authority as specified in chapter 246 relating to independent postsecondary education, except regarding those institutions described in s. 229.0073(4)(c). The division shall serve as the advocate for, and liaison to, independent education providers and institutions, including home education programs that meet the requirements of s. 232.0201, private K-12 institutions as described in s. 229.808, independent colleges and universities except as otherwise provided in s. 229.0073(4)(c), and private postsecondary career preparation/vocational training institutions.

(2) The executive director of the division shall establish a mechanism for regular interaction and input from independent education providers in the development of policies that provide seamless articulation for all students. The executive director shall:

(a) Learn the interests and concerns of the students and providers of independent education at all levels in order to strongly represent them in the Department of Education.

(b) Articulate the interests and concerns of the students and providers of independent education at all levels in all relevant government settings, accurately reflecting the consensus or differences in opinion among those represented.

(c) Participate with the other division heads in key education decisionmaking processes.

(d) Monitor and participate in rulemaking and other activities relevant to the interests of the independent education sector.

(e) Serve as a key spokesperson for the independent education sector.

(f) Advocate for any necessary educational services and funds for independent education sector families and schools.

(g) Establish a clearinghouse of information.

(h) Foster a collaborative spirit and working relationship among the institutions of the private and public sectors.

(i) Identify and convey the best practices of the independent education sector for the benefit of the other education delivery sectors, and vice versa.

(j) Augment, where appropriate, the efforts of groups representing the students and providers of independent education to communicate their concerns to government.

(k) Facilitate the administration of education services provided by the Department of Education to the independent education sector, such as those relating to teacher certification and background checks.

(l) Encourage student-centered funding and the expansion of family choice in education.

(m) Develop and propose courses of action to the representatives of the independent education sector.

(n) Communicate relevant decisions to the independent education sector.

(o) Establish and oversee the division staff necessary to carry out the division's functions in the most economical and effective manner.

(p) Evaluate pending policies to ensure they do not place additional regulation or mandates on the independent education community.

(3) The powers and duties of the State Board of Independent Colleges and Universities and the State Board of Nonpublic Career Education, except as relating to any independent nonprofit college or university whose students are eligible to receive the William L. Boyd, IV, Florida resident access grants pursuant to s. 240.605, shall be combined and transferred to a single board named the Commission for Independent Education, which shall be administratively housed within the division. This single board shall authorize granting of certificates, diplomas, and degrees for independent postsecondary education institutions through exemption, registration, authorization, and licensing.

(4) The Commission for Independent Education shall consist of six citizens who are residents of this state. The commission shall function in matters relating to independent postsecondary education institutions in consumer protection, program improvement, registration, authorization, licensure, and certificate of exemption from licensure for institutions under its purview, in keeping with the stated goals of the seamless K-20 education system. The commission shall appoint an executive director to serve as secretary of the commission and shall elect a chair and other officers as needed from among its membership. Members of the commission shall be appointed by the Governor and confirmed by the Senate. The commission shall be composed of six members, as follows:

(a) One member from an independent college or university that enrolls students who receive state or federal financial aid.

(b) One member from an independent college or university that does not enroll students who receive state or federal financial aid excluding veteran's benefits.

(c) One member from an independent nondegree granting school that enrolls students who receive state or federal financial aid.

(d) One member from a public school district or community college who is an administrator of vocational-technical education.

(e) Two lay members who are not affiliated with an independent postsecondary education institution.

(5) The establishment of the Division of Independent Education shall not be construed to advance the extension or expansion of government regulation on independent or home education programs.

Section 13. Section 229.008, Florida Statutes, is created to read:

229.008 Boards of trustees of the state universities.—

(1)(a) Effective July 1, 2002, and no later than November 1, 2002, the Governor shall appoint an 11-member board of trustees for each university in the State University System, each member to be confirmed by the Senate in the regular legislative session immediately following his or her appointment. In addition, a student body president shall serve as an ex officio nonvoting member of his or her university board of trustees. The ex officio student member shall provide input to the board of trustees regarding agenda issues. There shall be no state residency requirement for university board members, but the Governor shall consider diversity and regional representation. Members of the boards of trustees shall receive no compensation but may be reimbursed for travel and per diem expenses as provided in s. 112.061.

(b) The Governor may remove a trustee upon the recommendation of the Florida Board of Education, or for cause.

(2) Each board of trustees shall be a public body corporate by the name of "The (name of university) Board of Trustees," with all the powers of a body corporate, including a corporate seal, the power to contract and be contracted with, to sue and be sued, to plead and be impleaded in all courts of law or equity, and to give and receive donations. In all suits against a board of trustees, service of process shall be made on the chair of the board or, in the absence of the chair, on the corporate secretary or designee.

(3) Boards of trustees' members shall be appointed for staggered 4-year terms, and may be reappointed for additional terms not to exceed 8 years of service.

(4) Each board of trustees shall select its chair and vice chair from the appointed members at its first regular meeting after July 1. The chair shall serve for 2 years and may be reselected for one additional consecutive term. The duties of the chair shall include presiding at all meetings of the board, calling special meetings of the board, attesting to actions of the board, and notifying the Governor in writing whenever a board member fails to attend three consecutive regular board meetings

in any fiscal year, which failure may be grounds for removal. The duty of the vice chair is to act as chair during the absence or disability of the chair.

(5) The university president shall serve as executive officer and corporate secretary of the board of trustees and shall be responsible to the board for all operations of the university and for setting the agenda for meetings of the board in consultation with the chair.

(6) Upon appointment, each board of trustees shall commence professional orientation, training, and board development activities, and shall begin setting direction for its university in keeping with accountability and performance expectations of the seamless K-20 education system. Each board of trustees shall submit to the Florida Board of Education action plans and timelines for devolution of duties and responsibilities to the board of trustees.

(7) The boards of trustees shall be responsible for cost-effective policy decisions appropriate to the university's mission, the implementation and maintenance of high-quality education programs within law and rules of the Florida Board of Education, the measurement of performance, the reporting of information, and the provision of input regarding state policy, budgeting, and education standards.

(8) Whenever any civil action has been brought against any member of a university board of trustees or employee for any act or omission arising out of and in the course of the performance of his or her duties and responsibilities, the university board of trustees may defray all costs of defending such action, including reasonable attorney's fees and expenses together with costs of appeal, and may save harmless and protect such person from any financial loss resulting from the lawful performance of his or her duties and responsibilities. Claims based on such actions or omissions may, in the discretion of the university board of trustees, be settled prior to or after the filing of suit thereon. The board of trustees may arrange for and pay the premium for appropriate insurance to cover all such losses and expenses.

(9) University boards of trustees shall be "corporations primarily acting as instrumentalities or agencies of the state," pursuant to s. 768.28(2), for purposes of sovereign immunity.

Section 14. Section 229.0081, Florida Statutes, is created to read:

229.0081 Powers and duties of university boards of trustees.—

(1) Notwithstanding the provisions of chapter 240, each university board of trustees is vested with the authority to govern and set policy for its university, as necessary to provide proper governance and improvement of the university in accordance with law and with rules of the Florida Board of Education. Each board of trustees shall perform all duties assigned by law or by rule of the Florida Board of Education or the Commissioner of Education.

(2) Notwithstanding the provisions of chapter 240, each university board of trustees may adopt rules and policies consistent with the university mission, with law, and with rule of the Florida Board of Education, including rules and policies for the following:

(a) Selecting the president to serve at the pleasure of the board and perform such duties as are assigned by the board or otherwise provided by law or by rule.

(b) Fixing the compensation and other conditions of employment of the president.

(c) Conducting periodic evaluations of the president, submitting such evaluations to the Chancellor for review, and suspending or removing the president in accordance with guidelines established by the Chancellor.

(d) Appointing a presidential search committee to make recommendations to the full board of trustees, from which the board shall select a candidate for reference to the Chancellor and ratification by the Florida Board of Education.

(e) In consultation with the university president, defining and developing a strategic plan for the university for recommendation to the Chancellor, the Commissioner of Education, and the Florida Board of Education, as provided by law, specifying institutional goals and objectives.

(f) In consultation with the university president, providing for academic freedom and academic responsibility at the university.

(g) In consultation with the university president, submitting an institutional budget request, including a request for fixed capital outlay, to the Chancellor in accordance with guidelines established by the Florida Board of Education.

(h) Approving new, and terminating existing, undergraduate and graduate degree programs up to and including the master's degree level, based on criteria established by the Florida Board of Education.

(i) Purchasing, acquiring, receiving, holding, owning, managing, leasing, selling, disposing of, and conveying title to real property, in accordance with rules and guidelines of the Florida Board of Education.

(j) Entering into agreements for and accepting credit card, charge card, and debit card payments as compensation for goods, services, tuition, and fees.

(k) Establishing codes of conduct and appropriate penalties for violations of university rules by students and student organizations, including rules governing student academic honesty.

(l) Establishing a committee, at least one-half of the members of which shall be students appointed by the student body president, to periodically review and evaluate the student judicial system.

(m) Administering the personnel program for all employees of the university in accordance with law and with rules and guidelines of the Florida Board of Education, including: compensation and other conditions of employment, recruitment and selection, nonreappointment, standards for performance and conduct, evaluation, benefits and hours of work, recognition, inventions and works, travel, learning opportunities, academic freedom and responsibility, promotion, assignment, demotion, transfer, tenure and permanent status, ethical obligations and conflicts of interest, restrictive covenants, disciplinary actions, complaints, appeals and grievance procedures, and separation and termination from employment.

(n) Establishing and maintaining a personnel exchange program.

(o) Governing admission of students subject to the rules of the Florida Board of Education.

(p) Considering the past actions of any person applying for admission, enrollment, or employment, and establishing policies to deny admission, enrollment, or employment to an applicant because of misconduct if determined to be in the best interest of the university.

(q) Ensuring compliance with federal laws, regulations, and requirements.

(r) Using, maintaining, protecting, and controlling university-owned or university-controlled buildings and grounds, property and equipment, name, trademarks and other proprietary marks, and the financial and other resources of the university. Such authority may include placing restrictions on activities and on access to facilities, firearms, food, tobacco, alcoholic beverages, distribution of printed materials, human subjects, animals, and sound.

(s) Providing and coordinating policies relating to credit and noncredit educational offerings by the university.

(t) Administering a procurement program for the purchase, lease, or acquisition in any manner (including purchase by installment or lease-purchase contract which may provide for the payment of interest on the unpaid portion of the purchase price and for the granting of a security interest in the items purchased) of goods, materials, equipment, and services required by the university.

(u) Supervising faculty practice plans for the academic health science centers.

(3) Each board of trustees shall actively implement a plan, in accordance with guidelines of the Florida Board of Education, for working on a regular basis with the other university boards of trustees, representatives of the community college boards of trustees, and representatives of the district school boards, to achieve the goals of the seamless education system.

(4) Notwithstanding the provisions of s. 216.351, a state university board of trustees may authorize the rent or lease of parking facilities, provided that such facilities are funded through parking fees or parking fines imposed by a university. A board of trustees may authorize a university to charge fees for parking at such rented or leased parking facilities.

(5) Effective July 1, 2003, within proviso in the General Appropriations Act and law, each board of trustees shall set university tuition and fees. The sum of the activity and service, health, and athletic fees a student is required to pay to register for a course shall not exceed 40 percent of the matriculation fee established in law or in the General Appropriations Act. No university shall be required to lower any fee in effect on the effective date of this act in order to comply with this subsection. Within the 40 percent cap, universities may not increase the aggregate sum of activity and service, health, and athletic fees more than 5 percent per year unless specifically authorized in law or in the General Appropriations Act. This subsection does not prohibit a university from increasing or assessing optional fees related to specific activities that are not required as a part of registration for courses.

(6) Effective July 1, 2003, each board of trustees shall implement the university facilities plan in accordance with law and guidelines of the Commissioner of Education's Office of Educational Facilities and SMART Schools Clearinghouse.

(7) A board of trustees shall perform such other duties as are provided by law or rule of the Florida Board of Education.

Section 15. Section 229.0082, Florida Statutes, is created to read:

229.0082 University presidents; powers and duties.—The president is the chief executive officer of the university, shall be corporate secretary of the state university board of trustees, and is responsible for the operation and administration of the university. Each university president shall:

(1) Recommend the adoption of rules, as appropriate, to the state university board of trustees to implement provisions of law governing the operation and administration of the university, which shall include the specific powers and duties enumerated in this section. Such rules shall be consistent with the mission of the university and the rules and policies of the Florida Board of Education.

(2) Prepare a budget request and an operating budget for approval by the university board of trustees.

(3) Establish and implement policies and procedures to recruit, appoint, transfer, promote, compensate, evaluate, reward, demote, discipline, and remove personnel, within law and rules of the Florida Board of Education and in accordance with rules or policies approved by the university board of trustees.

(4) Govern admissions, subject to law and rules or policies of the university board of trustees and the Florida Board of Education.

(5) Approve, execute, and administer contracts for and on behalf of the university board of trustees for the acquisition of commodities, goods, equipment, services, leases of real and personal property, and planning and construction to be rendered to or by the university, provided such contracts are within law and guidelines of the Florida Board of Education and in conformance with policies of the university board of trustees, and are for the implementation of approved programs of the university.

(6) Act for the university board of trustees as custodian of all university property. The authority vested in the university president under this subsection includes the authority to prioritize the use of university space, property, equipment, and resources and the authority to impose charges for the use of those items.

(7) Establish the internal academic calendar of the university within general guidelines of the Florida Board of Education.

(8) Administer the university's program of intercollegiate athletics.

(9) Recommend to the board of trustees the establishment and termination of undergraduate and master's-level degree programs within the approved role and scope of the university.

(10) Award degrees.

(11) Recommend to the board of trustees a schedule of tuition and fees to be charged by the university, within law and rules of the Florida Board of Education.

(12) Organize the university to efficiently and effectively achieve the goals of the university.

(13) Review periodically the operations of the university in order to determine how effectively and efficiently the university is being administered and whether it is meeting the goals of its strategic plan adopted by the Florida Board of Education.

(14) Enter into agreements for student exchange programs which involve students at the university and students in other institutions of higher learning.

(15) Approve the internal procedures of student government organizations and provide purchasing, contracting, and budgetary review processes for these organizations.

(16) Ensure compliance with federal and state laws, regulations, and other requirements that are applicable to the university.

(17) Maintain all data and information pertaining to the operation of the university, and report on the attainment by the university of institutional and statewide performance accountability goals.

(18) Adjust property records and dispose of state-owned tangible personal property in the university's custody in accordance with procedures established by the university board of trustees. Notwithstanding the provisions of s. 273.055(5), all moneys received from the disposition of state-owned tangible personal property shall be retained by the university and disbursed for the acquisition of tangible personal property and for all necessary operating expenditures. The university shall maintain records of the accounts into which such moneys are deposited.

Section 16. Section 229.0083, Florida Statutes, is created to read:

229.0083 School Readiness Act; legislative intent; division of responsibilities.—

(1) The School Readiness Act, chapter 99-357, Laws of Florida, created the Florida Partnership for School Readiness to fulfill three major purposes: to administer school readiness program services that help parents prepare eligible children for school; to coordinate the provision of school readiness services on a full-day, full-year, full-choice basis to the extent possible in order to enable parents to work and be financially self-sufficient; and to establish a uniform screening instrument to be implemented by the Department of Education and administered by the school districts upon entry into kindergarten to assess the readiness for school of all children. Readiness for kindergarten is the outcome measure of the success of each school readiness program that receives state or federal funds.

(2) It is the intent of the Legislature that school readiness services shall be an integrated and seamless system of services with a developmentally appropriate education component for the state's eligible birth-to-kindergarten population described in s. 411.01(6) and shall not be construed as part of the seamless K-20 education system until the administration of the uniform screening system upon entry into kindergarten.

(3) The Legislature finds that, because of a variety of factors, not all children come to school equally ready to learn and that, in order to more effectively assess and monitor programs designed to help prepare Florida's children to attend school, educators and policymakers need more objective information regarding the school readiness of Florida's children. However, nothing contained in the School Readiness Act, chapter 99-357, Laws of Florida, is intended to:

(a) Relieve parents and guardians of their own obligations to ready their children for school; or

(b) Create any obligation to provide publicly funded school readiness programs or services beyond those authorized by the Legislature.

(4)(a) Notwithstanding s. 411.01(4):

1. The Florida Partnership for School Readiness is assigned to the Agency for Workforce Innovation pursuant to subsection (7).

2. Four members shall be added to the Florida Partnership for School Readiness as follows:

a. Two members shall be added to the partnership from the child care industry, one representing the private for-profit sector appointed by the Governor from a list of two nominees submitted by the President of the Senate and one representing faith-based providers appointed by the Governor from a list of two nominees submitted by the Speaker of the House of Representatives. Neither shall have a direct contract with any local coalition to provide school readiness services.

b. Two members shall be added to the partnership from the business community, one appointed by the Governor from a list of two nominees submitted by the President of the Senate and one appointed by the Governor from a list of two nominees submitted by the Speaker of the House of Representatives. Neither shall be involved in any business related to school readiness services.

3. The executive director of the partnership shall serve at the pleasure of the Governor.

(b) Notwithstanding any other provision of law to the contrary, minimum child care licensing standards shall be developed to provide for reasonable, affordable, and safe before-school and after-school care. Standards, at a minimum, shall allow for a credentialed director to supervise multiple before-school and after-school sites.

(c) Notwithstanding s. 411.01(5)(d):

1. Instructional staff must be trained pursuant to s. 402.305(2)(d).

2. Reimbursement rates shall not have the effect of limiting parental choice or creating standards or levels of services that have not been authorized by the Legislature.

3. The Florida Partnership for School Readiness shall review and revise coalition plans at least annually.

(d) Notwithstanding s. 20.50:

1. The Agency for Workforce Innovation shall administer school readiness funds, plans, and policies pursuant to contract with the Florida Partnership for School Readiness and shall prepare and submit a unified budget request for the school readiness program in accordance with chapter 216.

2. All instructions to local school readiness coalitions shall emanate from the Agency for Workforce Innovation pursuant to policies of the Legislature, plans of the Florida Partnership for School Readiness, and the contract between the Florida Partnership for School Readiness and the agency.

(e) The Agency for Workforce Innovation shall prepare a plan that provides for the distribution and expenditure of all state and federal school readiness funds for children participating in public or private school readiness programs based upon an equity and performance funding formula. The plan shall be submitted to the Governor and the Legislative Budget Commission. Upon approval, the Legislative Budget Commission shall authorize the transfer of funds to the Agency for Workforce Innovation for distribution in accordance with the provisions of the formula.

(5) The Florida Partnership for School Readiness shall:

(a) Coordinate the birth-to-kindergarten services for children who are eligible pursuant to s. 411.01(6) and the programmatic, administrative, and fiscal standards pursuant to s. 411.01 and this section for all public providers of school readiness programs.

(b) Continue to provide unified leadership for school readiness through local school readiness coalitions.

(c) Focus on improving the educational quality of all publicly funded school readiness programs.

(6) The Department of Education shall implement a school readiness uniform screening, including a pilot program during the 2002-2003 school year, to validate the system recommended by the Florida Partnership for School Readiness as part of a comprehensive evaluation design. Beginning with the 2002-2003 school year, the department shall require that all school districts administer the school readiness uniform screening to each kindergarten student in the district school system upon the student's entry into kindergarten. Children who enter public school for the first time in first grade must undergo a uniform screening adopted for use in first grade. The department shall incorporate school readiness data into the K-20 data warehouse for longitudinal tracking. The department shall provide the partnership and the Agency for Workforce Innovation with complete and full access to kindergarten uniform screening data at the student, school, district, and state levels in a format that will enable the partnership and the agency to prepare reports needed by state policymakers and local school readiness coalitions to assess progress toward school readiness goals and provide input for continuous improvement of local school readiness services and programs.

(7) Effective July 1, 2002, the Florida Partnership for School Readiness is transferred by a type two transfer, pursuant to s. 20.06(2), from the Executive Office of the Governor to the Agency for Workforce Innovation.

(8) Effective July 1, 2002, the Child Care Executive Partnership Program, child care and early childhood resource and referral, and the subsidized child care program including statewide staff as referenced in the interagency agreement between the Department of Children and Family Services and the Florida Partnership for School Readiness signed on March 15, 2001, shall be transferred by a type two transfer, pursuant to s. 20.06(2), to the Agency for Workforce Innovation.

(9) Effective July 1, 2002, the prekindergarten early intervention, migrant prekindergarten, and Florida First Start programs, including statewide staff as referenced in the interagency agreement between the Department of Education and the Florida Partnership for School Readiness, shall be transferred by a type two transfer, pursuant to s. 20.06(2), to the Agency for Workforce Innovation.

(10) For purposes of administration of the Early Learning Opportunities Act and the Even Start Family Literacy Programs, pursuant to Pub. L. No. 106-554, the Agency for Workforce Innovation is designated as the lead agency and must comply with lead agency responsibilities pursuant to federal law.

Section 17. Paragraph (a) of subsection (6) and subsection (10) of section 216.136, Florida Statutes, are amended to read:

216.136 Consensus estimating conferences; duties and principals.—

(6) SOCIAL SERVICES ESTIMATING CONFERENCE.—

(a) Duties.—

1. The Social Services Estimating Conference shall develop such official information relating to the social services system of the state, including forecasts of social services caseloads, as the conference determines is needed for the state planning and budgeting system. ~~Such official information shall include, but not be limited to, subsidized child care caseloads mandated by the Family Support Act of 1988.~~

~~2. In addition, the Social Services Estimating Conference shall develop estimates and forecasts of the unduplicated count of children eligible for subsidized child care as defined in s. 402.3015(1). These estimates and forecasts shall not include children enrolled in the prekindergarten early intervention program established in s. 230.2305.~~

~~3. The Department of Children and Family Services and the Department of Education shall provide information on caseloads and waiting lists for the subsidized child care and prekindergarten early intervention programs requested by the Social Services Estimating Conference or individual conference principals, in a timely manner.~~

2.~~4.~~ The Social Services Estimating Conference shall develop information relating to the Florida Kidcare program, including, but not limited to, outreach impacts, enrollment, caseload, utilization, and expenditure information that the conference determines is needed to plan for and project future budgets and the drawdown of federal matching funds. The agencies required to collect and analyze Florida Kidcare program data under s. 409.8134 shall be participants in the Social Services Estimating Conference for purposes of developing information relating to the Florida Kidcare program.

(10) SCHOOL READINESS PROGRAM ESTIMATING CONFERENCE.—

(a) Duties.—

1. The School Readiness Program Estimating Conference shall develop ~~such~~ estimates and forecasts of the *unduplicated count of children* ~~number of individuals~~ eligible for school readiness programs in accordance with the standards of eligibility established *in s. 411.01(6)* ~~by state or federal statute or administrative rule~~ as the conference determines are needed to support the state planning, budgeting, and appropriations processes.

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

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

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

Section 18. Effective January 1, 2003, paragraph (a) of subsection (1) of section 232.01, Florida Statutes, is amended to read:

232.01 School attendance.—

(1)(a)1. All children who have attained the age of 6 years or who will have attained the age of 6 years by February 1 of any school year or who are older than 6 years of age but who have not attained the age of 16 years, except as hereinafter provided, are required to attend school regularly during the entire school term.

2. Children who will have attained the age of 5 years on or before September 1 of the school year are eligible for admission to public kindergartens during that school year under rules prescribed by the school board.

~~3. Children who will have attained the age of 3 years on or before September 1 of the school year are eligible for admission to prekindergarten early intervention programs during that school year as provided in s. 230.2305 or a preschool program as provided in s. 228.061.~~

Section 19. Effective July 1, 2003, subsection (5) of section 236.08104, Florida Statutes, is amended to read:

236.08104 Supplemental academic instruction; categorical fund.—

(5) Beginning in the 1999-2000 school year, dropout prevention programs as defined in ss. 230.2316(3)(a), (b), and (c) *and*~~,~~ 230.23161~~, and 230.23166~~ shall be included in Group 1 programs under s. 236.081(1)(d)3.

Section 20. Effective January 1, 2003, paragraphs (b) and (c) of subsection (1) and subsection (4) of section 445.023, Florida Statutes, are amended to read:

445.023 Program for dependent care for families with children with special needs.—

(1) There is created the program for dependent care for families with children with special needs. This program is intended to provide assistance to families with children who meet the following requirements:

(b) The child or children are considered to be children with special needs ~~as defined by the subsidized child care program authorized under s. 402.3015~~.

(c) The family meets the income guidelines established under s. *411.01(6)* ~~402.3015. Financial eligibility for this program shall be based solely on the guidelines used for subsidized child care~~, notwithstanding any financial eligibility criteria to the contrary in s. 414.075, s. 414.085, or s. 414.095.

(4) In addition to *school readiness* ~~child care~~ services provided under s. *411.01* ~~402.3015~~, dependent care may be provided for children age 13 years and older who are in need of care due to disability and where such care is needed for the parent to accept or continue employment or otherwise participate in work activities. The amount of subsidy shall be consistent with the rates for special needs child care established by the department. Dependent care needed for employment may be provided as transitional services for up to 2 years after eligibility for temporary cash assistance ends.

Section 21. *Effective January 1, 2003, subsections (1) and (2) of section 228.061, paragraph (o) of subsection (4) of section 230.23, sections 230.2303, 230.2305, and 230.2306, Florida Statutes, are repealed.*

Section 22. *Effective July 1, 2003, section 230.23166, paragraph (d) of subsection (1) of section 232.01, paragraph (e) of subsection (1) of section 234.01, and paragraph (f) of subsection (1) of section 236.083, Florida Statutes, are repealed.*

Section 23. *Effective January 1, 2003, section 402.28, subsection (1) of section 402.281, sections 402.3015, 402.3027, and 402.3028, subsection (18) of section 402.305, section 402.3052, paragraph (c) of subsection (2) of section 402.3135, and subsections (2) and (6) of section 402.45, Florida Statutes, are repealed.*

Section 24. *Effective January 1, 2003, paragraph (a) of subsection (1) of section 391.304, paragraphs (l), (q), (s), and (t) of subsection (4), paragraph (g) of subsection (5), and paragraph (c) of subsection (9) of section 411.01, and sections 411.201, 411.202, 411.203, 411.205, 411.22, 411.221, 411.222, 411.223, 411.224, 411.23, and 411.231, Florida Statutes, are repealed.*

Section 25. Section 229.0084, Florida Statutes, is created to read:

229.0084 Legislative findings and intent.—

(1) It is the finding of the Legislature that student achievement, from kindergarten through graduate school, is dependent upon a number of factors, including the quality of schools, the quality of instruction, and the personal efforts and responsibilities of the students and their parents. Nothing contained in Florida law shall make the state or local school districts the guarantors that students will fully avail themselves of the opportunities provided them to attain high academic achievement.

(2) Nothing contained in this act shall authorize the state or any school district to regulate, control, or interfere with the autonomy of independent K-12 schools or home education programs, or their governance, curriculum, accreditation, testing, or other practices.

Section 26. Section 228.082, Florida Statutes, is amended to read:

228.082 The Florida *Virtual* ~~On-Line~~ High School.—

(1)*(a)* The Florida *Virtual* ~~On-Line~~ High School is established for the development and delivery of on-line and distance learning education *and shall be administratively housed within the Commissioner of Education's Office of Technology and Information Services. The Commissioner of Education shall monitor the school's performance and report its performance to the Florida Board of Education and the Legislature*.

(b) The mission of the Florida Virtual High School is to provide students with high-quality technology-based educational opportunities to gain the knowledge and skills necessary to succeed in the 21st century. The school shall serve any student in the state who meets the profile for success in this educational delivery context and shall give priority to:

1. Students who need expanded access to courses in order to meet their educational goals, such as home education students and students in inner-city and rural high schools who do not have access to higher-level courses.

2. Students seeking accelerated access in order to obtain a high school diploma at least one semester early.

(c) To ensure students are informed of the opportunities offered by the Florida Virtual High School, the commissioner shall provide the board of trustees access to the records of public school students in a format prescribed by the board of trustees.

The board of trustees of the Florida Virtual High School shall identify appropriate performance measures and standards based on student achievement that reflect the school's statutory mission and priorities, and shall implement an accountability system for the school that includes assessment of its effectiveness and efficiency in providing quality services that encourage high student achievement, seamless articulation, and maximum access.

(2) The Florida *Virtual* ~~On-Line~~ High School shall be governed by a board of trustees comprised of seven members appointed by the Governor to 4-year staggered terms, one of whom shall be the current chair of the Florida High School Advisory Board and one of whom shall be a representative of the fiscal agent, and one of whom shall be the Chief Information Officer or ~~his~~ designee from the State Technology Office ~~pursuant to ch. 2000-164, Laws of Florida~~. The board shall be a public agency entitled to sovereign immunity pursuant to s. 768.28, and board members shall be public officers who shall bear fiduciary responsibility for the Florida *Virtual* ~~On-Line~~ High School. The board of trustees shall have the following powers and duties:

(a)*1.* The board of trustees shall meet ~~within 30 days of July 1, 2000, and shall continue to meet~~ at least 4 times each year, upon the call of the chair, or at the request of a majority of the membership.

~~(b) Until not more than 60 days after the initial meeting of the board, the current governance structure of the Florida On-Line High School shall be maintained.~~

2.~~(c)~~ The fiscal year for the Florida *Virtual* ~~On-Line~~ High School shall be the state fiscal year as provided in s. 216.011(1)(n).

(b) The board of trustees shall be responsible for the Florida Virtual High School's development of a state-of-the-art technology-based education delivery system that is cost-effective, educationally sound, marketable, and capable of sustaining a self-sufficient delivery system through the Florida Education Finance Program, by fiscal year 2003-2004. Beginning in fiscal year 2002-2003, the school shall collect and report data for all students served and credit awarded. This data shall be segregated by private, public, and home school students by program. Information shall also be collected which reflects any other school in which a virtual high school student is enrolled.

(c)~~(d)~~ The board of trustees shall *aggressively seek avenues to generate revenue to support its future endeavors, and shall* enter into agreements with distance learning providers*. The board of trustees* ~~and~~ may acquire, enjoy, use, and dispose of patents, copyrights, and trademarks and any licenses and other rights or interests thereunder or therein. Ownership of all such patents, copyrights, trademarks, licenses, and rights or interests thereunder or therein shall vest in the state, with the board having full right of use and full right to retain the revenues derived therefrom. Any funds realized from patents, copyrights, trademarks, or licenses shall be used to support the school's research and development activities in order to improve courseware and services to its students.

(d)~~(e)~~ The board of trustees shall annually prepare and submit *to the Florida Board of Education* a legislative budget request, including funding requests for computers for public school students who do not have access to public school computers, in accordance with chapter 216 and s. 235.41. The legislative budget request of the Florida *Virtual* ~~On-Line~~ High School shall be prepared using the same format, procedures, and timelines required for the submission of the legislative budget of the Department of Education.

(e)~~(f)~~ *In accordance with law and rules of the Florida Board of Education,* the board of trustees shall administer and maintain personnel programs for all employees of the board of trustees and the Florida *Virtual* ~~On-Line~~ High School. The board of trustees may adopt rules, policies, and procedures related to the appointment, employment, and removal of personnel.

1. The board of trustees shall determine the compensation, including salaries and fringe benefits, and other conditions of employment for such personnel.

2. The board of trustees may establish and maintain a personnel loan or exchange program by which persons employed by the board for the Florida *Virtual* ~~On-Line~~ High School as academic administrative and instructional staff may be loaned to, or exchanged with persons employed in like capacities by, public agencies either within or without this state, or by private industry. With respect to public agency employees, the program authorized by this subparagraph shall be consistent with the requirements of part II of chapter 112. The salary and benefits of board personnel participating in the loan or exchange program shall be continued during the period of time they participate in a loan or exchange program, and such personnel shall be deemed to have no break in creditable or continuous service or employment during such time. The salary and benefits of persons participating in the personnel loan or exchange program who are employed by public agencies or private industry shall be paid by the originating employers of those participants, and such personnel shall be deemed to have no break in creditable or continuous service or employment during such time.

3. The employment of all Florida *Virtual* ~~On-Line~~ High School academic administrative and instructional personnel shall be subject to rejection for cause by the board of trustees, and shall be subject to policies of the board of trustees relative to certification, tenure, leaves of absence, sabbaticals, remuneration, and such other conditions of employment as the board deems necessary and proper, not inconsistent with law.

4. Each person employed by the board of trustees in an academic administrative or instructional capacity with the Florida *Virtual* ~~On-Line~~ High School shall be entitled to a contract as provided by rules of the board.

5. All employees except temporary, seasonal, and student employees may be state employees for the purpose of being eligible to participate in the Florida Retirement System and receive benefits. The classification and pay plan, including terminal leave and other benefits, and any amendments thereto, shall be subject to review and approval by the Department of Management Services and the Executive Office of the Governor prior to adoption. In the event that the board of trustees assumes responsibility for governance pursuant to this section before approval is obtained, employees shall be compensated pursuant to the system in effect for the employees of the fiscal agent.

(f)~~(g)~~ The board of trustees shall establish priorities for admission of students *in accordance with paragraph (1)(b)*.

(g)~~(h)~~ The board of trustees shall establish and distribute to all school districts and high schools in the state procedures for enrollment of students into courses offered by the Florida *Virtual* ~~On-Line~~ High School. Such procedures shall be designed to minimize paperwork and *fairly resolve the issue of double funding students taking courses online* ~~maximize participation by students~~.

(h)~~(i)~~ The board of trustees shall annually submit to the *Florida Board* ~~Department~~ of Education both forecasted and actual enrollments for the Florida *Virtual* ~~On-Line~~ High School, according to procedures established by the *Florida Board* ~~Department~~ of Education. At a minimum, such procedures must include the number of public, private, and home school students served by district.

(i)~~(j)~~ The board of trustees shall provide for the content and custody of student and employee personnel records. Student records shall be subject to the provisions of s. 228.093. Employee records shall be subject to the provisions of s. 231.291.

(j)~~(k)~~ The financial records and accounts of the Florida *Virtual* ~~On-Line~~ High School shall be maintained under the direction of the board of trustees and under regulations prescribed by the *Florida* ~~State~~ Board of Education for the uniform system of financial records and accounts for the schools of the state.

The Governor shall designate the initial chair of the board of trustees to serve a term of 4 years. Members of the board of trustees shall serve without compensation, but may be reimbursed for per diem and travel expenses pursuant to s. 112.061. The board of trustees shall be a body corporate with all the powers of a body corporate and such authority as is needed for the proper operation and improvement of the Florida *Virtual* ~~On-Line~~ High School. The board of trustees is specifically authorized to adopt rules, policies, and procedures, consistent with law *and rules of the Florida Board of Education* related to governance, personnel, budget and finance, administration, programs, curriculum and instruction, travel and purchasing, technology, students, contracts and grants, and property as necessary for optimal, efficient operation of the Florida *Virtual* ~~On-Line~~ High School. Tangible personal property owned by the board of trustees shall be subject to the provisions of chapter 273.

(3)*(a) Until fiscal year 2003-2004,* the Commissioner of Education shall include the Florida *Virtual* ~~On-Line~~ High School as a grant-in-aid appropriation in the department's legislative budget request to the *Florida* ~~State~~ Board of Education, the Governor, and the Legislature,~~.~~

~~(a)~~ subject to any guidelines imposed in the General Appropriations Act~~, funds for the operation of the Florida On-Line High School shall be requested and appropriated within the Department of Education as a grant-in-aid category until such time as the Legislature authorizes a different funding mechanism~~.

(b) The Orange County District School Board shall be the temporary fiscal agent of the Florida *Virtual* ~~On-Line~~ High School.

~~(c) Priorities for the delivery of services by the Florida On-Line High School shall ensure that priority access is provided equitably across the state.~~

(4) Under no circumstance may the credit of the state be pledged on behalf of the Florida *Virtual* ~~On-Line~~ High School.

(5) ~~By January 1, 2001,~~ The board of trustees shall *annually* submit to the Governor, the Legislature, *the Commissioner of Education,* and the *Florida Board of* Education ~~Reorganization Transition Commission~~ a complete and detailed report setting forth:

(a) The operations and accomplishments of the Florida *Virtual* ~~On-Line~~ High School.

(b) The marketing and operational plan for the Florida *Virtual* ~~On-Line~~ High School, including recommendations regarding methods for improving the delivery of education through the Internet and other distance learning technology.

(c) The assets and liabilities of the Florida *Virtual* ~~On-Line~~ High School at the end of the fiscal year.

(d) A copy of an annual financial and compliance audit of the accounts and records of the Florida *Virtual* ~~On-Line~~ High School, conducted by an independent certified public accountant and performed in accordance with rules adopted by the Auditor General.

(e) Recommendations regarding the unit cost of providing services to students. In order to most effectively develop public policy regarding any future funding of the Florida *Virtual* ~~On-Line~~ High School, it is imperative that the cost of the program is accurately identified. The identified cost of the program must be based on reliable data ~~and reflect the costs associated with maintaining a state-of-the-art on-line high school, including the costs associated with maintaining a high-quality research and development effort to locate and assimilate, or develop, Internet-based courses~~.

(f) Recommendations regarding an accountability mechanism to assess the effectiveness of the services provided by the Florida *Virtual* ~~On-Line~~ High School.

(6) 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 the Florida *Virtual* ~~On-Line~~ High School.

(7) The *Florida* ~~State~~ Board of Education may adopt rules it deems necessary to implement reporting requirements for the Florida *Virtual* ~~On-Line~~ High School.

Section 27. *The Department of Education shall maximize the available federal indirect cost allowed on all federal grants. Beginning with the 2002-2003 fiscal year, none of the funds received from indirect cost allowance shall be expended by the department without specific appropriation by the Legislature. Funds received pursuant to s. 240.241, Florida Statutes, are specifically exempt from this provision.*

Section 28. *Effective June 30, 2002, section 229.8065, Florida Statutes, is repealed.*

Section 29. Effective July 1, 2002, subsection (2) of section 229.085, Florida Statutes, is amended to read:

229.085 Custody of educational funds.—

(2) There is created in the Department of Education the Projects, Contracts, and Grants Trust Fund. ~~If, in executing the terms of such grants or contracts for specific projects, the employment of personnel shall be required, such personnel shall not be subject to the requirements of s. 216.262(1)(a).~~ The personnel employed to plan and administer *grants or contracts for specific* ~~such~~ projects shall be considered in time-limited employment not to exceed the duration of the grant or until completion of the project, whichever first occurs. Such employees shall not acquire retention rights under the Career Service System, the provisions of s. 110.051(1) to the contrary notwithstanding. Any employee holding permanent career service status in a Department of Education position who is appointed to a position under the Projects, Contracts, and Grants Trust Fund shall retain such permanent status in the career service position.

Section 30. *By October 31, 2002, the Florida Board of Education shall provide recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate for a performance-based funding model for the State University System. The recommendations shall provide that at least 10 percent of legislatively appropriated funds shall be allocated based on performance standards which are tied to the mission of each university.*

Section 31. *Subsections (2), (4), and (5), paragraphs (b), (c), and (d) of subsection (1), and paragraphs (a), (c), (d), and (e) of subsection (3) of section 235.217, Florida Statutes, are repealed.*

Section 32. *Sections 240.145, 240.147, 240.227, 240.307, subsection (2) of section 240.209, and subsection (4) of section 240.311, Florida Statutes, are repealed.*

Section 33. Except as otherwise provided herein, this act shall take effect on July 1, 2002.

And the title is amended as follows:

On page 6, lines 16 and 26, On page 7, lines 2 and 15, On page 8, line 21,
remove from the title of the bill: 2002

and insert in lieu thereof: 2003

Rep. Wiles moved the adoption of the amendment, which failed of adoption.

Representative(s) Bucher offered the following:

(Amendment Bar Code: 062771)

Amendment 2 (with title amendment)—On page 59, line 24 through page 69, line 22,
remove from the bill: all of said lines

And the title is amended as follows:

On page 5, line 17 through page 8, line 2
remove from the title of the bill: all of said lines

and insert in lieu thereof: of university presidents;

Rep. Bucher moved the adoption of the amendment, which failed of adoption.

Representative(s) Richardson offered the following:

(Amendment Bar Code: 981421)

Amendment 3—On page 31, between lines 15 and 16 of the bill

insert: *4. Adopt university plans to ensure continued student diversity in undergraduate, graduate, and professional programs.*

Rep. Richardson moved the adoption of the amendment.

Representative(s) Lynn offered the following:

(Amendment Bar Code: 601975)

Substitute Amendment 3—On page 31, between lines 15 and 16 of the bill

insert:

4. Adopt university plans designed to achieve continued student diversity in undergraduate, graduate, and professional programs.

Rep. Lynn moved the adoption of the substitute amendment, which was adopted.

Representative(s) Richardson offered the following:

(Amendment Bar Code: 801849)

Amendment 4—On page 10, line 19, through page 48, line 8,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 2. Section 229.002, Florida Statutes, is amended to read:

229.002 Declaration of policy and guiding principles.—

(1) It is the policy of the Legislature:

(a) To achieve within existing resources true systemic change in education governance by establishing a seamless academic educational system that fosters an integrated continuum of kindergarten through graduate school education for Florida's citizens.

(b) To promote enhanced academic success and funding efficiency by centralizing the governance of educational delivery systems and aligning responsibility with accountability.

(c) To provide consistent education policy vertically and horizontally across all educational delivery systems, focusing on *students* ~~the needs of those receiving education, not those providing education~~.

(d) To provide substantially improved vertical and horizontal articulation across all educational delivery systems ~~while ensuring that nonpublic education institutions and home education programs maintain their independence, autonomy, and nongovernmental status~~.

(e) To provide for devolution of authority to the schools, community colleges, universities, and other education institutions that are the actual deliverers of educational services in order to provide student-centered education services within the clear parameters of the overarching education policy established by the Legislature.

(2) The guiding principles for Florida's new education governance are:

(a) A coordinated, seamless system for kindergarten through graduate school education.

(b) A system that is student-centered in every facet.

(c) A system that maximizes education access and *provides the opportunity for a high-quality education* ~~academic success~~ for all Floridians.

(d) A system that safeguards equity *and supports academic excellence*.

(e) A system that *provides for local operational flexibility while promoting accountability for student achievement and improvement* ~~refuses to compromise academic excellence~~.

Section 3. Section 229.003, Florida Statutes, is amended to read:

229.003 Florida education governance reorganization.—

(1) ~~Effective January 7, 2003,~~ The Florida Board of Education, created pursuant to s. 229.004, shall be responsible for overseeing kindergarten through graduate school education, in accordance with *the implementation process in s. 229.0072 and* the policies and guiding principles in s. 229.002 *and the mission and goals of s. 229.007*.

~~(2) Effective January 7, 2003, the Florida Board of Education shall appoint the Commissioner of Education.~~

(2)~~(3) Effective January 7, 2003,~~ There *are* ~~is~~ established *the following education governance officers in addition to the Commissioner of Education*:

(a) ~~A~~ Chancellor of *Public Schools,* ~~K-12 Education~~ appointed by the Commissioner of Education.

(b) ~~A~~ Chancellor of *Colleges and* ~~State~~ Universities, appointed by the Commissioner of Education.

(c) ~~A~~ Chancellor of Community Colleges ~~and Career Preparation~~, appointed by the Commissioner of Education.

(d) ~~An~~ Executive Director of *Independent* ~~Nonpublic and Nontraditional~~ Education, appointed by the Commissioner of Education.

Each chancellor and executive director shall be subject to confirmation by the Florida Board of Education and shall serve at the pleasure and under the authority of the Commissioner of Education.

(3)~~(4) Effective July 1, 2000,~~ The Governor shall appoint a seven-member board of trustees for the Florida *Virtual* ~~On-Line~~ High School, which shall be a body corporate with all the powers of a body corporate.

(4)~~(5) Effective January 7, 2003,~~ The Governor shall appoint for each university in the State University System, *an 11-member* ~~a nine-member~~ board of trustees, which shall be a body corporate with all the powers of a body corporate. *In addition to the 11 members, a student body president shall serve as an ex officio nonvoting member of the board of trustees. There shall be no state residency requirement for university board members, but the Governor shall consider diversity and regional representation. Each appointee is subject to confirmation by the Senate in the regular legislative session immediately following his or her appointment* ~~All members of the board of trustees of Florida Atlantic~~

~~University must reside within the service area of the university; three must be residents of Broward County, three must be residents of Palm Beach County, and three may be residents of any county within the service area~~.

(5) Effective July 1, 2001:

(a) The Board of Regents is abolished.

(b) All of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the Board of Regents are transferred by a type two transfer, pursuant to s. 20.06(2), to the Florida Board of Education.

(c) The State Board of Community Colleges is abolished.

(d) All of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the State Board of Community Colleges are transferred by a type two transfer, pursuant to s. 20.06(2), from the Department of Education to the Florida Board of Education.

(e) The Postsecondary Education Planning Commission is abolished.

(f) The Center for Education Policy Research and Improvement is created and assigned for administrative purposes to the Office of Program Policy Analysis and Government Accountability (OPPAGA).

(g) All personnel, unexpended balances of appropriations, and allocations of the Postsecondary Education Planning Commission are transferred to the Center for Education Policy Research and Improvement.

(h) The Articulation Coordinating Committee and the Education Standards Commission are transferred by a type two transfer, pursuant to s. 20.06(2), from the Department of Education to the Florida Board of Education.

(i) Notwithstanding the provisions of s. 20.15, the Commissioner of Education shall commence the reorganization of the Department of Education in accordance with s. 229.0073, which shall include an Office of the Commissioner of Education comprised of the general areas of operation that are common to all delivery sectors and, in addition, shall include:

1. The creation of an Office of Technology and Information Services, an Office of Workforce and Economic Development, an Office of Educational Facilities and SMART Schools Clearinghouse, and an Office of Student Financial Assistance.

2. The creation of a Division of Colleges and Universities.

3. The creation of a Division of Community Colleges.

4. The creation of a Division of Public Schools.

5. The creation of a Division of Independent Education.

6. The merger of the powers, duties, and staffs of the State Board of Independent Colleges and Universities and the State Board of Nonpublic Career Education, except as relating to any independent nonprofit college or university whose students are eligible to receive the William L. Boyd, IV, Florida resident access grants pursuant to s. 240.605, into a single Commission for Independent Education administratively housed within the Division of Independent Education.

~~(6) Effective January 7, 2003, the powers and duties of the following entities are relocated to the Florida Board of Education, which shall retain all related funding and budget authority for purposes of a single, seamless kindergarten through graduate school education system and single or coordinated budget and may retain or redistribute the powers and duties of each entity in accordance with the policies and guiding principles of s. 229.002, and the entities shall cease to exist:~~

~~(a) The Board of Regents.~~

~~(b) The State Board of Community Colleges.~~

~~(c) The State Board of Independent Colleges and Universities.~~

~~(d) The State Board of Nonpublic Career Education.~~

~~(e) The Division of Workforce Development of the Department of Education.~~

~~(f) The Postsecondary Education Planning Commission.~~

~~(g) The Articulation Coordination Committee.~~

~~(h) The Division of Human Resource Development of the Department of Education.~~

~~(i) The Division of Support Services of the Department of Education.~~

~~(j) The Division of Administration of the Department of Education.~~

~~(k) The Division of Financial Services of the Department of Education.~~

~~(l) The Division of Technology of the Department of Education.~~

~~(m) The Office of Student Financial Assistance of the Department of Education.~~

~~(n) The Division of Universities of the Department of Education.~~

~~(o) The Division of Community Colleges of the Department of Education.~~

Section 4. Section 229.0031, Florida Statutes, is created to read:

229.0031 Center for Education Policy Research and Improvement.—Effective July 1, 2001, there is created the Center for Education Policy Research and Improvement to conduct and review education research, provide independent analysis on education progress, and provide independent evaluation of education issues of statewide concern. The center shall have an independent advisory council and shall be housed for administrative purposes in the Office of Program Policy Analysis and Government Accountability. Administrative functions of the center shall be provided by the Office of Legislative Services pursuant to joint policies of the Legislature.

(1) The center shall:

(a) Provide state policymakers, educators, and the public with objective and timely information that supports the seamless K-20 education system and the K-20 education accountability process designed to provide all students an opportunity for a high-quality education, in accordance with the policies and guiding principles of s. 229.002 and the performance accountability system in s. 229.007.

(b) Annually review and make recommendations to the Legislature regarding the activities of research centers and institutes supported with state funds in order to assess the return on the state's investment in research conducted by public postsecondary education institutions. Such recommendations shall include the responses of the university presidents.

(c) Explore national and state emerging educational issues and examine how these issues should be addressed by education institutions in Florida.

(d) Prepare and submit for approval by the Florida Board of Education a long-range performance plan for K-20 education in Florida. Annually review the implementation of the plan and make recommendations for improvement.

(e) Annually report on the progress of public schools and postsecondary education institutions toward meeting educational goals and standards as defined by s. 229.007. Recommend to the Legislature and the Florida Board of Education legislation and rules for the educational accountability system that support the policies and guiding principles of s. 229.002.

(f) Evaluate and report on issues pertaining to student learning gains.

(g) Recommend to the Florida Board of Education revisions and new initiatives to further improve the K-20 education accountability system.

(h) Provide public education institutions and the public with information on the K-20 education accountability system and recommend refinements and improvements.

(i) Apply for and receive grants for the study of K-20 education system improvement consistent with its responsibilities.

(j) Conduct annual studies upon the request of the Legislature or the Florida Board of Education.

(2) The center shall operate under the guidance of an independent nine-member advisory council and the guiding principles of s. 229.002.

(3) The advisory council shall be composed of five members appointed by the Governor, two members appointed by the Speaker of the House of Representatives, and two members appointed by the President of the Senate. Each member shall be appointed for a term of 6 years. However, for purposes of continuity, the Governor shall appoint two members, the Speaker of the House of Representatives shall appoint one member, and the President of the Senate shall appoint one member for a first term of 4 years. Members appointed for 4 years shall be eligible for one reappointment. Advisory council members shall not include elected officials or employees of public or independent education entities. Members shall serve without compensation, but shall be reimbursed for per diem and travel as provided in s. 112.061. Members who miss two consecutive meetings shall be subject to replacement by the appointing officer. The advisory council shall meet at least four times per year and shall advise the center executive director and staff on all matters pertaining to the duties and responsibilities of the center. The advisory council shall annually evaluate the performance of the center executive director and shall report such evaluations to the Governor.

(4) The executive director of the Center for Education Policy Research and Improvement shall direct the activities of the center and appoint and supervise all staff. The executive director shall have broad knowledge and experience in educational accountability, governance, policy, research, and practice. The executive director shall be appointed by the Governor and confirmed by the Florida Board of Education, and shall serve at the pleasure of the advisory council. The executive director shall staff the meetings of the advisory council and shall document and communicate the findings and recommendations of the advisory council. The executive director shall report to the Florida Board of Education on at least a quarterly basis to inform the board of the center's findings.

(5) The center shall be staffed and funded as provided for in the General Appropriations Act. The center shall have access to all education performance and accountability data collected or maintained by the Department of Education. During the reorganization of the Department of Education as provided for in this act, staff and funding may be transferred from the Department of Education to the center to fulfill its statutory functions.

Section 5. Section 229.004, Florida Statutes, is amended to read:

229.004 Florida Board of Education.—

(1)(a) *In accordance with the implementation process in s. 229.0072* ~~Effective January 7, 2003~~, the Florida Board of Education is established as a body corporate. The board shall be a ~~part-time~~ citizen board consisting of seven members appointed by the Governor to staggered 4-year terms, subject to confirmation by the Senate*, provided, however, that Senate confirmation is not required for the members of the Florida Board of Education to perform the duties as prescribed in this education governance reorganization implementation act. Members of the board shall serve without compensation, but shall be entitled to reimbursement of travel and per diem expenses in accordance with s. 112.061.* Members may be reappointed by the Governor for additional terms *not to exceed 8 years of consecutive service*.

(b) *The Governor shall appoint the first chair of the Florida Board of Education who shall serve for 2 years. After expiration of the 2-year term and at the first regular meeting of the board after July 1, the Florida Board of Education shall select a chair and a vice chair from its appointed members. The chair shall serve a 2-year term and may be reselected for one additional consecutive term.* ~~The Florida Board of Education shall have a chairperson who shall be appointed by the Governor.~~

(2) The primary duties of the board shall be to establish education goals and objectives consistent with the policies and guiding principles of s. 229.002 *and the mission and goals of s. 229.007* and, together with the Commissioner of Education, to oversee the implementation of *and enforce compliance with* the education policies established by the Legislature. The board, and the commissioner, shall establish, operate, and maintain optimal efficiency of an Office of the *Commissioner of Education pursuant to s. 229.0061(2)(c) in accordance with the guidelines of ss. 229.0061 and 229.0073* ~~Board of Education~~.

(3) In performing its duties, the board, together with the Commissioner of Education, shall:

(a) Ensure accountability and responsiveness to Florida's citizens, including the establishment of a Citizen Information Center that utilizes quick response and customer-friendly methodologies.

(b) Establish and aggressively enforce efficient and effective performance management objectives.

(c) Maximize the effectiveness of local, state, and federal education linkages and funds.

(d) Issue guidelines for the development of legislative budget requests for operations and fixed capital outlay for the coordinated K-20 system.

(e)~~(d)~~ Recommend ~~one budget or~~ a coordinated budget *and long-range program plans* based on consistent policies for a seamless kindergarten through graduate school education.

(f)~~(e)~~ Adopt cohesive rules, within statutory authority, for education systemwide issues*, including rules governing systemwide access to educational opportunities,* and ensure that rules adopted for the various education delivery systems are compatible.

(g)~~(f)~~ Ensure articulation and coordination within and across the entire education delivery system.

(h)~~(g)~~ Provide ongoing public information regarding performance results for the entire kindergarten through graduate school education system and each of its components.

(4) The board, with the Commissioner of Education, shall *be responsible for*:

(a) *The* work *of* ~~with~~ the Chancellor of *Public Schools* ~~K-12 Education~~ to establish, and maintain optimal efficiency of, *a Division* ~~an Office~~ of *Public Schools, within the guidelines of ss. 229.0061 and 229.0073, and to achieve the mission and goals of s. 229.007* ~~K-12 Education~~.

(b) *The* work *of* ~~with~~ the Chancellor of *Colleges and* ~~State~~ Universities to establish, and maintain optimal efficiency of, *a Division* ~~an Office~~ of *Colleges and* ~~State~~ Universities*, within the guidelines of ss. 229.0061 and 229.0073, and to achieve the mission and goals of s. 229.007*.

(c) *The* work *of* ~~with~~ the Chancellor of Community Colleges ~~and Career Preparation~~ to establish, and maintain optimal efficiency of, *a Division* ~~an Office~~ of Community Colleges*, within the guidelines of ss. 229.0061 and 229.0073, and to achieve the mission and goals of s. 229.007* ~~and Career Preparation~~.

(d) *The* work *of* ~~with~~ the Executive Director of *Independent* ~~Nonpublic and Nontraditional~~ Education to establish, and maintain optimal efficiency of, *a Division* ~~an Office~~ of *Independent* ~~Nonpublic and Nontraditional~~ Education*, within the guidelines of ss. 229.0061 and 229.0073* ~~Services~~.

Section 6. Section 229.005, Florida Statutes, is amended to read:

229.005 Florida education governance officers.—

(1) COMMISSIONER OF EDUCATION.—The Commissioner of Education shall *work with the Florida Board of Education and oversee the other education governance officers to focus* ~~be appointed by the Board of Education from candidates of national caliber and respected and proven organizational leadership with established experience in administering broad-based policy. The commissioner shall be a person who is eminently capable of focusing~~ the entire kindergarten through graduate school education system *on accomplishing* ~~to accomplish~~ the policies and guiding principles of s. 229.002 *and achieving the mission and goals of s. 229.007*. The commissioner shall ~~have the ability to successfully~~ provide education policy and planning direction, program development, performance management, and funding allocation recommendations across the spectrum of kindergarten through graduate school education.~~, and the ability to achieve and safeguard the will of the people of Florida as expressed in s. 1, Art. IX of the Florida Constitution, that "adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require."~~

(2) CHANCELLOR OF *PUBLIC SCHOOLS* ~~K-12 EDUCATION~~.—The Chancellor of *Public Schools* ~~K-12 Education~~ shall be appointed by the Commissioner of Education based on his or her ability to *work as a division vice president of the seamless K-20 education system with the Florida Board of Education and the other education governance officers to* comply with the policies and guiding principles of s. 229.002*, to achieve the mission and goals of s. 229.007*, to enhance the quality of *public* K-12 education in Florida, *and* to maximize the equity of *public* K-12 education in Florida by moving the focus to the school site and the individual student.~~, and to achieve and safeguard the will of the people of Florida as expressed in s. 1, Art. IX of the Florida Constitution, that "adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education. . . ."~~

(3) CHANCELLOR OF *COLLEGES AND* ~~STATE~~ UNIVERSITIES.—The Chancellor of *Colleges and* ~~State~~ Universities shall be appointed by the Commissioner of Education based on his or her ability to *work as a division vice president of the seamless K-20 education system with the Florida Board of Education and the other education governance officers to* comply with the policies and guiding principles of s. 229.002*, to achieve the mission and goals of s. 229.007*, to enhance the national reputation and quality of education and ~~educational~~ research in Florida's *colleges and* ~~state~~ universities, and to work directly with each of the *college and* ~~state~~ university presidents and boards of trustees in focusing on the education and ~~educational~~ research needs of the individual *college or* university and its students.

(4) CHANCELLOR OF COMMUNITY COLLEGES ~~AND CAREER PREPARATION~~.—The Chancellor of Community Colleges ~~and Career Preparation~~ shall be appointed by the Commissioner of Education based on his or her ability to *work as a division vice president of the seamless K-20 education system with the Florida Board of Education and the other education governance officers to* comply with the policies and guiding principles of s. 229.002*, to achieve the mission and goals of s. 229.007*, to enhance the quality of education in Florida's community colleges, and to work directly with each of the community college presidents and boards of trustees in focusing on the education needs of the communities and students they serve.

(5) EXECUTIVE DIRECTOR OF *INDEPENDENT* ~~NONPUBLIC AND NONTRADITIONAL~~ EDUCATION.—The Executive Director of *Independent* ~~Nonpublic and Nontraditional~~ Education shall be appointed by the Commissioner of Education based on his or her ability to *work as a division vice president of the seamless K-20 education system with the Florida Board of Education and the other education governance officers to* comply with the policies and guiding principles of s. 229.002, ~~to enhance the quality and expand the offerings and innovations of nonpublic and nontraditional education in Florida, to establish partnerships with nonpublic education providers at all levels to achieve these goals, and~~ to work directly with the Board of Trustees of the Florida *Virtual* ~~On Line~~ High School and with Florida's private school associations, home education associations, *independent* ~~nonpublic~~ career education institutions, and independent colleges and universities ~~to maximize educational choice and enhance the options, educational alternatives, and student focused delivery for their students~~ *in focusing on quality educational services.*

Section 7. Subsections (1), (4), (5), (6), and (7) of section 229.006, Florida Statutes, are amended to read:

229.006 Education Governance Reorganization Transition Task Force.—

(1) In order to accomplish a smooth transition ~~on January 7, 2003,~~ from the elected State Board of Education to the appointed Florida Board of Education, there shall be established the Education Governance Reorganization Transition Task Force. ~~All members of the task force shall be appointed as soon as feasible but not later than October 1, 2000.~~ The task force shall be comprised of:

(a) Five members appointed by the Governor;

(b) Three members appointed by the President of the Senate; and

(c) Three members appointed by the Speaker of the House of Representatives.

The transition task force shall ~~be charged with the duty to identify issues, conduct research, develop the necessary procedural and substantive framework, and~~ make recommendations to the Legislature for an orderly ~~3-year~~ phase-in for a seamless education continuum and a ~~single or~~ coordinated kindergarten through graduate school budget in accordance with the policies and guiding principles of s. 229.002~~, so that the Florida Board of Education may immediately begin its work on January 7, 2003, with maximum effectiveness~~.

(4) *Having completed its recommendations to the Legislature* ~~by March 1, 2001~~, the transition task force shall *redirect its focus to provide guidance and monitoring of the implementation process pursuant to s. 229.0072 and to regularly report to the Governor, the Legislature, the chief transition officer, and the public on the progress of the reorganization implementation process. If any implementation activity is determined by a majority vote of the task force to be inconsistent with the intent of this act, the chair of the task force shall report such activity directly to the State Board of Education, and the State Board of Education shall act immediately to resolve the dispute.* ~~recommend to the Legislature:~~

~~(a) How best to achieve education system integration by:~~

~~1. Combining appropriate education functions and policies into or under the new Florida Board of Education.~~

~~2. Devolving the education delivery services and operational decisions to the appropriate location of delivery to students, specifically the schools, community colleges, colleges, universities, area technical centers, and other education institutions or places where the students receive their education.~~

~~3. Providing for a single or coordinated kindergarten through graduate school education budget.~~

~~(b) How best to achieve economies in education services, including recommendations concerning consolidation of information systems and integrated performance and financial accounting systems, while maximizing effectiveness within existing resources and staff.~~

~~(c)1. Which, if any, current education staff functions and resources should be eliminated, transferred, or realigned within the proposed new education organizational structure.~~

~~2. A recommended salary structure for the Commissioner of Education and for the chancellors.~~

~~(d) Whether an Office of Policy Research should be established to explore emerging issues, locate successful and innovative educational~~

~~programs, and make recommendations to the Governor, the Florida Board of Education, and the Legislature and, if so, its mission, staffing, and location.~~

~~(e) The optimal mission of the Florida On-Line High School and a methodology for the operation and funding of the school to achieve that mission.~~

~~(f) The optimal location and structure of the Florida Partnership for School Readiness.~~

~~(5) By March 1, 2002, the transition task force shall recommend to the Legislature:~~

~~(a) Standards, definitions, and guidelines for universities, colleges, community colleges, schools, and other education institutions to ensure the quality of education, systemwide coordination, and efficient progress toward attainment of their appropriate missions.~~

~~(b) Rules and procedures as necessary to be followed by university boards of trustees, community college boards of trustees, and other boards of trustees, as determined appropriate, for recruitment and selection of presidents, procedures for annual evaluations of presidents, and procedures for interaction between presidents, the boards of trustees, and the new Florida Board of Education.~~

~~(c) A systemwide strategic plan for postsecondary institutions that considers the role, in their respective communities, of each of the institutions.~~

~~(d) Methodologies for degree program approval, establishment of matriculation and tuition fees, and coordination of colleges' and universities' budget requests.~~

~~(e) Any additional statutory changes needed during the 2002 legislative session to complete the education governance reorganization transition.~~

~~(6) By March 1, 2003, the transition task force shall recommend to the Legislature:~~

~~(a) Statutory changes necessary to accomplish the policies and guiding principles of s. 229.002, including, but not limited to, statutory changes necessitated by the repeal and review provisions of subsection 3(8) of this act.~~

~~(b) Rulemaking authority for the new Florida Board of Education and a plan and timetable for transition or coordination of existing education sector agency rules and rulemaking authority recommendations, if any, for education agencies.~~

~~(c) Waiver authority, if any, for the Commissioner of Education or the Florida Board of Education.~~

(5)~~(7)~~ By *March* ~~May~~ 1, 2003, the transition task force shall have completed its duties and shall make its final report to the Governor, *the Florida Board of Education, the Commissioner of Education,* the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of each chamber. The final report shall include, but is not limited to:

(a) A summary of the work and recommendations of the task force *and the status of full implementation of the K-20 education system*.

(b) The status of all pending and completed actions on orders and rules, all enforcement matters, and all delegations, interagency agreements, and contracts with federal, state, regional, and local governments and private entities.

(c) Identification of any remaining or potential duplication in the administration of state education laws and rules, with specific recommendations to eliminate such duplication and promote more efficient administration.

Section 8. Section 229.0061, Florida Statutes, is created to read:

229.0061 Florida's K-20 education system; guidelines for implementation; guidelines for structure, functions, and organization.—

(1) GUIDELINES FOR IMPLEMENTATION.—

(a) Florida's seamless K-20 education system shall be a decentralized system in which as many commissions, boards, councils, and other excess layers of bureaucracy as possible are eliminated.

(b) Florida's K-20 education system shall rely on a single entity, the Florida Board of Education, as its single strategic voice. If the board desires assistance on matters of policy research or other issues, the board shall be authorized to appoint a committee or committees to assist it on any and all issues within the K-20 education system on an ad hoc basis.

(c) Members of the Florida Board of Education shall focus on high-level policy decisions.

(d) It is essential to the success of Florida's seamless K-20 education system to have a fully operational systemwide technology plan based on a common set of data definitions.

(2) GUIDELINES FOR STRUCTURE, FUNCTIONS, AND ORGANIZATION.—

(a) Roles of the Legislature, the Florida Board of Education, the education governance officers, and the institutional boards of trustees and school boards.—The Legislature shall establish education policy, enact education laws, and appropriate and allocate education resources. The Florida Board of Education shall enforce all laws, rules, and guidelines and shall timely provide direction, resources, assistance, intervention when needed, and strong incentives and disincentives to force accountability for results. In terms of major areas of responsibility, the Legislature, the Florida Board of Education, the education governance officers, and the institutional boards of trustees and school boards shall each perform essential constituent roles.

(b) Florida Board of Education.—The Florida Board of Education shall serve as the body corporate for Florida's seamless K-20 education system; implement the coordinated education vision; and, together with the commissioner, chancellors, and executive director, oversee the success of that vision. The Florida Board of Education shall:

1. Enforce systemwide education policies and goals.

2. Recommend annually the coordinated education budget and authorize the allocation of resources in accordance with law and rule. Any program recommended by the Florida Board of Education which requires state funding for more than 1 year must be presented in a multiyear budget plan.

3. Adopt long-term and short-term education plans.

4. Enforce education accountability standards and measures of all components of the K-20 education system.

5. Accurately and continuously assess data and monitor and report performance.

6. Provide high-quality assistance and intervention when and where needed.

7. Provide timely and accurate information on all public and independent education services.

8. Recommend to the Legislature the missions of the public colleges and universities and community colleges.

(c) Commissioner of Education.—The Commissioner of Education shall serve as secretary and executive director of the State Board of Education. The commissioner shall propose action on all issues that come before the state board and be responsible for enforcing compliance with the mission and goals of the seamless K-20 education system by all education delivery sectors. The commissioner's office shall operate all statewide functions necessary to support the Florida Board of Education and the seamless K-20 education system, including the following areas:

1. Legal.

2. Communications, including a Citizen Information Center that provides quick response and uses customer-friendly methods.

3. Strategic planning and budget development.

4. General administration.

5. Assessment and accountability.

6. Data management, education technology, and an education data warehouse.

7. Access and opportunity, including student financial assistance.

8. Policy research and development, except the Center for Education Policy Research and Improvement.

9. Florida Board of Education personnel.

10. Workforce and economic development.

11. Educational facilities.

12. Technology and information services.

13. Student financial assistance.

14. Inspector General.

(d) Chancellors and executive director.—The chancellors of the public schools, community colleges, and colleges and universities divisions and the Executive Director of the Division of Independent Education shall serve the Florida Board of Education and the Commissioner of Education in the role of division vice presidents of the K-20 education system and as governance officers and critical members of the state-level education leadership team. They shall each be held responsible for providing leadership, administering programs, resolving disputes, providing technical assistance, and timely recommending action plans to the commissioner for sanctions or intervention when needed, as well as making recommendations to the board and the commissioner for strategic planning and budget development for their respective education delivery sectors. They shall support the governing policies and responsibilities of the board and the commissioner and bear primary responsibility for the achievement of the mission and goals of the K-20 education system by their education delivery sectors, as applicable to their sectors. They shall reinforce the policies and principles of the seamless K-20 education system in every venue and at every opportunity, and work together to facilitate horizontal communications and interactions between the education delivery sectors. Specifically, as applicable, each education governance officer shall:

1. Serve as the head of the division.

2. Supervise all employees and work of the division.

3. Properly and timely inform education institutions and the public as to legislative action, including funding, grant opportunities, and substantive policy changes affecting the division.

4. Direct the review of expenditures of public funds in accordance with legislative intent.

5. Evaluate the performance of each education institution under the division and report performance results to the public, the Legislature, the Commissioner of Education, the Florida Board of Education, and the institution and its governing board.

6. Direct institutional governing boards to take corrective action to improve unsatisfactory performance pursuant to law and rules of the Florida Board of Education.

7. Direct and oversee the development of the division's accountability system and recommend changes to the Commissioner of Education and the Florida Board of Education.

8. Direct the division's activities in order to coordinate with other divisions to provide a seamless education system.

9. Direct the provision of state services to institutions under the division.

10. Direct the development of the division's legislative budget request and work cooperatively with the commissioner and other governance officers to develop a coordinated budget request.

11. Serve as the primary point of contact and communication for the division.

(e) Institutional boards of trustees and school boards.—Each institutional board of trustees and school board shall:

1. Provide strategic planning and budget development for their institution or school district.

2. Implement and maintain high-quality education programs within law and rules of the Florida Board of Education.

3. Measure and enforce performance.

4. Provide timely and accurate reporting of information.

5. Provide direct input on education issues to the education governance officers.

6. Have broad latitude within law and rules of the Florida Board of Education in developing local policies and local programs to meet the needs of their students, their communities, and area employers.

7. Hold presidents and appointed superintendents responsible for institution and school performance.

8. Be responsible for the fiscal accountability of their institution or school district.

9. Be responsible for compliance with all laws, rules of the Florida Board of Education, and performance accountability requirements.

(f) Presidents and superintendents.—Each institutional president and school district superintendent shall:

1. Be responsible for efficient and effective budget and program administration.

2. Provide strong leadership to accomplish their education missions and goals.

3. Closely monitor education performance.

4. Provide timely and accurate financial and performance data.

5. Link instructional staff evaluations to student performance.

(g) Ad hoc advisory committees.—Advisory bodies shall be appointed on an ad hoc basis by the Florida Board of Education to serve the board, commissioner, and chancellors when and as needed by studying and recommending action on major issues that affect the direction and quality of education, providing public forums for debate, and safeguarding a coordinated systemwide approach to education policy decisions.

Section 9. Section 229.007, Florida Statutes, is created to read:

229.007 Florida's K-20 education performance accountability system; legislative intent; mission, goals, and systemwide measures.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature that:

(a) The performance accountability system implemented to assess the effectiveness of Florida's seamless K-20 education delivery system provide answers to the following questions in relation to its mission and goals:

1. What is the public getting in return for funds it invests in education?

2. How is Florida's K-20 education system performing in terms of educating its students?

3. How are the major delivery sectors performing to promote student achievement?

4. How are individual schools and postsecondary education institutions performing their responsibility to educate their students as measured by how students are performing and how much they are learning?

(b) The Florida Board of Education recommend to the Legislature systemwide performance standards; the Legislature establish systemwide performance measures and standards; and the systemwide measures and standards provide Floridians with information on what the public is getting in return for the funds it invests in education and how well the K-20 system educates its students.

(c) The Florida Board of Education establish performance measures and set performance standards for individual components of the public education system, including individual schools and postsecondary education institutions, which measures and standards are based primarily on student achievement.

(2) MISSION, GOALS, AND SYSTEMWIDE MEASURES.—The mission of Florida's K-20 education system, when it becomes fully operational, shall be to increase the proficiency of all students within one seamless, efficient system, by providing them with the opportunity to expand their knowledge and skills through learning opportunities and research valued by students, parents, and communities, and to maintain an accountability system that measures student progress toward the following goals:

(a) Highest student achievement, as measured by: student FCAT performance and annual learning gains; the number and percentage of schools that improve at least one school performance grade designation or maintain a school performance grade designation of "A" pursuant to s. 229.57; graduation or completion rates at all learning levels; and other measures identified in law or rule.

(b) Seamless articulation and maximum access, as measured by: the percentage of students who demonstrate readiness for the educational level they are entering, from kindergarten through postsecondary education and into the workforce; the number and percentage of students needing remediation; the percentage of Floridians who complete associate, baccalaureate, professional, and postgraduate degrees; the number and percentage of credits that articulate; the extent to which each set of exit-point requirements matches the next set of entrance-point requirements; and other measures identified in law or rule.

(c) Skilled workforce and economic development, as measured by: the number and percentage of graduates employed in their areas of preparation; the percentage of Floridians with high school diplomas and postsecondary education credentials; the percentage of business and community members who find that Florida's graduates possess the skills they need; and other measures identified in law or rule.

(d) Quality efficient services, as measured by: cost per completer or graduate; average cost per noncompleter at each educational level; cost disparity across institutions offering the same degrees; the percentage of education customers at each educational level who are satisfied with the education provided; and other measures identified in law or rule.

Section 10. Section 229.0072, Florida Statutes, is created to read:

229.0072 Reorganization implementation process.—In order to best achieve the legislative purpose of the Florida Education Governance Reorganization Implementation Act:

(1) The Governor shall appoint the members of the boards of trustees of the state universities in accordance with s. 229.008.

(2) Effective July 1, 2001, the Governor shall appoint a seven-member Florida Board of Education. The Florida Board of Education shall be housed within, and operate under the direction of, the State Board of Education. The Florida Board of Education shall appoint a chief transition officer who shall serve as the board's primary liaison with all entities involved in the reorganization of education. The chief transition officer shall be responsible directly to the Florida Board of Education and shall serve as staff to the board on all action items relating to the reorganization. During the reorganization implementation period, the chief transition officer shall:

(a) Be responsible for proposing actions regarding all education governance reorganization implementation issues.

(b) Be responsible for integration of the Department of Education as it is reorganized into an agency of the Governor.

(c) Serve as secretary of the Florida Board of Education.

(d) Serve as the head of the Education Reorganization Workgroup.

(e) Serve as the head of the K-20 education leadership team.

(3) The Florida Board of Education shall establish a detailed procedure for the implementation of a systemwide K-20 technology plan which includes a month-by-month timeline with monthly progress reports to the board.

(4) Subject to review and approval of the State Board of Education, the Florida Board of Education shall:

(a) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon it. The rules shall be submitted to the State Board of Education. If any rule is not disapproved by the State Board of Education within 45 days after its receipt, the rule shall be filed immediately with the Department of State.

(b) Prepare and submit a coordinated K-20 education budget to the Governor and Legislature that clearly defines the individual needs of the divisions within the Department of Education. No school district shall use public funds to support activities of an employee organization. The Florida Board of Education shall adopt rules implementing this restriction on the use of public funds and shall not allow such use of public funds to be included in its recommended budget, except for collective bargaining negotiations.

(c) Establish a work plan and timeline for the orderly implementation of the transition, including a fully detailed plan and timeline for the devolution of duties, as appropriate, to the university boards of trustees.

(d) Establish accountability standards for existing legislative performance goals, standards, and measures, and order the development of mechanisms to implement new legislative goals, standards, and measures.

(e) Supervise the coordination of institutions and delivery sectors.

(f) Establish policies for university and community college boards of trustees to follow in selecting presidents.

(g) Approve plans and reports, and take other necessary actions pertaining to the supervision of education.

(h) Effectuate the timely implementation of the seamless K-20 education system.

(i) Establish advisory boards to provide the support needed to address issues such as public education facilities planning; student issues; instructional issues; distance learning and technology; academic quality, freedom, and responsibility; and research.

(j) Develop and review recommendations on issues of statewide importance, such as technology systems and facilities.

(k) Adopt criteria and implementation plans for future growth issues, such as new colleges and universities and campus mergers; and provide for cooperative agreements between and within public and private education sectors.

(l) Advise the State Board of Education regarding the issuance of bonds.

(m) Appoint advisory bodies, as necessary, on an ad hoc basis.

(n) Develop and recommend to the Education Governance Reorganization Transition Task Force, the Governor, the chief transition officer, the Commissioner of Education, and the Legislature, no later than January 1, 2002, for adoption during 2002, a clear, concise new

School Code, comprised of the revision of chapters 228-246, to accomplish the implementation, administration, and operation of Florida's seamless K-20 education system in accordance with the guidelines included in s. 229.0061.

(o) Receive, review, and make decisions regarding charter school appeals, which decisions shall be binding notwithstanding any provision of law to the contrary.

(5) Effective July 1, 2001, the Commissioner of Education shall:

(a) Work with the Florida Board of Education to achieve full implementation of the seamless K-20 education system.

(b) Commence reorganization of the Department of Education as a state agency of the Governor in accordance with legislative guidelines pursuant to s. 229.0073, the requirements of s. 229.003(5), and requests of the Florida Board of Education as approved by the State Board of Education.

(c) As secretary of the State Board of Education, assist the chief transition officer in determining the agenda for the Florida Board of Education and provide the Florida Board of Education and the State Board of Education the full support of the reorganized Department of Education.

Section 11. Section 229.0073, Florida Statutes, is created to read:

229.0073 Reorganization of the Department of Education.—Effective July 1, 2001, notwithstanding the provisions of s. 20.15, the chief transition officer's Education Reorganization Workgroup is established to direct and provide oversight for the reorganization of Florida's K-20 Department of Education. The workgroup shall be comprised of the Commissioner of Education, the Governor or his designee, the chief transition officer, the Chancellor of Colleges and Universities, the Chancellor of Community Colleges, the Chancellor of Public Schools, and the Executive Director of Independent Education, who shall consult with the legislative members of the Education Governance Reorganization Transition Task Force. The reorganization shall:

(1) Eliminate duplication across divisions; achieve greater efficiencies in financial and human resources and education services; and identify functions, resources, and services that should be eliminated, transferred, or realigned.

(2) Include a review and assessment of all bureaus, offices, divisions, and functions of the department reorganized pursuant to this section.

(3) Establish an Office of the Commissioner of Education that includes the general areas of operation that are common to all delivery sectors, such as administration, communication, legal services, financial aid, and government and public relations, in order to increase efficiency, improve service delivery to students, and fully support the operational needs of the Florida Board of Education.

(4) Establish the following divisions within the department:

(a) Division of Public Schools (K-12).—The state's public elementary, middle, junior high, and high schools, as well as combination schools, charter schools, district magnet programs, and area technical centers.

(b) Division of Community Colleges.—The state's 28 public community colleges.

(c) Division of Colleges and Universities.—The state's public universities and colleges and the 4-year independent colleges and universities whose students are eligible to receive the William L. Boyd, IV, Florida resident access grants pursuant to s. 240.605, to enable more effective articulation between these public and private institutions. The division chancellor shall administer those provisions of chapter 246 that apply to the independent colleges and universities within the division and shall establish a liaison responsible for partnerships that enhance articulation between and communication with Florida's 4-year independent colleges and universities.

(d) Division of Independent Education.—The independent education providers within the state, including home education programs that meet the requirements of s. 232.0201, private K-12 institutions as described in s. 229.808, independent colleges and universities, except those identified under paragraph (c), and private postsecondary career preparation and vocational training institutions.

1. The division shall be under an executive director and shall house a new commission, appointed by the Governor, to oversee licensing of independent postsecondary institutions, consumer protection, and program improvement. The commission shall have the powers and duties of the State Board of Independent Colleges and Universities specified in chapter 246, except the powers and duties relating to those institutions identified under paragraph (c), and of the State Board of Nonpublic Career Education.

2. The executive director of the division shall establish a mechanism for regular interaction and input from independent education providers in the development of policies that provide seamless articulation for all students.

(5) Establish the following offices within the Office of the Commissioner of Education which shall coordinate their activities with all other divisions and offices:

(a) Office of Technology and Information Services.—In conjunction with the Chancellor of Public Schools, the Chancellor of Community Colleges, and the Chancellor of Colleges and Universities, the office shall be responsible for developing a systemwide technology plan, making budget recommendations to the commissioner, providing data collection and management for the system, and coordinating services with other state, local, and private agencies. The office shall develop a method to address the need for a statewide approach to planning and operations of library and information services to achieve a single K-20 education system library information portal and a unified higher education library management system. The Florida Virtual High School shall be administratively housed within the office.

(b) Office of Workforce and Economic Development.—The office shall evaluate the role of each sector of education in Florida's workforce and economic development, assess the specific work skills and variety of careers provided, and report to the Florida Board of Education the effectiveness of each sector.

(c) Office of Educational Facilities and SMART Schools Clearinghouse.—The office shall validate all educational plant surveys and verify Florida Inventory of School Houses (FISH) data. The office shall provide technical assistance to public school districts when requested. The office, staff, property, and functions of the SMART Schools Clearinghouse are transferred by a type two transfer, pursuant to s. 20.06(2), from the Department of Management Services to the Office of Educational Facilities and SMART Schools Clearinghouse within the Office of the Commissioner of Education.

(d) Office of Student Financial Assistance.—The office shall provide access to and administer state and federal grants, scholarships, and loans to those students seeking financial assistance for postsecondary study pursuant to program criteria and eligibility requirements.

(6) Establish a K-20 education leadership team, including, but not limited to, the chief transition officer and the education governance officers. The leadership team shall be responsible for systemwide horizontal and vertical communication, and assisting the achievement of the seamless K-20 education system.

Section 12. Section 229.0074, Florida Statutes, is created to read:

229.0074 Division of Independent Education.—

(1) The mission of the Division of Independent Education is to aid in protecting the health, education, and welfare of persons who receive educational services and degrees from the independent education sector; to protect the integrity of certificates, diplomas and degrees conferred by the independent education sector; to aid in protecting employers and others who depend upon people whose educational credentials are from the independent education sector in this state; and to aid in protecting independent educational institutions that currently operate or intend to

begin operating in this state. The Commission for Indepdendent Education, administratively housed within the division, shall have such authority as specified in chapter 246 relating to independent postsecondary education, except regarding those institutions described in s. 229.0073 (4)(c). The division shall serve as the state education liaison to independent education providers and institutions, including home education programs that meet the requirements of s. 232.0201, private K-12 institutions as described in s. 229.808, independent colleges and universities except as otherwise provided in s. 229.0073 (4)(c), and private postsecondary career preparation/vocational training institutions.

(2) The executive director of the division shall:

(a) Participate with the other division heads in education decision making processes.

(b) Establish a clearing house of information on independent education institutions.

(c) Foster a collaborative spirit and working relations among the institutions of the private and public sectors.

(d) Identify and convey best practices.

(e) Oversee the division's functions in the most economical and effective manner.

Rep. Richardson moved the adoption of the amendment, which failed of adoption.

Rep. McGriff moved that the Special Rule be waived to permit consideration of an amendment, which was not agreed to.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1055—A bill to be entitled An act relating to workers' compensation; amending s. 440.092, F.S.; characterizing certain activities of certain officers as arising out of and in the course of employment for compensability purposes; providing an effective date.

—was read the second time by title.

The Committee on Insurance offered the following:

(Amendment Bar Code: 895595)

Amendment 1—On page 1, line 22
remove from the bill: *", (2), or (3),"*

Rep. Needelman moved the adoption of the amendment, which was adopted.

The Committee on Criminal Justice Appropriations offered the following:

(Amendment Bar Code: 520045)

Amendment 2—On page 1, lines 21 through 26
remove from the bill: all of said lines

and insert in lieu thereof: employer. *For the purposes of this subsection and not withstanding any other provisions of law to the contrary, an injury to a law enforcement officer as defined in Section 943.10(1), Florida Statutes, during the officer's work period or while going to or coming from work in an official law enforcement vehicle, shall be presumed to be an injury arising out of and in the course of employment unless the injury occurred during a distinct deviation for a non-essential personal errand. If, however, the employer's policy or the collective bargaining agreement that applies to the officer permits such deviations for non-essential errands, the injury shall be presumed to arise out of and in the course of employment.*

Rep. Needelman moved the adoption of the amendment.

Reconsideration

On motion by Rep. Needelman, the House reconsidered the vote by which **Amendment 1** was adopted. The question recurred on the adoption of the amendment, which failed of adoption.

The question recurred on the adoption of **Amendment 2**, which was adopted.

Representative(s) Needelman offered the following:

(Amendment Bar Code: 480597)

Amendment 3 (with title amendment)—On page 1, between lines 26 and 27,

insert:

Section 2. *It is hereby declared by the Legislature that law enforcement officers perform state and municipal functions, that it is their duty to protect life and property at their own risk and peril, and that their activities are vital to the public safety. Therefore, the Legislature declares that it is a proper and legitimate state purpose to provide workers' compensation coverage to law enforcement officers during work periods and while going to and coming from work in an official law enforcement vehicle. Pursuant to Section 18, Article VII of the State Constitution, the Legislature hereby determines and declares that the provisions of this act fulfill an important state interest.*

And the title is amended as follows:

On page 1, line 6, after the semicolon,

insert: providing a declaration of important state interest;

Rep. Needelman moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 1927—A bill to be entitled An act relating to workers' compensation; amending s. 440.02, F.S.; revising definitions; amending s. 440.06, F.S.; requiring employers to secure compensation; amending s. 440.09, F.S.; limiting compensation for certain impairments; requiring certain entities actively engaged in the construction industry to secure payment of compensation under chapter 440, F.S., after a certain date; amending s. 440.10, F.S.; specifying liability for compensation; amending s. 440.11, F.S; providing for exclusiveness of liability; amending s. 440.13, F.S.; providing an additional criterion for determining certain value of nonprofessional attendant care provided by a family member; requiring carriers to allow employees to change physicians under certain circumstances; specifying payments for independent medical examinations; deleting selection of independent medical examiner criteria; specifying the number of medical opinions admissible into evidence; providing an exception to certain recourse for payment for services rendered; amending s. 440.134, F.S.; revising a definition; revising certain grievance procedures for workers' compensation managed care arrangements; amending s. 440.14, F.S.; providing for determination of pay; amending s. 440.15, F.S.; revising criteria for payment of compensation for permanent total disability; revising criteria for payment of permanent impairment and wage-loss benefits; amending s. 440.151, F.S.; providing for compensation for occupational diseases; amending s. 440.185, F.S.; requiring additional information in a report of injury; amending s. 440.191, F.S.; including managed care arrangements under provisions relating to the Employee Assistance and Ombudsman Office; revising procedures for petitions for benefits under the office; amending s. 440.192, F.S.; revising procedures for resolving benefit disputes; transferring duties and responsibilities of the Division of Workers' Compensation to the Office of the Judges of Compensation Claims; amending s. 440.20, F.S.; specifying time for payment of compensation; prohibiting approval of settlement proposals providing for attorney's fees in excess of certain amounts; amending s. 440.25, F.S.; limiting continuances under procedures for mediation and hearings; providing for selections of mediators by the Chief Judge; providing for holding mediation conferences instead of mediation hearings under certain circumstances; providing for completion of pretrial stipulations; authorizing a judge of compensation claims to sanction certain parties under certain circumstances; requiring a judge of compensation claims to order a pretrial hearing for certain purposes under certain circumstances; revising final hearing time limitations and procedures; deleting a requirement that judges of compensation claims

adopt and enforce certain uniform local rules; specifying resolution of determination of pay claims; requiring resolution of certain claims through an expedited dispute resolution process; providing for dismissal of certain petitions for lack of prosecution under certain circumstances; amending s. 440.29, F.S.; providing for receipt into evidence of medical reports from independent medical examiners; amending s. 440.34, F.S.; providing for limited additional attorney's fees in medical-only cases; prohibiting approval of attorney's fees in excess of certain amounts; deleting criteria for determining certain attorney's fees; amending s. 440.345, F.S.; requiring a summary report of attorney's fees to the Governor and the Legislature; amending s. 440.39, F.S.; specifying duties of carriers with respect to certain evidence; amending s. 440.4416, F.S.; revising membership, member criteria, terms, and meetings requirements of the Workers' Compensation Oversight Board; deleting an obsolete provision; providing additional reporting requirements for the board; amending s. 627.0915, F.S.; deleting obsolete provisions; repealing s. 440.45(3), F.S., relating to rotating docketing judges of compensation claims; providing severability; providing an effective date.

—was read the second time by title.

Representative(s) Meadows offered the following:

(Amendment Bar Code: 755729)

Amendment 1—On page 4, line 27, through page 5, line 2,
remove from the bill: all of said lines

and insert in lieu thereof: impairment.

Rep. Meadows moved the adoption of the amendment, which failed of adoption.

Representative(s) Ryan offered the following:

(Amendment Bar Code: 764617)

Amendment 2—On page 6, lines 17 through 25,
remove from the bill: all of said lines

and insert in lieu thereof: percent or more to the face and hands;

(e) Total or industrial blindness, or

(f) Any other injury that would otherwise qualify under this chapter of a nature and severity that would qualify an employee to receive disability income benefits under Title II or supplemental security income benefits under Title XVI of the federal Social Security Act as the Social Security Act existed on July 1, 1992, without regard to any time limitation provided under that act.

Rep. Ryan moved the adoption of the amendment, which failed of adoption.

Representative(s) Seiler offered the following:

(Amendment Bar Code: 272587)

Amendment 3—On page 7, lines 20 through 25,
remove from the bill: all of said lines

and insert in lieu thereof: shall be demonstrated by clear and convincing evidence.

Rep. Seiler moved the adoption of the amendment, which failed of adoption.

Representative(s) Ross, Waters, and Alexander offered the following:

(Amendment Bar Code: 933019)

Amendment 4—On page 7, lines 24 & 25
remove from the bill: all of said lines

Rep. Ross moved the adoption of the amendment, which was adopted.

Representative(s) Ross, Waters, and Alexander offered the following:

(Amendment Bar Code: 513797)

Amendment 5 (with title amendment)—On page 9, between lines 9 & 10 of the bill

insert:

Section 5. Section 440.1025, Florida Statutes, is created to read:

440.1025 Consideration of public employer workplace safety program in rate-setting; program requirements; rulemaking.—For a public employer to be eligible for receipt of specific identifiable consideration under s. 627.0915 for a workplace safety program in the setting of rates, the public employer must have a workplace safety program. At a minimum, the program must include a written safety policy and safety rules, and make provision for safety inspections, preventative maintenance, safety training, first-aid, accident investigation, and necessary record keeping. For purposes of this section, "public employer" means "any agency within state, county, or municipal government employing individuals for salary, wages, or other remuneration." The Division may promulgate rules for insurers to utilize in determining public employer compliance with the requirements of this section.

And the title is amended as follows:

On page 1, line 12, after the semicolon

insert: creating s. 440.1025, F.S.; providing for consideration of a public employer workplace safety program in rate-setting;

Rep. Ross moved the adoption of the amendment, which was adopted.

Representative(s) Brutus offered the following:

(Amendment Bar Code: 472481)

Amendment 6 (with title amendment)—On page 9, line 10 through page 11, line 4,
remove from the bill: strike all of said lines

And the title is amended as follows:

On page 1, line 12,
remove from the title of the bill: all of said line

and insert in lieu thereof: compensation

Rep. Brutus moved the adoption of the amendment, which failed of adoption.

Representative(s) Sobel offered the following:

(Amendment Bar Code: 251385)

Amendment 7—On page 12, line 7,
remove from the bill: all of said lines

and insert in lieu thereof: *of physician per specialty during the course of treatment for any one*

Rep. Sobel moved the adoption of the amendment, which failed of adoption.

REPRESENTATIVE MAYGARDEN IN THE CHAIR

Representative(s) Lerner offered the following:

(Amendment Bar Code: 163063)

Amendment 8—On page 13, lines 23 through 27,
remove from the bill: all of said lines

and insert in lieu thereof: *independent medical examiner per specialty.*

Rep. Lerner moved the adoption of the amendment, which failed of adoption.

Representative(s) Brutus offered the following:

(Amendment Bar Code: 240413)

Amendment 9—On page 17, line 27 through page 18, line 12,
remove from the bill: all of said lines

and insert in lieu thereof: *(b) A catastrophic injury as defined in s. 440.02 shall, in the absence of conclusive proof of a substantial earning capacity, constitute permanent total disability. Permanent total disability shall be determined based upon the facts in all other cases. Compensation shall be payable uner this subsection if the employee has no substantial earning capacity. An employee has no substantial earning capacity if the employee is unable to work uninterruptedly, either on a full-time or part-time basis, including sedentary work, within a reasonable radius of the employee's residence.* ~~Only claimants with catastrophic injuries are eligible for permanent total benefits.~~ In no other case may permanent total disability be awarded.

(d) If an employee who is being paid compensation for permanent total disability becomes rehabilitated to the extent that she or he establishes a substantial earning capacity, the employee shall be paid, instead of the compensation provided in paragraph (a), benefits pursuant to subsection (3). The division shall adopt rules to enable a permanently and totally disabled employee who may have reestablished a substantial earning capacity to undertake a trial period of reemployment without prejudicing her or his return to permanent total status in the case that such employee is unable to sustain a substantial earning capacity.

Rep. Brutus moved the adoption of the amendment, which failed of adoption.

Representative(s) Ross offered the following:

(Amendment Bar Code: 565561)

Amendment 10—On page 18, line 4,
remove from the bill: *, due to physical limitations,*

Rep. Ross moved the adoption of the amendment, which was adopted.

Representative(s) Ross, Waters, and Alexander offered the following:

(Amendment Bar Code: 721203)

Amendment 11—On page 18, lines 5 & 6
remove from the bill: *"100-mile radius of the employee's residence*

and insert in lieu thereof: *50-mile radius of the employee's residence or such greater distance as the judge determines to be reasonable under the circumstances*

Rep. Ross moved the adoption of the amendment, which was adopted.

Representative(s) Ross, Waters, and Alexander offered the following:

(Amendment Bar Code: 690733)

Amendment 12—On page 18, lines 9-12
remove from the bill: all of said lines

and insert in lieu thereof: constitute permanent total disability. ~~Only claimants with catastrophic injuries are eligible for permanent total benefits.~~ In no other case may permanent total disability *benefits* be awarded.

Rep. Ross moved the adoption of the amendment, which was adopted.

Representative(s) Brutus offered the following:

(Amendment Bar Code: 745129)

Amendment 13—On page 18, line 27,
remove from the bill: all of said lines

and insert in lieu thereof: *Security benefits under 42 U.S.C. ss. 402 and 423.*

Rep. Brutus moved the adoption of the amendment, which failed of adoption. The vote was:

Session Vote Sequence: 189

Yeas—47

Allen	Gelber	Kosmas	Seiler
Ausley	Gottlieb	Kottkamp	Simmons
Bean	Greenstein	Lee	Siplin
Bendross-Mindingall	Harper	Lerner	Slosberg
Betancourt	Henriquez	Machek	Smith
Brutus	Heyman	Meadows	Sobel
Bucher	Holloway	Peterman	Stansel
Bullard	Jennings	Rich	Weissman
Cusack	Jordan	Richardson	Wiles
Fields	Joyner	Ritter	Wilson
Frankel	Justice	Romeo	Wishner
Gannon	Kendrick	Ryan	

Nays—62

Alexander	Byrd	Green	Miller
Arza	Cantens	Haridopolos	Murman
Attkisson	Clarke	Harrell	Needelman
Atwater	Crow	Harrington	Negron
Baker	Detert	Hart	Paul
Ball	Diaz de la Portilla	Hogan	Pickens
Barreiro	Diaz-Balart	Kallinger	Prieguez
Baxley	Dockery	Kilmer	Ross
Bennett	Farkas	Kravitz	Rubio
Bense	Fasano	Kyle	Sorensen
Benson	Fiorentino	Littlefield	Spratt
Berfield	Flanagan	Mack	Trovillion
Bilirakis	Garcia	Mahon	Wallace
Bowen	Gardiner	Mayfield	Waters
Brown	Gibson	Mealor	
Brummer	Goodlette	Melvin	

Votes after roll call:
Nays—Andrews, Johnson

THE SPEAKER IN THE CHAIR

Representative(s) Seiler offered the following:

(Amendment Bar Code: 980107)

Amendment 14—On page 21, lines 29 through 30,
remove from the bill: all of said lines

and insert in lieu thereof: work. If the certification and evaluation are performed

Rep. Seiler moved the adoption of the amendment, which failed of adoption.

Representative(s) Henriquez offered the following:

(Amendment Bar Code: 655693)

Amendment 15—On page 22, lines 29 through 31,
remove from the bill: all of said lines

and insert in lieu thereof: to the commencement of such employment.

Rep. Henriquez moved the adoption of the amendment, which failed of adoption.

Representative(s) Lerner offered the following:

(Amendment Bar Code: 752557)

Amendment 16—On page 23, lines 9 through 14,
remove from the bill: all of said lines

and insert in lieu thereof: employment than for the general public.

Rep. Lerner moved the adoption of the amendment, which failed of adoption.

Representative(s) Sobel offered the following:

(Amendment Bar Code: 755765)

Amendment 17—On page 28, line 12,
remove from the bill: all of said lines

and insert in lieu thereof: *or attendance must accompany the petition, if in the possession of the claimant at the time of filing.*

Rep. Sobel moved the adoption of the amendment, which failed of adoption.

Representative(s) Brutus offered the following:

(Amendment Bar Code: 465207)

Amendment 18 (with title amendment)—On page 35, between lines 5 and 6,

insert:

Section 15. Subsection (3) of section 440.24, Florida Statutes, is amended to read:

440.24 Enforcement of compensation orders; penalties.—

(3) In any case where the employer is a self-insurer and fails to comply with any compensation order of a judge of compensation claims or court within 10 days after such order becomes final, the division *shall* ~~may~~ suspend or revoke any authorization previously given to the employer to become a self-insurer, and the division *shall* ~~may~~ sell such of the securities deposited by such self-insurer with the division as may be necessary to satisfy such order.

And the title is amended as follows:

On page 2, line 20, before the word "amending",

insert: amending s. 440.24, F.S.; requiring suspension or revocation of an authorization for an employer to become a self-insurer under certain circumstances; requiring sale of certain securities to satisfy certain orders;

Rep. Brutus moved the adoption of the amendment, which failed of adoption.

Representative(s) Brutus offered the following:

(Amendment Bar Code: 032973)

Amendment 19—On page 43, line 24 through page 46, line 4,
remove from the bill: all of said lines

and insert in lieu thereof:

440.34 Attorney's fees; costs.—

A fee, gratuity, or other consideration may not be paid for services rendered for a claimant in connection with any proceedings arising under this chapter, unless approved as reasonable by the judge of compensation claims or court having jurisdiction over such proceedings. Except as provided by this subsection, any attorney's fee approved by a judge of compensation claims for services rendered to a claimant must equal to *25* ~~20~~ percent of the first $5,000 of the amount of the benefits secured, *20* ~~15~~ percent of the next $5,000 of the amount of the benefits secured, *15* ~~10~~ percent of the remaining amount of the benefits secured to be provided during the first 10 years after the date the claim is filed, and *10* ~~5~~ percent of the benefits secured after 10 years.

(a) However, the judge of compensation claims ~~shall consider the following factors in each case and~~ may *approve an* ~~increase or decrease the~~ attorney's fee *of up to $2,500, based on a reasonable hourly rate,* if, ~~in her or his judgement,~~ the *judge of compensation claims expressly finds that the attorney's fee based on benefits secured fails to finally compensate the attorney and that the* circumstances of the particular case warrant such action. *This monetary limitation to hourly rate fees does not apply to attorney's fees pain under s.440.34(3)(c). Such fees shall be allowed for any petition for benefits that was ripe, due, and owing and should have been raised in such petition under this paragraph. Any fees are waived on any other benefits which were not raised and which were ripe, due, and owing at the time the issues are resolved.*

(b) The judge of compensation claims shall not approve a compensation order, a joint stipulation for lump-sum settlement, a stipulation or agreement between a claimant and his or her attorney, or any other agreement related to benefits under this chapter which provides for an attorney's fee in excess of the amount permitted by this section.

~~(a) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly.~~

~~(b) The fee customarily charged in the locality for similar legal services.~~

~~(c) The amount involved in the controversy and the benefits resulting to the claimant.~~

~~(d) The time limitation imposed by the claimant or the circumstances.~~

~~(e) The experience, reputation, and ability of the lawyer or lawyers performing services.~~

~~(f) The contingency or certainty of a fee.~~

(3) If the claimant should prevail in any proceedings before a judge of compensation claims or court, there shall be taxed against the employer the reasonable costs of such proceedings, not to include the attorney's fees of the claimant. A claimant shall be responsible for the payment of her or his own attorney's fees, except that a claimant shall be entitled to recover a reasonable attorney's fee from a carrier or employer:

(a) Against whom she or he successfully asserts a *petition* ~~claim~~ for medical benefits only, if the claimant has not filed or is not entitled to file at such time a claim for disability, permanent impairment, wage-loss, or death benefits, arising out of the same accident; or

(b) In any case in which the employer or carrier files a *response to petition* ~~notice of denial~~ with the *Office of the Judges of Compensation Claims* ~~division~~ and the injured person has employed an attorney in the successful prosecution of the *petition* ~~claim~~; or

(c) In a proceeding in which a carrier or employer denies that an injury occurred for which compensation benefits are payable, and the claimant prevails on the issue of compensability; or

(d) In cases where the claimant successfully prevails in proceedings filed under s. 440.24 or s.440.28.

Regardless of the date benefits were initially requested, attorney's fees shall not attach under this subsection until 30 days from the date the carrier or employer, if self-insured, receives the petition. ~~In applying the factors set forth in subsection (1) to cases arising under paragraphs (a), (b), (c), and (d), the Judge of Compensation Claims must only consider only such benefits and the time reasonably spent in obtaining them as were secured for the claimant within the scope of paragraphs (a), (b), (c), and (d).~~

Rep. Brutus moved the adoption of the amendment, which failed of adoption. The vote was:

Session Vote Sequence: 190

Yeas—45

Ausley	Frankel	Heyman	Kosmas
Bendross-Mindingall	Gannon	Holloway	Kottkamp
Betancourt	Gelber	Jennings	Lee
Brutus	Gottlieb	Jordan	Lerner
Bucher	Greenstein	Joyner	Machek
Bullard	Harper	Justice	McGriff
Fields	Henriquez	Kendrick	Meadows

Peterman	Ryan	Smith	Wilson
Rich	Seiler	Sobel	Wishner
Richardson	Simmons	Stansel	
Ritter	Siplin	Weissman	
Romeo	Slosberg	Wiles	

Nays—73

The Chair	Brown	Goodlette	Mealor
Alexander	Brummer	Green	Melvin
Allen	Byrd	Haridopolos	Miller
Andrews	Cantens	Harrell	Murman
Argenziano	Carassas	Harrington	Needelman
Arza	Clarke	Hart	Negron
Attkisson	Crow	Hogan	Pickens
Atwater	Cusack	Johnson	Prieguez
Baker	Detert	Kallinger	Ross
Ball	Diaz de la Portilla	Kilmer	Rubio
Barreiro	Diaz-Balart	Kravitz	Russell
Baxley	Dockery	Kyle	Sorensen
Bean	Farkas	Lacasa	Spratt
Bennett	Fasano	Littlefield	Trovillion
Bense	Fiorentino	Lynn	Wallace
Benson	Flanagan	Mack	Waters
Berfield	Garcia	Mahon	
Bilirakis	Gardiner	Mayfield	
Bowen	Gibson	Maygarden	

Representative(s) Ross, Waters, and Alexander offered the following:

(Amendment Bar Code: 534435)

Amendment 20—On page 46, lines 21 & 22
remove from the bill: all of said lines

and insert in lieu thereof:

Section 20. Effective October 1, 2001, subsections (1) and (2) of section 440.4416, Florida Statutes, are amended to read:

Rep. Waters moved the adoption of the amendment, which was adopted.

Representative(s) Brown, Ross, Waters, and Alexander offered the following:

(Amendment Bar Code: 693665)

Amendment 21 (with title amendment)—On page 51, between lines 17 & 18 of the bill

insert:

Section 22. *The amendments to ss. 440.02 and 440.15 in this act shall not be construed to affect any determination of disability under s. 112.18, 112.181, or s. 112.19, Florida Statutes.*

And the title is amended as follows:

On page 3, line 29, after the semicolon

insert: providing that determinations under ss. 112.18, 112.181, 112.19, F.S., are not affected;

Rep. Brown moved the adoption of the amendment, which was adopted.

Representative(s) Brutus offered the following:

(Amendment Bar Code: 570575)

Amendment 22—On page 51, between lines 19 and 20 of the bill

insert:

Section 23. *It is the intent of the Legislature that the cost of workers' compensation insurance be reduced to employers who are required to maintain such coverage. On September 1, 2001, rates for workers' compensation insurance shall be reduced by each insurer as defined in s. 624.08, commercial self-insurance fund as defined in s. 624.462, and group self-insurer as defined in s. 440.02. The September 1, 2001, rate reduction for each such insurer, commercial self-insurance fund, and group self-insurer shall be 25 percent of the rates that were effective on January 1, 2001, and such revised rates shall remain in effect until January 1,2003. There shall be no exceptions to the requirements of this provision, unless the Department of Insurance finds that the use of the revised rates by a particular insurer, commercial self-insurance fund, or group self-insurer will result in rates which are inadequate to the extent that the continued use of such rates jeopardizes the solvency of the insurer, commercial self-insurance fund or group self-insurer. Any new or renewal workers' compensation insurance policy entered into on or after September 1, 2001, shall reflect the 25 percent reduction in rates for the required coverage under this act. The Department of Insurance shall adopt rules pertaining to the applicability of this section to the unexpired term of all workers' compensation insurance policies in existence on September 1, 2001. Any insurer, commercial self-insurance fund or group self-insurer which as an approved deviation or discount in existence on or before September 1, 2001, shall discontinue use of such deviation or discount as of September 1, 2001, with regard to all insureds. No insurer, commercial self-insurance fund or group self-insurer shall make written application of the Department of Insurance for permission to file a uniform percentage decrease below the revised rates effective as of September 2, 2001.*

Rep. Brutus moved the adoption of the amendment, which failed of adoption.

Representative(s) Ross, Waters, and Alexander offered the following:

(Amendment Bar Code: 285091)

Amendment 23—On page 51, lines 26 & 27
remove from the bill: all of said lines

and insert in lieu thereof: Except as otherwise provided herein, this act shall take effect January 1, 2002.

Rep. Waters moved the adoption of the amendment, which was adopted.

On motion by Rep. Ross, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Ross offered the following:

(Amendment Bar Code: 681841)

Amendment 24—On page 46, lines 24-26,
remove from the bill: all of said lines

and insert in lieu thereof:

(1) There is created within the department ~~of Labor and Employment Security~~ the Workers' Compensation Oversight Board. The board shall be composed of the following members,

Rep. Ross moved the adoption of the amendment, which was adopted.

On motion by Rep. Ross, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Ross offered the following:

(Amendment Bar Code: 913543)

Amendment 25—On page 18, line 1
remove from the bill: *physically*

Rep. Ross moved the adoption of the amendment, which was adopted.

Rep. Ryan moved that, under Rule 12.2(c), a late-filed amendment be allowed for consideration, which was not agreed to.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

On motion by Rep. Goodlette, the House moved to the consideration of CS/CS/HB 179 on Special Orders.

CS/CS/HB 179—A bill to be entitled An act relating to child care facilities; amending s. 402.3055, F.S.; requiring validation of information provided by an applicant for a child care facility license; creating s. 402.3105, F.S.; requiring the Department of Children and Family Services to establish a database of information relating to violations, citations, and penalties imposed against child care facilities regulated by the state; providing duties of the State Technology Office; specifying database capabilities and uses of information contained therein; requiring the department to establish and impose uniform penalties; amending s. 409.146, F.S., relating to children and families client and management information; deleting obsolete language; providing an effective date.

—was read the second time by title.

The Council for Healthy Communities offered the following:

(Amendment Bar Code: 402153)

Amendment 1 (with title amendment)—On page 4, between lines 11 and 12 of the bill

insert:

Section 5. Subsection (6) of section 402.301, Florida Statutes, is amended to read:

402.301 Child care facilities; legislative intent and declaration of purpose and policy.—It is the legislative intent to protect the health, safety, and well-being of the children of the state and to promote their emotional and intellectual development and care. Toward that end:

(1) It is the purpose of ss. 402.301-402.319 to establish statewide minimum standards for the care and protection of children in child care facilities, to ensure maintenance of these standards, and to approve county administration and enforcement to regulate conditions in such facilities through a program of licensing.

(2) It is the intent of the Legislature that all owners, operators, and child care personnel shall be of good moral character.

(3) It shall be the policy of the state to ensure protection of children and to encourage child care providers and parents to share responsibility for and to assist in the improvement of child care programs.

(4) It shall be the policy of the state to promote public and private employer initiatives to establish day care services for their employees.

(5) It is the further legislative intent that the freedom of religion of all citizens shall be inviolate. Nothing in ss. 402.301-402.319 shall give any governmental agency jurisdiction or authority to regulate, supervise, or in any way be involved in any Sunday School, Sabbath School, or religious services or any nursery service or other program conducted during religious or church services primarily for the convenience of those attending such services.

(6) It is further the intent that membership organizations *that do not provide child care for school-age children for more than four hours per day, and are* affiliated with national organizations ~~which do not provide child care,~~ whose primary purpose is providing activities that contribute to the development of good character or good sportsmanship or to the education or cultural development of minors in this state, which charge only a nominal annual membership fee, which are not for profit, and which are certified by their national associations as being in compliance with the association's minimum standards and procedures, shall not be considered child care facilities and therefore, their personnel shall not be required to be screened. *Care for children under the age of Kindergarten is considered child care and is subject to the provisions of s. 402.301 through 402.19.*

And the title is amended as follows:

On page 1, line 18

insert:

amending s. 402.301, F.S., specifying which membership organizations are not considered child care facilities;

Rep. Lynn moved the adoption of the amendment, which was adopted.

Representative(s) Lynn offered the following:

(Amendment Bar Code: 193785)

Amendment 2 (with title amendment)—On page 3, between lines 21 and 22, of the bill

insert:

Section 4. *Upon the effective date of this act, the Department of Children and Family Services shall implement the provisions of this act relating to compilation, maintenance, and availability of data, public access thereto, and uniform penalties, and such implementation shall not be subject to an appropriation.*

And the title is amended as follows:

On page 1, line 15,

after the semicolon insert: providing that implementation is not subject to an appropriation;

Rep. Lynn moved the adoption of the amendment, which was adopted.

Representative(s) Rich offered the following:

(Amendment Bar Code: 852373)

Amendment 3 (with title amendment)—On page 4, between lines 11 and 12,

insert:

Section 5. *The Social Services Estimating Conference shall determine and agree to by May 31 of each year the projected utilization rates for the temporary cash assistance and welfare transition child care funding category and the working poor child care funding category. Notwithstanding the provisions of chapter 216, if a surplus is projected in the temporary cash assistance and welfare transition child care funding category and there is a determined need in the working poor child care funding category, the surplus funds shall be used to provide subsidies for families who are income eligible and served in the working poor child care funding category.*

And the title is amended as follows:

On page 1, line 18,

after the semicolon insert: requiring the Social Services Estimating Conference to determine utilization rates for child care finding categories; requiring surplus child care funds be used to provide child care for income eligible families;

Rep. Rich moved the adoption of the amendment. Subsequently, **Amendment 3** was withdrawn.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

Motions

On motion by Rep. Byrd, the rules were waived and **HB 1157** was added to the Special Order Calendar.

On motion by Rep. Byrd, the House agreed to consider the following series of bills on Special Orders: HBs 1419, 601, 1157 and 1565; CS/HB 333; and CS/HB 987.

HB 1419—A bill to be entitled An act relating to historic preservation; repealing pt. I of ch. 266, F.S.; eliminating general provisions relating to historic preservation boards of trustees and the responsibilities of the Department of State with respect thereto; repealing ss. 266.0011, 266.0012, 266.0013, 266.0014, 266.0015, 266.00155, 266.0016, and 266.0017, F.S.; eliminating the Historic Pensacola Board of Trustees; amending s. 267.031, F.S.; providing powers and duties of the Division

of Historical Resources; providing for the establishment of historic preservation regional offices; providing purpose; requiring the division to establish a citizen support organization for each regional office; requiring the division to establish and maintain a central inventory of historic properties; requiring the employment of a state archaeologist; providing qualifications and responsibilities for the state archaeologist; requiring the employment of a state historic preservation officer and other personnel; providing for designation and responsibilities of the state historic preservation officer; amending s. 267.061, F.S.; correcting a cross reference; requiring rules for historic property renovation to be based on certain national guidelines and standards; repealing provisions relating to division responsibilities, state archaeologist, and state historic preservation officer; amending s. 267.0612, F.S.; deleting provisions relating to the Historic Preservation Advisory Council; creating the Florida Historical Commission; providing powers and duties; providing composition of the commission; providing for initial membership and subsequent appointments; providing terms and organization; providing responsibilities of the commission; providing that specified members of the commission shall sit as Florida's National Register Review Board; amending s. 267.0617, F.S.; requiring review of special category historic preservation grants-in-aid by the Florida Historical Commission; defining such grants; providing for review of other grants by grant review panels; conforming cross references; amending s. 267.062, F.S.; correcting a cross reference; amending s. 267.072, F.S., relating to Museum of Florida History programs; renumbering provisions relating to historical museum grants as s. 267.0619, F.S.; revising provisions with respect to grant application review; renumbering provisions relating to the Great Floridians program as s. 267.073, F.S.; correcting a cross reference; creating s. 267.074, F.S.; requiring the Division of Historical Resources to coordinate and direct the Historical Marker Program; delineating program responsibilities; providing classification of markers; requiring the division to establish a central register of markers and to establish and maintain the Florida Register of Heritage Landmarks; requiring rules; requiring a comprehensive plan; providing for the establishment of fees; specifying funding sources for markers; creating s. 267.0743, F.S.; creating the State Historical Marker Council; providing for membership, meetings, organization, and responsibilities of the council; amending s. 267.081, F.S.; authorizing the division to exercise the right of trademark and service mark over specified terms; creating s. 267.115, F.S.; providing division authority and responsibilities pertaining to objects of historical or archaeological value; requiring maintenance of records; providing for loan, sale, exchange, or other disposition of objects under certain circumstances; providing for disposition of funds; providing for rules; providing a penalty; providing for contracts; allowing program for administering finds of artifacts in state-owned river bottoms; amending s. 267.13, F.S.; revising provisions with respect to restitution for the commission of practices prohibited under ch. 267, F.S.; defining value elements for purposes of determining restitution; amending s. 267.14, F.S.; providing public policy declarations; creating s. 267.173, F.S.; requiring the Department of State to contract with the University of West Florida for management of certain state-owned properties; providing contract goals; requiring use of proceeds derived from the management of such properties; authorizing transfer and ownership of certain artifacts, documents, and properties to the university; providing for transfer of records, property, personnel, and funds of the Historic Pensacola Board of Trustees to the university; specifying certain powers and duties of the University of West Florida; providing that the university may contract with its direct-support organization to perform all acts necessary to assist the university in carrying out its historic preservation and historic education responsibilities; delineating certain powers; authorizing the Department of State to contract with the University of West Florida to serve as a regional office; providing an exception to the requirement for a separate direct-support organization for regional offices; amending and renumbering s. 266.0018, F.S.; requiring the authorization of a direct-support organization to assist the University of West Florida in historic preservation and historic preservation education purposes and responsibilities; conforming references; providing membership criteria and selection; delineating contract and other governance requirements; providing for preservation of validity of judicial or administrative actions involving the Historic Pensacola Preservation Board of Trustees; amending ss. 607.1901 and 872.05, F.S.; correcting cross references; providing effective dates.

—was read the second time by title.

The Committee on State Administration offered the following:

(Amendment Bar Code: 293101)

Amendment 1—On page 11, line 7, of the bill

insert after the period: *Additionally these commission members shall serve as the legislative historic preservation advisory body to the speaker and the president with respect to the collection and preservation of the historic records of both houses of the Legislature.*

Rep. Trovillion moved the adoption of the amendment, which was adopted.

On motion by Rep. Trovillion, the rules were waived and HB 1419, as amended, was read the third time by title. On passage, the vote was:

Session Vote Sequence: 191

Yeas—114

Alexander	Cusack	Jennings	Paul
Allen	Detert	Johnson	Peterman
Andrews	Diaz de la Portilla	Jordan	Pickens
Arza	Diaz-Balart	Joyner	Prieguez
Attkisson	Dockery	Justice	Rich
Atwater	Farkas	Kallinger	Richardson
Ausley	Fasano	Kendrick	Ritter
Baker	Fields	Kilmer	Romeo
Ball	Fiorentino	Kosmas	Ross
Barreiro	Flanagan	Kottkamp	Rubio
Baxley	Frankel	Kravitz	Russell
Bean	Gannon	Kyle	Ryan
Bendross-Mindingall	Garcia	Lacasa	Seiler
Bennett	Gardiner	Lee	Simmons
Bense	Gelber	Lerner	Siplin
Benson	Gibson	Littlefield	Slosberg
Berfield	Goodlette	Lynn	Smith
Betancourt	Gottlieb	Machek	Sobel
Bilirakis	Green	Mack	Sorensen
Bowen	Greenstein	Mahon	Spratt
Brown	Haridopolos	Mayfield	Stansel
Brummer	Harper	Maygarden	Trovillion
Bucher	Harrell	McGriff	Wallace
Bullard	Harrington	Mealor	Waters
Byrd	Hart	Melvin	Weissman
Cantens	Henriquez	Miller	Wiles
Carassas	Heyman	Murman	Wilson
Clarke	Hogan	Needelman	
Crow	Holloway	Negron	

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

HB 601—A bill to be entitled An act relating to judgment liens on personal property; amending s. 55.201, F.S.; revising language with respect to the central database of judgment liens on certain personal property; amending s. 55.202, F.S.; revising language with respect to liens on personal property which are the result of judgments, orders, and decrees; amending s. 55.203, F.S.; revising language with respect to judgment lien certificates; deleting the requirement of the inclusion of certain information; amending s. 55.204, F.S.; revising language with respect to the duration and continuation of a judgment lien; revising a timeframe for the acquisition of a second judgment lien; increasing the time period for the retention of a lien file by the Department of State; amending s. 55.205, F.S.; revising language with respect to the effect of a judgment lien; providing for certain liens to be superior to a judgment lien; amending s. 55.206, F.S.; revising language with respect to the

amendment of a filed judgment lien; amending s. 55.207, F.S.; revising language with respect to the correction of a judgment lien file; amending s. 55.208, F.S.; revising language with respect to the effect of a filed judgment lien on writs of execution previously delivered to a sheriff; amending s. 55.209, F.S.; revising language with respect to the duties of the Department of State in collecting processing fees for filed documents; amending s. 55.604, F.S.; revising language with respect to the recognition and enforcement of certain foreign judgments; amending s. 55.605, F.S.; revising language with respect to grounds for nonrecognition; eliminating the requirement that the department maintain a described list; amending s. 56.21, F.S.; revising language with respect to execution sales; amending s. 56.27, F.S.; revising language with respect to executions; providing effective dates.

—was read the second time by title.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 630197)

Amendment 1—On page 8, line 30 through page 9, line 3
remove from the bill: all of said lines

and insert in lieu thereof: therein for a minimum of 1 year after the judgment lien lapses in accordance with this section.

Rep. Pickens moved the adoption of the amendment, which failed of adoption.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 633187)

Amendment 2 (with title amendment)—On page 9, between lines 3 and 4 of the bill

insert:

(7) Nothing in this section shall be construed to extend the life of a judgment lien beyond the time that the underlying judgment, order, decree, or warrant otherwise expires or becomes invalid pursuant to law.

And the title is amended as follows:

On page 1, line 18, after the word and semicolon "State;"

insert providing that filing of a judgment lien certificate does not extend the life of a judgment, order, decree, or warrant;

Rep. Pickens moved the adoption of the amendment, which failed of adoption.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 140691)

Amendment 3 (with title amendment)—On page 17, between lines 9 - 10 of the bill insert:

Section 14. Section 77.01, Florida Statutes, is amended to read:

77.01 Right to garnishment.—Every person or entity who has sued to recover a debt or has recovered judgment in any court against any person or entity has a right to a writ of garnishment, in the manner hereinafter provided, to subject any debt due ~~or any debt under a negotiable instrument that will become due~~ to a defendant by a third person *or any debt not evidenced by a negotiable instrument that will become due absolutely through the passage of time only to defendant by a third person,* and any tangible or intangible personal property of defendant in the possession or control of a third person. The officers, agents, and employees of any companies or corporations are third persons in regard to the companies or corporations, and as such are subject to garnishment after judgment against the companies or corporations.

Section 15. Subsections (1) and (2) of section 77.041, Florida Statutes, are amended to read:

77.041 Notice to *individual* defendant for claim of exemption from garnishment; procedure for hearing.—

(1) Upon application for a writ of garnishment by a plaintiff, *if the defendant is an individual* the clerk of the court shall attach to the writ the following "Notice to Defendant":

NOTICE TO DEFENDANT OF RIGHT AGAINST
GARNISHMENT OF WAGES, MONEY,
AND OTHER PROPERTY

The Writ of Garnishment delivered to you with this Notice means that wages, money, and other property belonging to you have been garnished to pay a court judgment against you. HOWEVER, YOU MAY BE ABLE TO KEEP OR RECOVER YOUR WAGES, MONEY, OR PROPERTY. READ THIS NOTICE CAREFULLY.

State and federal laws provide that certain wages, money, and property, even if deposited in a bank, savings and loan, or credit union, may not be taken to pay certain types of court judgments. Such wages, money, and property are exempt from garnishment. The major exemptions are listed below on the form for Claim of Exemption and Request for Hearing. This list does not include all possible exemptions. You should consult a lawyer for specific advice.

TO KEEP YOUR WAGES, MONEY, AND OTHER PROPERTY FROM BEING GARNISHED, OR TO GET BACK ANYTHING ALREADY TAKEN, YOU MUST COMPLETE A FORM FOR CLAIM OF EXEMPTION AND REQUEST FOR HEARING AS SET FORTH BELOW AND HAVE THE FORM NOTARIZED. YOU MUST FILE THE FORM WITH THE CLERK'S OFFICE WITHIN 20 DAYS AFTER THE DATE YOU RECEIVE THIS NOTICE OR YOU MAY LOSE IMPORTANT RIGHTS. YOU MUST ALSO MAIL OR DELIVER A COPY OF THIS FORM TO THE PLAINTIFF AND THE GARNISHEE AT THE ADDRESSES LISTED ON THE WRIT OF GARNISHMENT.

If you request a hearing, it will be held as soon as possible after your request is received by the court. The plaintiff must file any objection within 2 business days if you hand delivered to the plaintiff a copy of the form for Claim of Exemption and Request for Hearing or, alternatively, 7 days if you mailed a copy of the form for claim and request to the plaintiff. If the plaintiff files an objection to your Claim of Exemption and Request for Hearing, the clerk will notify you and the other parties of the time and date of the hearing. You may attend the hearing with or without an attorney. If the plaintiff fails to file an objection, no hearing is required, the writ of garnishment will be dissolved and your wages, money, or property will be released.

YOU SHOULD FILE THE FORM FOR CLAIM OF EXEMPTION IMMEDIATELY TO KEEP YOUR WAGES, MONEY, OR PROPERTY FROM BEING APPLIED TO THE COURT JUDGMENT. THE CLERK CANNOT GIVE YOU LEGAL ADVICE. IF YOU NEED LEGAL ASSISTANCE YOU SHOULD SEE A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, LEGAL SERVICES MAY BE AVAILABLE. CONTACT YOUR LOCAL BAR ASSOCIATION OR ASK THE CLERK'S OFFICE ABOUT ANY LEGAL SERVICES PROGRAM IN YOUR AREA.

CLAIM OF EXEMPTION AND
REQUEST FOR HEARING

I claim exemptions from garnishment under the following categories as checked:

. . . . 1. Head of family wages. (You must check a. or b. below.)
. . . . a. I provide more than one-half of the support for a child or other dependent and have net earnings of $500 or less per week.
. . . . b. I provide more than one-half of the support for a child or other dependent, have net earnings of more than $500 per week, but have not agreed in writing to have my wages garnished.
. . . . 2. Social Security benefits.
. . . . 3. Supplemental Security Income benefits.

. . . . 4. Public assistance (welfare).
. . . . 5. Workers' Compensation.
. . . . 6. Unemployment Compensation.
. . . . 7. Veterans' benefits.
. . . . 8. Retirement or profit-sharing benefits or pension money.
. . . . 9. Life insurance benefits or cash surrender value of a life insurance policy or proceeds of annuity contract.
. . . . 10. Disability income benefits.
. . . . 11. Prepaid College Trust Fund or Medical Savings Account.
. . . . 12. Other exemptions as provided by law.
. . . . . (explain)

I request a hearing to decide the validity of my claim. Notice of the hearing should be given to me at:

Address: . . . . . .

Telephone number:. . . . . .

The statements made in this request are true to the best of my knowledge and belief.

. . . . . .

Defendant's signature

Date. . . . . .

STATE OF FLORIDA

COUNTY OF

Sworn and subscribed to before me this . . . . . day of . . .(month and year). . ., by . . .(name of person making statement). . .

Notary Public/Deputy Clerk

Personally Known . . . . . OR Produced Identification. . . .

Type of Identification Produced. . . . . .

(2) The plaintiff must mail, by first class, a copy of the writ of garnishment, a copy of the motion for writ of garnishment, and*, if the defendant is an individual,* the "Notice to Defendant" to the defendant's last known address within 5 business days after the writ is issued or 3 business days after the writ is served on the garnishee, whichever is later. However, if such documents are returned as undeliverable by the post office, or if the last known address is not discoverable after diligent search, the plaintiff must mail, by first class, the documents to the defendant at the defendant's place of employment. The plaintiff shall file in the proceeding a certificate of such service.

Section 16. Subsection (5) of section 678.1051, Florida Statutes, is amended to read:

678.1051 Notice of adverse claim.—

(5) Filing of a financing statement under chapter 679*, or a judgment lien certificate under chapter 55,* is not notice of an adverse claim to a financial asset.

And the title is amended as follows:

On page 2, line 11, after the semicolon,

insert: amending s. 77.01, F.S.; providing that certain debts related to negotiable instruments are not subject to garnishment; amending s. 77.041, F.S.; providing that only individuals subject to garnishment must be provided a "Notice of Defendant"; amending s. 678.1051, F.S.; providing that a judgment lien certificate does not constitute an adverse claim against a financial asset;

Rep. Pickens moved the adoption of the amendment, which failed of adoption.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 343915)

Amendment 4—In the title, on page 1, lines 1 - 2,
remove from the bill: judgment liens on personal property

and insert in lieu thereof: judgments

Rep. Pickens moved the adoption of the amendment, which failed of adoption.

Representative(s) Pickens offered the following:

(Amendment Bar Code: 371501)

Amendment 5 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 55.201, Florida Statutes, is amended to read:

55.201 Central database of judgment liens on personal property.—The Department of State shall maintain a database of judgment lien *files* ~~records~~ established in accordance with ss. 55.201-55.209.

Section 2. Section 55.202, Florida Statutes, is amended to read:

55.202 Judgments, orders, and decrees; lien on personal property.—

(1) A judgment lien securing the unpaid amount of any money judgment may be acquired by the holder of a judgment ~~entered by~~:

(a) *Enforceable in this state under its laws or the laws of the United States* ~~A court of this state;~~

~~(b) A court of the United States having jurisdiction in this state;~~

~~(c) A court of the United States or any other state to the extent enforceable under the Florida Enforcement of Foreign Judgments Act, ss. 55.501-55.509;~~

~~(d) A foreign state as defined in the Uniform Out-of-country Foreign Money-Judgment Recognition Act, ss. 55.601-55.607, from the time and to the extent enforceable thereunder~~;

(b)~~(c)~~ *Entered by* an issuing tribunal with respect to a support order being enforced in this state pursuant to chapter 88; or

(c)~~(f)~~ *Enforceable by* operation of law pursuant to s. 61.14(6).

(2) A judgment lien may be acquired on *a* ~~the~~ judgment debtor's interest in all personal property *in this state* subject to execution *under s. 56.061* ~~in this state~~, other than fixtures, money, negotiable instruments, and mortgages.

(a) A judgment lien is acquired by *filing* ~~recording~~ a judgment lien certificate in accordance with s. 55.203 with the Department of State after the judgment has become final and if no stay of the judgment or its enforcement is *then* in effect ~~at the time the certificate is filed~~.

(b) For any ~~tax~~ lien*, warrant,* ~~or~~ assessment*, or judgment collected by the Department of Revenue* ~~granted by law to the state or any of the political subdivisions for any tax enumerated in s. 72.011~~, a judgment lien may be acquired by *filing the judgment lien certificate information* ~~recording the lien~~ or warrant with the Department of State *in accordance with s. 55.205(5)*.

(c) *Except as provided in s. 55.208, the effective date of a judgment lien is the date, including the time of day, of filing. Although* ~~A judgment lien is effective as of the date of recording, but~~ no lien attaches to property*, and a creditor does not become a lien creditor as to liens under chapter 679,* until the debtor acquires an interest in the property*, priority among competing judgment liens is determined in order of filing date and time*.

(d) Except as provided in s. 55.204(3), a judgment creditor may *file* ~~record~~ only one effective judgment lien certificate based upon a particular judgment.

(3) Except as otherwise provided in s. 55.208, the priority of a judgment lien acquired in accordance with this section or s. 55.204(3) is established at the *date and* time the judgment lien is *filed* ~~recorded. Such judgment lien is deemed recorded as of its effective date as provided in this section or s. 55.204(3)~~.

(4) As used in ss. 55.201-55.209, the terms "holder of a judgment" and "judgment creditor" include the Department of Revenue with respect to a judgment being enforced by the Department of Revenue as the state IV-D agency.

(5) Liens, assessments, *warrants,* or judgments *filed pursuant to paragraph (2)(b)* ~~administered by or secured on behalf of any state agency or political subdivision of the state~~ may be filed directly into the central database by *the Department of Revenue* ~~such agency or subdivision~~ through electronic or information data exchange programs approved by the Department of State. *Such filings must contain the information set forth in s. 55.203(1).*

Section 3. Section 55.203, Florida Statutes, is amended to read:

55.203 Judgment lien certificate; content, recording, and indexing.—

(1) An original judgment lien certificate~~, as provided in s. 55.202,~~ must include:

(a) The legal name of each judgment debtor and, if a recorded legal entity, the registered name and document filing number as shown in the records of the Department of State.

(b) The last known address and ~~social security number, federal identification number, or, in the instance in which the judgment creditor is a state agency or a political subdivision of the state, a taxpayer or other distinct identification number of each judgment debtor, except that in cases of default judgment,~~ the social security number ~~must be included only if known,~~ or federal employer identification number of each judgment debtor *if shown on the judgment itself.*

(c) The legal name of the judgment creditor and, if a recorded legal entity, the registered name and document filing number as shown in the records of the Department of State, and the name of the judgment creditor's attorney or duly authorized representative, if any.

(d) The address ~~and social security number or federal employer identification number~~ of the judgment creditor.

(e) The identity of the court which entered the judgment and the case number and the date the written judgment was entered.

(f) The amount due on the money judgment and the applicable interest rate.

(g) The signature of the judgment creditor or the judgment creditor's attorney or duly authorized representative.

(h) With respect to a lien *acquired* ~~created~~ by a delivery of a writ of execution to a sheriff prior to October 1, 2001, an affidavit by the judgment creditor which attests that the person or entity possesses any documentary evidence of the date of delivery of the writ, and a statement of that date or a certification by the sheriff of the date as provided in s. 30.17(4).

(2) A second judgment lien certificate, as provided in s. 55.204(3), must include the information required in subsection (1) and must state the file number assigned to the *file* ~~record~~ of the original judgment lien certificate, the money amount remaining unpaid, and the interest accrued thereon.

(3) An amendment, as provided in s. 55.206, or a correction statement, as provided in s. 55.207, must state the file number of the judgment lien *file* ~~record~~ to which the amendment or correction statement relates and must state the action, change, or statement to be added.

(4) The Department of State shall examine, for compliance with ss. 55.201-55.209, each document submitted for *filing* ~~recording~~ and shall accept or reject the document accordingly. For each judgment lien certificate *filed* ~~recorded~~, the department shall:

(a) Create a *file* ~~record~~.

(b) Assign a unique file number to the record.

(c) Include the date *and time* of filing of the judgment lien certificate.

(d) Maintain the *file* ~~record~~ in a database accessible to the public via the Internet.

(e) Index the judgment lien certificate according to the name of each judgment debtor.

(f) Index all subsequently filed documents relating to an original judgment lien certificate in a manner that associates them to the original judgment lien certificate.

(5) ~~The validity of~~ A judgment lien certificate *substantially satisfying the requirements of this section is effective even if it has minor errors or omissions that make the filing* ~~recorded under this section may not be defeated by technical or clerical errors made in good faith which are not~~ seriously misleading~~, nor may any claim of estoppel be based on such errors~~.

(6) The Department of State shall prescribe mandatory forms of all documents to be filed under this section.

Section 4. Section 55.204, Florida Statutes, is amended to read:

55.204 Duration and continuation of judgment lien; destruction of records.—

(1) Except as provided in this section, a judgment lien acquired under s. 55.202 lapses and becomes invalid 5 years after the date of *filing* ~~recording~~ the judgment lien certificate.

(2) Liens securing the payment of child support or tax obligations as set forth in s. 95.091(1)(b) shall not lapse until 20 years after the date of the original filing of the warrant or other document required by law to establish a lien. No second lien based on the original filing may be obtained.

(3) At any time within 6 months before *or 6 months after* the scheduled lapse of a judgment lien under subsection (1), the judgment creditor may acquire a second judgment lien by *filing* ~~recording~~ a new judgment lien certificate. The *effective date of the* second judgment lien *is* ~~becomes effective on the date of lapse of the original judgment lien or on~~ the date *and time* on which the judgment lien certificate is *filed* ~~recorded, whichever is later. The second judgment lien is deemed recorded on its effective date~~. The second judgment lien is ~~deemed~~ a new judgment lien and not a continuation of the original judgment lien. The second judgment lien permanently lapses and becomes invalid 5 years after its *filing* ~~effective~~ date, and no additional liens based on the original judgment *or any judgment based on the original judgment* may be *acquired* ~~obtained~~.

(4) A judgment lien continues only as to itemized property for an additional 90 days after lapse of the lien. Such judgment lien will continue only if:

(a) The property had been itemized and its location described with sufficient particularity in the instructions for levy;

(b) The levy had been delivered to the sheriff prior to the date of lapse of the lien to permit the sheriff to act; and

(c) The property was located in the county in which the sheriff has jurisdiction at the time of delivery of the instruction for levy. Subsequent removal of the property does not defeat the lien. A court may order continuation of the lien beyond the 90-day period on a showing that extraordinary circumstances have prevented levy.

(5) The date of lapse of a judgment lien whose enforceability has been temporarily stayed or enjoined as a result of any legal or equitable proceeding is tolled until 30 days after the stay or injunction is terminated.

(6) The Department of State shall maintain each judgment lien *file* ~~record~~ and all information contained therein for a minimum of 1 year after the judgment lien lapses in accordance with this section.

(7) Nothing in this section shall be construed to extend the life of a judgment lien beyond the time that the underlying judgment, order, decree, or warrant otherwise expires or becomes invalid pursuant to law.

Section 5. Section 55.205, Florida Statutes, is amended to read:

55.205 Effect of judgment lien.—

(1) A valid judgment lien gives the judgment creditor the right to *proceed against* ~~take possession of~~ the property *of the debtor* ~~subject to levy~~ through writ of execution, garnishment, or other judicial process. A judgment creditor who has not *acquired* ~~recorded~~ a judgment lien *as provided in s. 55.202* ~~certificate in accordance with s. 55.203~~ or whose lien has lapsed may nevertheless *proceed against* ~~take possession of~~ the judgment debtor's property through ~~such~~ other judicial process. *Such* ~~A~~ judgment creditor proceeding by writ of execution *acquires* ~~obtains~~ a lien as of the time of levy and only on the property levied upon. Except as provided in s. 55.208, such judgment creditor takes subject to the claims and interest of priority judgment creditors.

(2) A buyer in the ordinary course of business as defined in s. 671.201(9) takes free of a judgment lien *acquired as provided in s. 55.202 or s. 55.204* ~~created under this section~~ even though the buyer knows of its existence. A valid security interest as defined in chapter 679 in after-acquired property of the judgment debtor which is perfected *before the debtor acquires an interest in the property* ~~prior to the effective date of a judgment lien~~ takes priority over the judgment lien on the after-acquired property.

(3) An individual buyer of goods for personal, family, or household use who buys the goods from a seller who held the goods for personal, family, or household use, and who pays value without knowledge that the goods are subject to a judgment lien, is entitled, to the extent of the value paid, to a lien on the goods superior to the judgment lien. If the buyer has made improvements to the goods, or other reasons justify doing so, a court may adjust the amount secured by the lien as the equities may require.

(4) A buyer of stock in a corporation takes free of a judgment lien hereunder if the buyer pays value in good faith without notice as defined in s. 678.1051.

Section 6. Section 55.206, Florida Statutes, is amended to read:

55.206 Amendment of judgment lien *file* ~~record~~; termination, partial release, assignment, continuation, tolling, correction.—

(1) An amendment to a judgment lien acquired *as provided* under s. 55.202 may be *filed* ~~recorded~~ by *or on behalf of* the judgment creditor of record, which may provide for:

(a) The termination, partial release, or assignment of the judgment creditor's interest in a judgment lien;

(b) The continuation and termination of the continuation of a judgment lien, as provided in s. 55.204(4);

(c) The tolling and termination of the tolling of a lapse of a judgment lien, as provided in s. 55.204(5); or

(d) The correction or change of any other information provided in the ~~record of a~~ judgment lien *file*.

(2) Within 30 days following receipt of a written demand by a judgment debtor after the obligation underlying a judgment lien has been fully or partially released, the judgment lienholder must deliver to the judgment debtor a written statement indicating that there is no longer a claim for a lien on the personal property of the judgment debtor or that the judgment lien has been partially released and setting forth the value of the lien remaining unpaid as of the date of the statement. A statement signed by an assignee must include or be accompanied by a separate written acknowledgement of assignment signed by *or for the benefit of* the judgment creditor of record. If the judgment lienholder fails to deliver such a statement within 30 days after proper written demand therefor, the judgment lienholder is liable to the judgment debtor for $100, and for any actual or consequential damages, including reasonable attorney's fees, caused by such failure to the judgment debtor.

~~(3)~~ The judgment debtor, the judgment creditor, or assignee may file such statement with the Department of State.

Section 7. Section 55.207, Florida Statutes, is amended to read:

55.207 Correction of judgment lien *file* ~~record~~.—

(1) A person may file with the Department of State a correction statement with respect to a judgment lien *file* ~~record~~, as provided in s. 55.203, indexed under *any* ~~the~~ person's name, if the person believes that the *file* ~~record~~ is inaccurate or that the judgment lien certificate was wrongfully filed.

(2) A correction statement must:

(a) State the judgment debtor named and the file number assigned to the judgment lien *file* ~~record~~ to which the correction statement relates;

(b) Indicate that it is a correction statement;

(c) Provide the basis for the person's belief that the judgment lien certificate was wrongfully filed or the *file* ~~record~~ is inaccurate; and

(d) Indicate the manner in which the person believes the *file* ~~record~~ should be corrected to cure any inaccuracy.

(3) The department shall ensure that a correction statement is indexed and available in the same manner as any *filed* ~~recorded~~ lien certificate in the central database of judgment lien *files* ~~records~~.

(4) The filing of a correction statement does not affect the effectiveness of the judgment lien or other *filing* ~~filed record~~.

Section 8. Section 55.208, Florida Statutes, is amended to read:

55.208 Effect of *filed* ~~recorded~~ judgment lien on writs of execution previously delivered to a sheriff.—

(1) Any lien created by a writ of execution which has been delivered to the sheriff of any county before October 1, 2001, remains in effect for 2 years thereafter as to any property of the judgment debtor located in that county before October 1, 2001, and remaining within that county after that date. As to any property of the judgment debtor brought into the county on or after October 1, 2001, such writs create no lien, inchoate or otherwise.

(2) If a judgment creditor who has delivered a writ of execution to a sheriff in any county prior to October 1, 2001, properly files a judgment lien certificate with the Department of State by October 1, 2003, the resulting judgment lien is deemed *filed* ~~recorded~~ on the date the writ was delivered to the sheriff as to all ~~leviable~~ property of the judgment debtor *subject to execution in this state under s. 56.061* which is located in that county on October 1, 2001, and that remains continuously in that county thereafter. *Priority of such judgment liens is determined as of the effective date they are considered to have been filed.* As to all other property of the judgment debtor, the effective date of the judgment lien is as provided in s. 55.202. The duration of all judgment liens is as provided in s. 55.204~~, regardless of the date on which a lien is determined to have been recorded~~.

(3) If a judgment creditor who has delivered a writ of execution to a sheriff in any county before October 1, 2001, does not properly *file* ~~record~~ a judgment lien certificate with the Department of State by October 1, 2003, such writ is considered to have been abandoned and to be of no effect after October 1, 2003.

Section 9. Section 55.209, Florida Statutes, is amended to read:

55.209 Department of State; processing fees, responsibilities.—

(1) Except for liens, assessments, *warrants,* or judgments filed electronically ~~by a state agency or a political subdivision of the state,~~ as

provided in *s. 55.202(2)* ~~s. 55.202(6)~~, the Department of State shall collect the following nonrefundable processing fees for all documents filed ~~or recorded~~ in accordance with ss. 55.201-55.209:

(a) For any judgment lien certificate or other documents permitted to be filed, $20.

(b) For the certification of any *filed* ~~recorded~~ document, $10.

(c) For copies of judgment lien documents which are produced by the Department of State, $1 per page or part thereof. However, no charge may be collected for copies provided in an on-line electronic format via the Internet.

(d) For indexing a judgment lien by multiple judgment debtor names, $5 per additional name.

(e) For each additional facing page attached to a judgment lien certificate or document permitted to be filed ~~or recorded~~, $5.

(2) Unless otherwise provided by law, the Department of State may not conduct any search of the database established under s. 55.201 to determine the existence of any judgment lien *file* ~~record~~ or to perform any service other than in connection with those services for which payment of services are required under this section. The information maintained in the database is for public notice purposes only and the department may make no certification or determination of the validity of any judgment lien acquired under ss. 55.202 and 55.204(3).

Section 10. Subsections (6) and (8) 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:

(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.

(8) A judgment lien on personal property is acquired only when a judgment lien certificate *is filed in accordance with s. 55.203* ~~satisfying the requirements of s. 55.203 has been recorded~~ with the Department of State.

Section 11. Section 55.605, Florida Statutes, is amended to read:

55.605 Grounds for nonrecognition.—

(1) A foreign judgment is not conclusive if:

(a) The judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law.

(b) The foreign court did not have personal jurisdiction over the defendant.

(c) The foreign court did not have jurisdiction over the subject matter.

(2) A foreign judgment need not be recognized if:

(a) The defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him or her to defend.

(b) The judgment was obtained by fraud.

(c) The cause of action or claim for relief on which the judgment is based is repugnant to the public policy of this state.

(d) The judgment conflicts with another final and conclusive order.

(e) The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court.

(f) In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action.

(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 12. Section 56.21, Florida Statutes, is amended to read:

56.21 Execution sales; notice.—Notice of all sales under execution shall be given by advertisement once each week for 4 successive weeks in a newspaper published in the county in which the sale is to take place. The time of such notice may be shortened in the discretion of the court from which the execution issued, upon affidavit that the property to be sold is subject to decay and will not sell for its full value if held until date of sale. On or before the date of the first publication or posting of the notice of sale, a copy of the notice of sale shall be furnished by certified mail to the attorney of record of the judgment debtor, or to the judgment debtor at the judgment debtor's last known address if the judgment debtor does not have an attorney of record. Such copy of the notice of sale shall be mailed even though a default judgment was entered. When levying upon personal property, a notice of such levy and execution sale and a copy of the affidavit required by s. 56.27(4) shall be made by the levying creditor to the attorney of record of the judgment creditor or the judgment creditor who has *acquired a judgment lien* ~~recorded a judgment lien certificate~~ as provided in s. 55.202 or s. 55.204(3) at the address listed in the judgment lien certificate, or, if amended, in any amendment to the judgment lien certificate, and to all secured creditors who have filed financing statements as provided in s. 679.401 in the name of the judgment debtor reflecting a security interest in property of the kind to be sold at the execution sale at the address listed in the financing statement, or, if amended, in any amendment to the financing statement. Such notice shall be made in the same manner as notice is made to any judgment debtor under this section. When levying upon real property, notice of such levy and execution sale shall be made to the property owner of record in the same manner as notice is made to any judgment debtor pursuant to this section. When selling real or personal property, the sale date shall not be earlier than 30 days after the date of the first advertisement.

Section 13. Subsections (1) and (2) of section 56.27, Florida Statutes, are amended to read:

56.27 Executions; payment of money collected.—

(1) All money received under executions shall be paid, in the order prescribed, to the following: the sheriff, for costs; the levying creditor in the amount of $500 as liquidated expenses; and the *priority lienholder under s. 55.202, s. 55.204(3), or s. 55.208(2)* ~~judgment lienholder having the earliest recorded judgment lien acquired under ss. 55.202 and 55.204(3)~~, as set forth in an affidavit required by subsection (4), or his or her attorney, in satisfaction of the judgment lien, provided that the judgment lien has not lapsed at the time of the levy. The receipt of the attorney shall be a release of the officer paying the money to him or her. When the name of more than one attorney appears in the court file, the money shall be paid to the attorney who originally commenced the action or who made the original defense unless the file shows that another attorney has been substituted.

(2) When property sold under execution brings more than the amount needed to satisfy the provisions of subsection (1), the surplus shall be paid in the order of priority to any judgment lienholders whose judgment liens have not lapsed. Priority shall be based on the effective date of the judgment lien acquired under s. 55.202*,* ~~or~~ s. 55.204(3), *or s. 55.208(2),* as set forth in an affidavit required under subsection (4). If there is a surplus after all valid judgment liens and execution liens have been satisfied, the surplus must be paid to the defendant.

Section 14. Section 77.01, Florida Statutes, is amended to read:

77.01 Right to garnishment.—Every person or entity who has sued to recover a debt or has recovered judgment in any court against any person or entity has a right to a writ of garnishment, in the manner hereinafter provided, to subject any debt due ~~or any debt under a negotiable instrument that will become due~~ to defendant by a third person *or any debt not evidenced by a negotiable instrument that will become due absolutely through the passage of time only to the defendant by a third person*, and any tangible or intangible personal property of defendant in the possession or control of a third person. The officers, agents, and employees of any companies or corporations are third persons in regard to the companies or corporations, and as such are subject to garnishment after judgment against the companies or corporations.

Section 15. Section 77.041, Florida Statutes, is amended to read:

77.041 Notice to *individual* defendant for claim of exemption from garnishment; procedure for hearing.—

(1) Upon application for a writ of garnishment by a plaintiff, *if the defendant is an individual,* the clerk of the court shall attach to the writ the following "Notice to Defendant":

NOTICE TO DEFENDANT OF RIGHT AGAINST GARNISHMENT OF WAGES, MONEY, AND OTHER PROPERTY

The Writ of Garnishment delivered to you with this Notice means that wages, money, and other property belonging to you have been garnished to pay a court judgment against you. HOWEVER, YOU MAY BE ABLE TO KEEP OR RECOVER YOUR WAGES, MONEY, OR PROPERTY. READ THIS NOTICE CAREFULLY.

State and federal laws provide that certain wages, money, and property, even if deposited in a bank, savings and loan, or credit union, may not be taken to pay certain types of court judgments. Such wages, money, and property are exempt from garnishment. The major exemptions are listed below on the form for Claim of Exemption and Request for Hearing. This list does not include all possible exemptions. You should consult a lawyer for specific advice.

TO KEEP YOUR WAGES, MONEY, AND OTHER PROPERTY FROM BEING GARNISHED, OR TO GET BACK ANYTHING ALREADY TAKEN, YOU MUST COMPLETE A FORM FOR CLAIM OF EXEMPTION AND REQUEST FOR HEARING AS SET FORTH BELOW AND HAVE THE FORM NOTARIZED. YOU MUST FILE THE FORM WITH THE CLERK'S OFFICE WITHIN 20 DAYS AFTER THE DATE YOU RECEIVE THIS NOTICE OR YOU MAY LOSE IMPORTANT RIGHTS. YOU MUST ALSO MAIL OR DELIVER A COPY OF THIS FORM TO THE PLAINTIFF AND THE GARNISHEE AT THE ADDRESSES LISTED ON THE WRIT OF GARNISHMENT.

If you request a hearing, it will be held as soon as possible after your request is received by the court. The plaintiff must file any objection within 2 business days if you hand delivered to the plaintiff a copy of the form for Claim of Exemption and Request for Hearing or, alternatively, 7 days if you mailed a copy of the form for claim and request to the plaintiff. If the plaintiff files an objection to your Claim of Exemption and Request for Hearing, the clerk will notify you and the other parties of the time and date of the hearing. You may attend the hearing with or without an attorney. If the plaintiff fails to file an objection, no hearing is required, the writ of garnishment will be dissolved and your wages, money, or property will be released.

YOU SHOULD FILE THE FORM FOR CLAIM OF EXEMPTION IMMEDIATELY TO KEEP YOUR WAGES, MONEY, OR PROPERTY FROM BEING APPLIED TO THE COURT JUDGMENT. THE CLERK CANNOT GIVE YOU LEGAL ADVICE. IF YOU NEED LEGAL ASSISTANCE YOU SHOULD SEE A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, LEGAL SERVICES MAY BE AVAILABLE. CONTACT YOUR LOCAL BAR ASSOCIATION OR ASK THE CLERK'S OFFICE ABOUT ANY LEGAL SERVICES PROGRAM IN YOUR AREA.

CLAIM OF EXEMPTION AND REQUEST FOR HEARING

I claim exemptions from garnishment under the following categories as checked:

. . . . 1. Head of family wages. (You must check a. or b. below.)
. . . . a. I provide more than one-half of the support for a child or other dependent and have net earnings of $500 or less per week.
. . . . b. I provide more than one-half of the support for a child or other dependent, have net earnings of more than $500 per week, but have not agreed in writing to have my wages garnished.
. . . . 2. Social Security benefits.
. . . . 3. Supplemental Security Income benefits.
. . . . 4. Public assistance (welfare).
. . . . 5. Workers' Compensation.
. . . . 6. Unemployment Compensation.
. . . . 7. Veterans' benefits.
. . . . 8. Retirement or profit-sharing benefits or pension money.
. . . . 9. Life insurance benefits or cash surrender value of a life insurance policy or proceeds of annuity contract.
. . . . 10. Disability income benefits.
. . . . 11. Prepaid College Trust Fund or Medical Savings Account.
. . . . 12. Other exemptions as provided by law.
. . . . . (explain)

I request a hearing to decide the validity of my claim. Notice of the hearing should be given to me at:

Address: . . . . . .

Telephone number:. . . . . .

The statements made in this request are true to the best of my knowledge and belief.

. . . . . .

Defendant's signature

Date. . . . . .

STATE OF FLORIDA

COUNTY OF

Sworn and subscribed to before me this . . . . . day of . . .(month and year). . ., by . . .(name of person making statement). . .

Notary Public/Deputy Clerk

Personally Known . . . . . OR Produced Identification. . . .

Type of Identification Produced. . . . . .

(2) The plaintiff must mail, by first class, a copy of the writ of garnishment, a copy of the motion for writ of garnishment, and, *if the defendant is an individual,* the "Notice to Defendant" to the defendant's last known address within 5 business days after the writ is issued or 3 business days after the writ is served on the garnishee, whichever is later. However, if such documents are returned as undeliverable by the post office, or if the last known address is not discoverable after diligent search, the plaintiff must mail, by first class, the documents to the defendant at the defendant's place of employment. The plaintiff shall file in the proceeding a certificate of such service.

(3) Upon the filing by a defendant of a claim of exemption and request for hearing, a hearing will be held as soon as is practicable to determine the validity of the claimed exemptions. If the plaintiff does not file a sworn written statement that contests the defendant's claim of exemption within 2 business days after hand delivering the claim and request or, alternatively, 7 business days, if the claim and request were

served by mail, no hearing is required and the clerk must automatically dissolve the writ and notify the parties of the dissolution by mail.

Section 16. Subsection (5) of section 678.1051, Florida Statutes, is amended to read:

678.1051 Notice of adverse claim.—

(5) Filing of a financing statement under chapter 679 *or a judgment lien certificate under chapter 55* is not notice of an adverse claim to a financial asset.

Section 17. Paragraph (a) of subsection (5) of section 713.901, Florida Statutes, and subsections (6) and (7) of that section are amended to read:

713.901 Florida Uniform Federal Lien Registration Act.—

(5) DUTIES OF FILING OFFICER.—

(a) If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in paragraph (b) is presented to a filing officer who is:

1. The Secretary of State or his or her designee, *the filing officer* ~~he or she~~ shall cause the notice to be marked, held, and indexed in accordance with the provisions of *s. 55.202 and 55.203* ~~s. 679.403(4), as if the notice were a financing statement within the meaning of the Uniform Commercial Code~~.

2. Any other officer described in subsection (3), *the filing officer* ~~he or she~~ shall mark and index the notice or certificate in the same manner as other instruments filed for recording in the official records.

(6) FEES.—The charges or fees of the Secretary of State, with respect to a notice or certificate filed under this section, or for searching records with respect thereto, shall be the same as prescribed in *s.* ~~ss.~~ 15.091 ~~and 679.402, for filing and indexing financing statements or other writings under chapter 679, or for searching records with respect thereto~~. The charges or fees of the clerks of the circuit court with respect to a notice or certificate filed under this section shall be the same as prescribed in s. 28.24, relating to instruments recorded in the official records.

(7) UNIFORMITY OF APPLICATION AND CONSTRUCTION.—This section shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this section among the states enacting it *and to permit a filing officer, including the Secretary of State, who is now using a paper filing system to record notices of liens, certificates, and other notices affecting federal tax liens or other federal liens to use a filing system consisting of paper or an electronic or magnetic medium, or some combination thereof, as he or she considers appropriate, and to permit federal officials to file notices of liens upon real or personal property for obligations payable to the United States, and certificates and notices affecting those liens, under the filing system being maintained by the Secretary of State or the filing officer*.

Section 18. This act shall take effect October 1, 2001.

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 judgments and liens; amending s. 55.201, F.S.; conforming terminology; amending s. 55.202, F.S.; clarifying enforceable judgments subject to law; amending s. 55.203, F.S.; providing for electronic filing of liens, assessments, warrants, and judgments directly into database; amending s. 55.204, F.S.; clarifying content of judgment lien certificates; conforming terminology and clarifying filekeeping of judgment lien files by the Department of State; providing that filing of a judgment lien certificate does not extend the life of a judgment, order, decree, or warrant; amending s. 55.205, F.S.; clarifying the effect of judgment liens upon buyers who buy without notice as defined in s. 678.1051, F.S.; amending s. 55.206, F.S.; conforming terminology regarding amendments of judgment lien files; amending s. 55.207, F.S.; conforming terminology regarding correction of judgment lien files; amending s. 55.208, F.S.; conforming terminology regarding effect of filed judgment liens on writs of execution previously delivered to sheriffs; amending s. 55.209, F.S.; clarifying provisions regarding processing fees of judgment lien filing; amending s. 55.604, F.S.; eliminating requirement to file foreign judgments with the Department of State; amending s. 55.605, F.S.; eliminating requirements that the Secretary of State maintain a list of foreign jurisdictions recognizing judgments; amending s. 56.21, F.S.; clarifying provisions regarding execution sales; amending s. 56.27, F.S.; clarifying provisions regarding execution and payments thereunder; amending s. 77.01, F.S.; providing that certain debts related to negotiable instruments are not subject to garnishment; amending s. 77.041, F.S.; providing that only individuals subject to garnishment must be provided a "Notice to Defendant"; amending s. 678.1051, F.S.; providing that a judgment lien certificate does not constitute an adverse claim against a financial asset; amending s. 713.901, F.S., the Florida Uniform Federal Lien Registration Act; providing procedures for filing documentation relating to federal liens; providing an effective date.

Rep. Pickens moved the adoption of the amendment.

Representative(s) Pickens offered the following:

(Amendment Bar Code: 741483)

Amendment 1 to Amendment 5 (with title amendment)—On page 9, line 8, after the period(.), of the bill

insert: *This subsection shall not apply to:*

(a) A transfer to a relative or an insider of the judgment debtor, as such are defined at s. 726.102:

(b) A fraudulent transfer, as defined by either s. 726.105, or by U.S.C. 548;

(c) A fraudulent asset conversion as defined by s. 222.30; or

(d) A transfer of goods by a judgment debtor the value of which, in the aggregate, exceeds $7,500.

And the title is amended as follows:

On page 24, line 23, after the semicolon ";"

insert: providing an exemption for fraudulent conveyances;

Rep. Pickens moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 5**, as amended, which was adopted.

On motion by Rep. Pickens, the rules were waived and HB 601, as amended, was read the third time by title. On passage, the vote was:

Session Vote Sequence: 192

Yeas—117

The Chair	Benson	Cusack	Gibson
Alexander	Berfield	Detert	Goodlette
Allen	Betancourt	Diaz de la Portilla	Gottlieb
Andrews	Bilirakis	Diaz-Balart	Green
Arza	Bowen	Dockery	Greenstein
Attkisson	Brown	Farkas	Haridopolos
Atwater	Brummer	Fasano	Harper
Ausley	Brutus	Fields	Harrell
Baker	Bucher	Fiorentino	Harrington
Ball	Bullard	Flanagan	Hart
Barreiro	Byrd	Frankel	Henriquez
Baxley	Cantens	Gannon	Heyman
Bean	Carassas	Garcia	Hogan
Bennett	Clarke	Gardiner	Holloway
Bense	Crow	Gelber	Jennings

Johnson	Lynn	Peterman	Smith
Jordan	Machek	Pickens	Sobel
Joyner	Mack	Prieguez	Sorensen
Justice	Mahon	Rich	Spratt
Kallinger	Mayfield	Richardson	Stansel
Kendrick	Maygarden	Ritter	Trovillion
Kilmer	McGriff	Romeo	Wallace
Kosmas	Meadows	Ross	Waters
Kottkamp	Mealor	Rubio	Weissman
Kravitz	Melvin	Russell	Wiles
Kyle	Miller	Ryan	Wilson
Lacasa	Murman	Seiler	Wishner
Lee	Needelman	Simmons	
Lerner	Negron	Siplin	
Littlefield	Paul	Slosberg	

Nays—None

Votes after roll call:
Yeas—Bendross-Mindingall

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

HB 1157—A bill to be entitled An act relating to the Department of State; providing legislative findings; amending s. 679.401, F.S.; providing for alternative locations of certain filings; creating s. 679.4015, F.S.; establishing the Florida Secured Transaction Registry; requiring the Department of State to cease operating as designated filing officer and filing office for certain purposes; providing duties and responsibilities of the Department of State relating to establishing and maintaining the registry; providing criteria for the registry; providing effective dates.

—was read the second time by title.

The Committee on Banking offered the following:

(Amendment Bar Code: 554823)

Amendment 1 (with title amendment)—On page 2, line 25, through page 3, line 8,
remove from the bill: all of said lines,

and insert in lieu thereof:

(c) In all other cases, by filing *under the Florida Secured Transaction Registry* ~~in the office of the Department of State~~.

(5) Notwithstanding the preceding subsections, and subject to s. 679.302(3), the proper place to file in order to perfect a security interest in collateral, including fixtures, of a transmitting utility is *under the Florida Secured Transaction Registry* ~~the office of the Department of State~~.

Section 3. Section 679.4015, Florida Statutes, is created to read:

679.4015 Florida Secured Transaction Registry.—

(1) The "Florida Secured Transaction Registry means that centralized data base in which Financing Statements under the Uniform Commercial Code are filed and retrieved.

(2) The Department of State shall perform the administrative and operational functions as filing officer and filing office for the Florida Secured Transaction Registry until October 1, 2001 at which time the department shall cease serving as the designated filing officer and filing office for the Florida Secured Transaction Registry and as may otherwise be specified in this chapter.

(3) The Department of State shall immediately develop

And the title is amended as follows:

On page 1, lines 6 through 13,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: 679.4015, F.S.; providing a definition for the Florida Secured Transaction Registry; requiring the Department of State to cease operating as designated filing officer and filing office for certain purposes; providing duties and responsibilities of the Department of State relating to maintaining the registry; providing criteria for the registry;

Rep. Miller moved the adoption of the amendment, which failed of adoption.

The Committee on Banking offered the following:

(Amendment Bar Code: 763895)

Amendment 2—On page 3, lines 29 through 30,
remove from the bill: said line,

and insert in lieu thereof: *specified in chapter 15, net of operating costs.*

Rep. Miller moved the adoption of the amendment, which failed of adoption.

The Council for Competitive Commerce offered the following:

(Amendment Bar Code: 795599)

Amendment 3 (with title amendment)—On page 1, line 18, through page 3, line 8,
remove from the bill: all of said lines,

and insert in lieu thereof:

Section 1. Effective October 1, 2001, paragraph (c) of subsection (1) and subsection (5) of section 679.401, Florida Statutes, is amended to read:

679.401 Place of filing; erroneous filing; removal of collateral.—

(1) The proper place to file in order to perfect a security interest is as follows:

(c) In all other cases, by filing *under the Florida Secured Transaction Registry* ~~in the office of the Department of State~~.

(5) Notwithstanding the preceding subsections, and subject to s. 679.302(3), the proper place to file in order to perfect a security interest in collateral, including fixtures, of a transmitting utility is *under the Florida Secured Transaction Registry* ~~the office of the Department of State~~.

Section 2. Section 679.4015, Florida Statutes, is created to read:

679.4015 Florida Secured Transaction Registry.—

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

(a) The "Florida Secured Transaction Registry" or "registry" means the centralized database in which all initial financing statements, amendments, assignments, and other statements of change authorized to be filed under this chapter are filed, maintained, and retrieved. The term does not apply to documents that are filed under this chapter with the clerk of a circuit court.

(b) "Department" means the Department of State.

(c) "Materials and records" includes, but is not limited to data bases, source or object codes, and any software relating to the Florida Secured Transaction Registry or system for centralized filing under this part, regardless of the original source of its creation or maintenance.

(2) The Department of State may contract for the performance of the administrative and operational functions under this part of the filing office and filing officer for the Florida Secured Transaction Registry, provided that any such contract shall not be assignable or otherwise transferable without the express written consent of the department.

(3) The department shall perform the administrative and operational functions, as filing officer and filing office, for the Florida Secured Transaction Registry until October 1, 2001, or upon the effective date of

a contract executed by the department to administer and operate the registry, whichever occurs later. At such time, the department shall cease serving as the designated filing officer and filing office for the registry under this part, and thereafter, except to the extent it reclaims such responsibilities as provided below, shall not be responsible for the duties of the filing office and officer under this part, including determining whether documents tendered for filing under this part satisfy the requirements of law. The department shall retain authority under this part to approve the forms required to be filed under this part. If authorized by the contract, the entity performing the duties of the filing office may certify a copy of a financing statement or amendment thereto which shall be admissible in a state or federal court or other tribunal proceeding.

(4) Notwithstanding the terms and conditions of any contract to perform the administrative and operational functions of the filing office or filing officer under this part for the Florida Secured Transaction Registry, the department and the state shall retain sole and exclusive ownership of the materials and records of the registry, shall have the right to inspect and make copies of the materials and records of the registry, and shall have the right to immediately reclaim and take possession and control of the original materials and records of the registry if any entity under contract with the department to administer and operate the registry does not, or cannot, perform the terms and conditions of the contract for any reason or commences or consents to an insolvency proceeding. If the department reclaims control of the materials and records of the registry, the department shall provide for the uninterrupted fulfillment of the duties of the filing office and filing officer by administration and operation by the department until a subsequent contract for such duties can be executed. The department shall be entitled to injunctive relief if the entity fails to turn over the materials and records upon demand, and the Circuit Court for Leon County, Florida shall have exclusive original jurisdiction to adjudicate any disputes pertaining to this section or any contract entered into under this section.

(5) The Department of State shall immediately develop

And the title is amended as follows:

On page 1, lines 3 through 12,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: amending s. 679.401, F.S.; providing for alternative locations of certain filings; creating s. 679.4015, F.S.; providing definitions relating to the Florida Secured Transaction Registry; requiring the Department of State to cease operating as designated filing officer and filing office for certain purposes; providing duties and responsibilities of the Department of State relating to contracting for the administration, operation, and maintenance of the

Rep. Miller moved the adoption of the amendment, which failed of adoption.

Representative(s) Miller offered the following:

(Amendment Bar Code: 863673)

Amendment 4 (with title amendment)—On page 1, line 17,
remove from the bill: everything after the enacting clause,

and insert in lieu thereof:

Section 1. Subsection (6) of section 15.16, Florida Statutes, is amended to read:

15.16 Reproduction of records; admissibility in evidence; electronic receipt and transmission of records; certification; acknowledgment.—

(6) *Notwithstanding s. 865.09(3)(d),* the Department of State may *waive the requirement that a person advertise the intention to register a fictitious name if the department indexes the fictitious name registration in a central database available to the public on the Internet* ~~use government or private sector contractors in the promotion or provision of any electronic filing services~~.

Section 2. Subsection (3) of section 288.809, Florida Statutes, is amended to read:

288.809 Florida Intergovernmental Relations Foundation; use of property; board of directors; audit.—

(3) BOARD OF DIRECTORS.—The board of directors of the foundation shall be ~~composed of seven members~~ appointed by the Secretary of State, of whom no more than three shall be employees or elected officials of the state.

Section 3. Paragraph (f) of subsection (2) of section 288.816, Florida Statutes, is amended to read:

288.816 Intergovernmental relations.—

(2) The secretary shall be responsible for all consular relations between the state and all foreign governments doing business in Florida. The secretary shall monitor United States laws and directives to ensure that all federal treaties regarding foreign privileges and immunities are properly observed. The secretary shall promulgate rules which shall:

(f) Establish a system of communication to provide all state and local law enforcement agencies with information regarding proper procedures relating to the arrest or incarceration of a foreign citizen. ~~Florida law enforcement agencies shall inform the Department of State when such arrest or incarceration occurs. The secretary in turn shall notify the appropriate foreign governmental official. The secretary shall annually report on the actions taken to inform law enforcement agencies, and on the cooperation from such agencies, to the President of the Senate and the Speaker of the House of Representatives.~~

Section 4. Effective October 1, 2001, paragraph (c) of subsection (1) and subsection (5) of section 679.401, Florida Statutes, are amended to read:

679.401 Place of filing; erroneous filing; removal of collateral.—

(1) The proper place to file in order to perfect a security interest is as follows:

(c) In all other cases, by filing *under the Florida Secured Transaction Registry* ~~in the office of the Department of State~~.

(5) Notwithstanding the preceding subsections, and subject to s. 679.302(3), the proper place to file in order to perfect a security interest in collateral, including fixtures, of a transmitting utility is *under the Florida Secured Transaction Registry* ~~the office of the Department of State~~.

Section 5. Section 679.4015, Florida Statutes, is created to read:

679.4015 Florida Secured Transaction Registry.—

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

(a) "Florida Secured Transaction Registry" or "registry" means the central database in which all initial financing statements, amendments, assignments, and other statements of change authorized to be filed under this chapter are filed, maintained, and retrieved. The term does not apply to documents that are filed under this chapter with the clerk of a circuit court.

(b) "Department" means the Department of State.

(c) "Materials and records" includes, but is not limited to, databases, source or object codes, and any software relating to the Florida Secured Transaction Registry or other filing system under this chapter, regardless of the original source of its creation or maintenance.

(2) The department shall perform the duties of the filing office and filing officer under this chapter until October 1, 2001, or until the effective date of a contract executed by the department for the performance of these duties, whichever occurs later. At that time, the department shall cease serving as the filing office and filing officer under this chapter, and thereafter, except to the extent the department may reclaim those duties under paragraph (3)(d), the department is not

responsible for the performance of the duties of the filing office or filing officer under this chapter, including determinations of whether filings under this chapter satisfy the requirements of law.

(3) The department shall immediately develop and issue a request for qualifications seeking capable entities to perform the duties currently being performed by the department as the filing office and filing officer under this chapter.

(a) The qualifications shall, at a minimum, provide for the organization and maintenance of the Florida Secured Transaction Registry, which:

1. Is comparable and compatible with the department's current filing system.

2. Is open to the public and accessible through the Internet, to permit the review of all current filings of the department and all future filings in the registry, in compliance with chapter 119.

3. Provides for oversight and compliance audits by the department.

4. Requires records maintenance in compliance with this chapter and chapter 119.

5. Maintains the current level of filing fees and procedures for the deposit of revenues with the department as specified in chapter 15, net of operating costs.

(b) Under chapter 287, the department has the authority to determine and select the most qualified respondents to the request for qualifications and to negotiate and enter into one or more contracts as provided in this section.

(c) The contract may not be assignable or otherwise transferable without the express written consent of the department.

(d) Notwithstanding the terms and conditions of the contract, the department and the state retain sole and exclusive ownership of the materials and records in the registry, have the right to inspect and make copies of the materials and records in the registry, and have the right to immediately reclaim and take possession and control of the original materials and records in the registry if an entity under contract with the department does not, or cannot, perform the terms and conditions of the contract for any reason or commences an insolvency proceeding. If the department reclaims control of the materials and records in the registry, the department shall provide for the uninterrupted fulfillment of the duties of the filing office and filing officer under this chapter. The department is entitled to injunctive relief if an entity fails to turn over the materials and records upon demand, and the Circuit Court for Leon County, Florida, has exclusive original jurisdiction over any disputes pertaining to this section or any contract executed under this section.

(4) The department retains authority under this chapter to approve the forms required to be filed under this chapter. If authorized by the contract with the department, the entity performing the duties of the filing office may certify a copy of a financing statement, or an amendment thereto, which shall be admissible in a state or federal court or in a proceeding before any other tribunal.

(5) The department shall develop performance standards to ensure that the Florida Secured Transaction Registry is accurate and complete and that the users thereof are being well-served. Periodically, the department shall verify that these performance standards are being met or modified as may be needed from time to time.

Section 6. Section 901.26, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 901.26, F.S., for existing text.)

901.26 Arrest and detention of foreign nationals.—Failure to provide consular notification under the Vienna Convention on Consular Relations or other bilateral consular conventions shall not be a defense in any criminal proceeding against any foreign national and shall not be cause for the foreign national's discharge from custody.

Section 7. Except as otherwise provided herein, this act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, line 3-14,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: amending s. 15.16, F.S.; authorizing the department to waive certain advertising requirements; amending s. 288.809, F.S.; revising membership of the Florida Intergovernmental Relations Foundation; amending s. 288.816, F.S.; deleting a requirement that certain law enforcement agencies notify the department of certain arrests and incarcerations; amending s. 679.401, F.S.; specifying the Florida Secured Transaction Registry as a place for certain filings; creating s. 679.4015, F.S.; establishing the Florida Secured Transaction Registry; prescribing duties of the department; prescribing standards for the registry; providing powers and duties of contracting entities performing services with respect to the registry; amending s. 901.26, F.S.; providing that failure to provide certain consular notification shall not be a defense in a criminal proceeding or a cause for release of a foreign national from custody; providing effective dates.

Rep. Miller moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1565—A bill to be entitled An act relating to public records; providing an exemption from public records requirements for information identifying the location of specified archaeological and cultural sites; providing an expiration date; providing a finding of public necessity; providing an effective date.

—was read the second time by title.

The Committee on Tourism offered the following:

(Amendment Bar Code: 030983)

Amendment 1 (with title amendment)—On page 1, line 26 through page 2, line 25,
remove from the bill: all of said lines

and insert in lieu thereof:
archaeological sites be exempt and confidential from public records requirements because the state has a serious problem with archaeological looting. The exact location of an archaeological site should be exempt from disclosure if the Division of Historical Resources determines that disclosure of the site location will create a substantial risk of harm, theft, or destruction at the site.

(2) The Legislature also finds that the lack of protection for sensitive sites puts the Federal Government in a difficult position. The Federal Government is mandated to share site-specific information with the Florida State Historic Preservation Officer to comply with Section 106 of the National Historic Preservation Act of 1966, as amended. However, section 304 of the National Historic Preservation Act of 1966, as amended, protects specific information concerning the location and character of cultural resources, which includes archaeological sites, when sharing that information could place them in jeopardy.

(3) The Legislature further finds that this exemption is required by the development of Geographic Information System databases listing sites located in the Florida Master Site File at the Florida Department of State. The Geographic Information System is a valuable tool for recording site-location and survey data for participating in research, land-use planning, and site stewardship by land managers and law enforcement officers. However, while this data can be quickly disseminated to the public via the Internet, protective measures must be placed on the sharing and use of this data for sensitive archaeological locations.

(4) The Legislature also finds that new implementation guidelines for the National Historic Preservation Act of 1966, as amended, require

And the title is amended as follows:

On page 1, line 5,
remove from the title of the bill: all of said lines

and insert in lieu thereof: specified archaeological sites;

Rep. Trovillion moved the adoption of the amendment, which failed of adoption.

The Committee on State Administration offered the following:

(Amendment Bar Code: 803387)

Amendment 2 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *Any information identifying the location of archaeological sites contained in site files or other records maintained by the Division of Historical Resources of the Department of State is exempt from the provisions of section 119.07(1), Florida Statutes, and Section 24(a) of Article I of the State Constitution, if the Division of Historical Resources finds that disclosure of such information will create a substantial risk of harm, theft, or destruction at such sites. This section is subject to the Open Government Sunset Review Act in accordance with section 119.15, Florida Statutes, and expires on October 2, 2006, unless reviewed and reenacted by the Legislature.*

Section 2. *(1) The Legislature finds that it is a public necessity that information identifying the location of archaeological sites be exempt from public records requirements because the state has a serious problem with archaeological looting. The exact location of an archaeological site should be exempt from disclosure if the Division of Historical Resources determines that disclosure of the site location will create a substantial risk of harm, theft, or destruction at the site.*

(2) The Legislature also finds that the lack of protection for sensitive sites puts the federal government in a difficult position. The Federal Government is mandated to share site-specific information with the Florida State Historic Preservation Officer to comply with section 106 of the National Historic Preservation Act of 1966, as amended. However, section 304 of the National Historic Preservation Act of 1966, as amended, protects specific information concerning the location and character of cultural resources, which includes archaeological sites, when sharing that information could place them in jeopardy.

(3) The Legislature also finds that new implementation guidelines for the National Historic Preservation Act of 1966, as amended, require increased consultation with federally recognized tribes. The Legislature finds that managing information concerning Native American sacred sites and sites of cultural patrimony requires this exemption, because credible stewardship in this area necessitates the ability to protect sensitive information from public dissemination.

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

And the title is amended as follows:

On page 1, line 5,
remove from the title of the bill: all of said line

and insert in lieu thereof: specified archaeological sites;

Rep. Brummer moved the adoption of the amendment, which was adopted.

On motion by Rep. Hogan, the rules were waived and HB 1565, as amended, was read the third time by title. On passage, the vote was:

Session Vote Sequence: 193

Yeas—119

The Chair	Andrews	Attkisson	Baker
Alexander	Argenziano	Atwater	Ball
Allen	Arza	Ausley	Barreiro
Baxley	Fields	Kallinger	Pickens
Bean	Fiorentino	Kendrick	Prieguez
Bendross-Mindingall	Flanagan	Kilmer	Rich
Bennett	Frankel	Kosmas	Richardson
Bense	Gannon	Kottkamp	Ritter
Benson	Garcia	Kravitz	Romeo
Berfield	Gardiner	Kyle	Ross
Betancourt	Gelber	Lacasa	Rubio
Bilirakis	Gibson	Lee	Russell
Bowen	Goodlette	Lerner	Ryan
Brown	Gottlieb	Littlefield	Seiler
Brummer	Green	Lynn	Simmons
Brutus	Greenstein	Machek	Siplin
Bucher	Haridopolos	Mack	Slosberg
Bullard	Harper	Mahon	Smith
Byrd	Harrell	Mayfield	Sobel
Cantens	Harrington	Maygarden	Sorensen
Carassas	Hart	McGriff	Spratt
Clarke	Henriquez	Meadows	Stansel
Crow	Heyman	Mealor	Trovillion
Cusack	Hogan	Melvin	Wallace
Detert	Holloway	Miller	Waters
Diaz de la Portilla	Jennings	Murman	Weissman
Diaz-Balart	Johnson	Needelman	Wiles
Dockery	Jordan	Negron	Wilson
Farkas	Joyner	Paul	Wishner
Fasano	Justice	Peterman	

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

CS/HB 333 was taken up. On motion by Rep. Kosmas, the rules were waived and SB 1166 was substituted for CS/HB 333. Under Rule 5.15, the House bill was laid on the table and—

SB 1166—A bill to be entitled An act relating to the Cultural Endowment Program; amending s. 265.606, F.S.; revising the types of instruments into which the trustees may invest, to include any investment-quality financial instruments; providing an effective date.

—was read the second time by title.

Representative(s) Kosmas offered the following:

(Amendment Bar Code: 050087)

Amendment 1—On page 1, lines 23 and 24
remove from the bill: *State Board of Administration*

and insert in lieu thereof: *department*

Rep. Kosmas moved the adoption of the amendment, which was adopted.

On motion by Rep. Kosmas, the rules were waived and SB 1166, as amended, was read the third time by title. On passage, the vote was:

Session Vote Sequence: 194

Yeas—118

The Chair	Baxley	Brutus	Dockery
Alexander	Bean	Bucher	Farkas
Allen	Bendross-Mindingall	Bullard	Fasano
Andrews	Bennett	Byrd	Fields
Argenziano	Bense	Cantens	Fiorentino
Arza	Benson	Carassas	Flanagan
Attkisson	Berfield	Clarke	Frankel
Atwater	Betancourt	Crow	Garcia
Ausley	Bilirakis	Cusack	Gardiner
Baker	Bowen	Detert	Gelber
Ball	Brown	Diaz de la Portilla	Gibson
Barreiro	Brummer	Diaz-Balart	Goodlette

Gottlieb	Kendrick	Mealor	Seiler
Green	Kilmer	Melvin	Simmons
Greenstein	Kosmas	Miller	Siplin
Haridopolos	Kottkamp	Murman	Slosberg
Harper	Kravitz	Needelman	Smith
Harrell	Kyle	Negron	Sobel
Harrington	Lacasa	Paul	Sorensen
Hart	Lee	Peterman	Spratt
Henriquez	Lerner	Pickens	Stansel
Heyman	Littlefield	Prieguez	Trovillion
Hogan	Lynn	Rich	Wallace
Holloway	Machek	Richardson	Waters
Jennings	Mack	Ritter	Weissman
Johnson	Mahon	Romeo	Wiles
Jordan	Mayfield	Ross	Wilson
Joyner	Maygarden	Rubio	Wishner
Justice	McGriff	Russell	
Kallinger	Meadows	Ryan	

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

CS/HB 987—A bill to be entitled An act relating to grants administered by the Division of Cultural Affairs; creating s. 265.702, F.S.; authorizing the Division of Cultural Affairs of the Department of State to accept and administer funds to provide grants for acquiring, renovating, or constructing regional cultural facilities; providing for eligibility; requiring the Florida Arts Council to review grant applications; requiring the council to submit an annual list to the Secretary of State; requiring the updating of information submitted by an applicant that is carried over from a prior year; providing definitions; providing standards for matching state funds; limiting the maximum amounts of grants; granting rulemaking authority to the division; amending s. 265.286, F.S.; expanding eligibility criteria for the challenge grant program; providing match requirements; prohibiting participation by any programs operated in state-owned cultural facilities not affiliated with the State University System; providing an effective date.

—was read the second time by title.

The Council for Ready Infrastructure offered the following:

(Amendment Bar Code: 771455)

Amendment 1—On page 3, line 23
remove from the bill: *150-mile*

and insert in lieu thereof: *90-mile*

Rep. Rubio moved the adoption of the amendment, which was adopted.

The Council for Ready Infrastructure offered the following:

(Amendment Bar Code: 673809)

Amendment 2—On page 3, line 27,
remove from the bill: *$50 million*

and insert in lieu thereof: *$20 million*

Rep. Rubio moved the adoption of the amendment, which was adopted.

On motion by Rep. Prieguez, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Prieguez offered the following:

(Amendment Bar Code: 081341)

Amendment 3—On page 3, between lines 27 and 28,

insert:

(e) Is not situated on land owned by the state.

Rep. Prieguez moved the adoption of the amendment, which was adopted.

On motion by Rep. Rubio, the rules were waived and CS/HB 987, as amended, was read the third time by title. On passage, the vote was:

Session Vote Sequence: 195

Yeas—113

Alexander	Crow	Holloway	Paul
Allen	Cusack	Jennings	Pickens
Andrews	Detert	Jordan	Prieguez
Argenziano	Diaz de la Portilla	Joyner	Rich
Arza	Diaz-Balart	Justice	Richardson
Attkisson	Dockery	Kallinger	Ritter
Atwater	Farkas	Kendrick	Romeo
Ausley	Fasano	Kilmer	Ross
Baker	Fields	Kosmas	Rubio
Ball	Fiorentino	Kravitz	Russell
Barreiro	Flanagan	Kyle	Ryan
Baxley	Frankel	Lacasa	Seiler
Bean	Gannon	Lee	Simmons
Bendross-Mindingall	Garcia	Lerner	Siplin
Bennett	Gardiner	Littlefield	Slosberg
Bense	Gelber	Lynn	Smith
Benson	Gibson	Machek	Sobel
Betancourt	Goodlette	Mack	Sorensen
Bilirakis	Gottlieb	Mahon	Spratt
Bowen	Green	Mayfield	Stansel
Brown	Greenstein	Maygarden	Trovillion
Brummer	Haridopolos	McGriff	Waters
Brutus	Harper	Meadows	Weissman
Bucher	Harrell	Mealor	Wiles
Bullard	Harrington	Melvin	Wilson
Byrd	Hart	Miller	Wishner
Cantens	Henriquez	Murman	
Carassas	Heyman	Needelman	
Clarke	Hogan	Negron	

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

On motion by Rep. Miller, the House returned to consideration of—

HB 1157—A bill to be entitled An act relating to the Department of State; providing legislative findings; amending s. 679.401, F.S.; providing for alternative locations of certain filings; creating s. 679.4015, F.S.; establishing the Florida Secured Transaction Registry; requiring the Department of State to cease operating as designated filing officer and filing office for certain purposes; providing duties and responsibilities of the Department of State relating to establishing and maintaining the registry; providing criteria for the registry; providing effective dates.

Reconsideration

On motion by Rep. Miller, the House reconsidered the vote by which **Amendment 4** was adopted, earlier today.

The question recurred on the adoption of Amendment 4.

On motion by Rep. Wiles, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Wiles offered the following:

(Amendment Bar Code: 265257)

Amendment 1 to Amendment 4 (with title amendment)—On page 1, between lines 17 and 18, of the amendment

insert:

Section 1. *(1) The Coastal Management Program of the Department of Community Affairs and the Division of Historical Resources of the Department of State shall undertake a study of the lighthouses in the state. The study must determine the location, ownership, condition, and historical significance of all lighthouses in the state and ensure that all historically significant lighthouses are nominated for inclusion on the National Register of Historic Places. The study must assess the condition and restoration needs of historic lighthouses and develop plans for appropriate future public access and use. The Coastal Management Program and the Division of Historical Resources shall take a leadership role in implementing plans to stabilize lighthouses and associated structures and to preserve and protect them from future deterioration. When possible, the lighthouses and associated buildings should be made available to the public for educational and recreational purposes. The Department of Community Affairs should consider these responsibilities to be a priority of the Florida Coastal Management Program and implementation of this act should be a priority in the use of coastal management funds.*

(2) The Department of Community Affairs and the Department of State shall request in their annual legislative budget requests funding necessary to carry out the duties and responsibilities specified in this act. Funds for the rehabilitation of lighthouses should be allocated through matching grants-in-aid to state and local government agencies and to nonprofit organizations. The Department of Community Affairs may assist the Division of Historical Resources in projects to accomplish lighthouse identification, assessment, restoration, and interpretation.

(3) There are hereby appropriated in fiscal year 2001-2002 the sums of $50,000 from nonrecurring General Revenue to the Department of State and $50,000 from nonrecurring General Revenue to the Department of Community Affairs to implement the study required by this section.

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

And the title is amended as follows:

On page 6, line 28, of the amendment

insert: directing the Department of Community Affairs and the Department of State to conduct a study of lighthouses in the state; providing requirements of the study; providing for planning and funding responsibilities; directing each department to make a budget request for funding purposes; providing an appropriation;

Rep. Wiles moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 4**, as amended, which was adopted.

On motion by Rep. Miller, the rules were waived and HB 1157, as amended, was read the third time by title. On passage, the vote was:

Session Vote Sequence: 196

Yeas—118

The Chair	Bendross-Mindingall	Cantens	Frankel
Alexander	Bennett	Carassas	Gannon
Allen	Bense	Clarke	Garcia
Andrews	Benson	Crow	Gardiner
Argenziano	Berfield	Cusack	Gelber
Arza	Betancourt	Detert	Gibson
Attkisson	Bilirakis	Diaz de la Portilla	Goodlette
Atwater	Bowen	Diaz-Balart	Gottlieb
Ausley	Brown	Dockery	Green
Baker	Brummer	Farkas	Greenstein
Ball	Brutus	Fasano	Haridopolos
Barreiro	Bucher	Fields	Harper
Baxley	Bullard	Fiorentino	Harrell
Bean	Byrd	Flanagan	Harrington
Hart	Lacasa	Needelman	Siplin
Henriquez	Lee	Negron	Slosberg
Heyman	Lerner	Paul	Smith
Hogan	Littlefield	Peterman	Sobel
Holloway	Lynn	Pickens	Sorensen
Jennings	Machek	Prieguez	Spratt
Jordan	Mack	Rich	Stansel
Joyner	Mahon	Richardson	Trovillion
Justice	Mayfield	Ritter	Wallace
Kallinger	Maygarden	Romeo	Waters
Kendrick	McGriff	Ross	Weissman
Kilmer	Meadows	Rubio	Wiles
Kosmas	Mealor	Russell	Wilson
Kottkamp	Melvin	Ryan	Wishner
Kravitz	Miller	Seiler	
Kyle	Murman	Simmons	

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

On motion by Rep. Byrd, the House moved to the consideration of HB 1881 on Special Orders.

HB 1881—A bill to be entitled An act relating to public records and meetings; providing an exemption from the public records law for certain records relating to internal risk management programs in nursing homes and assisted living facilities; providing for release of such information under certain circumstances; providing an exemption from the public meetings law for meetings of internal risk management and quality assurance committees in nursing homes and assisted living facilities; providing for future legislative review and repeal; providing a statement of public necessity; creating s. 430.105, F.S.; providing for confidentiality and exemption from the public records law for information relating to clients of the Department of Elderly Affairs, clients of service providers contracting with the Department of Elderly Affairs, and certain elders receiving services through programs administered by or funded by the Department of Elderly Affairs; requiring consent for disclosure; providing for future legislative review and repeal; providing a statement of public necessity; providing a contingent effective date.

—was read the second time by title.

Representative(s) Argenziano offered the following:

(Amendment Bar Code: 492781)

Amendment 1—On page 2, line 14 after the period

insert: *Residents who are the subject of or identified in incident reports or other related records shall be entitled to receive a copy of those documents upon request.*

Rep. Argenziano moved the adoption of the amendment, which was adopted.

Representative(s) Brummer offered the following:

(Amendment Bar Code: 353849)

Amendment 2—On page 3, line 5, and On page 4, line 20, remove from the bill: *1*

and insert in lieu thereof: *2*

Rep. Brummer moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1915—A bill to be entitled An act relating to agriculture and consumer services; amending s. 120.80, F.S.; providing that marketing orders under ch. 527, F.S., are not rules; amending s. 125.27, F.S.; authorizing the Department of Agriculture and Consumer Services to lease or loan equipment to governmental entities that have fire/rescue

responsibilities; limiting liability for civil damages resulting from use or possession of such equipment; amending s. 201.15, F.S.; authorizing the department to adopt rules regarding the distribution of funds for best management practices; amending s. 316.228, F.S.; revising requirements for lamps on projecting loads; amending s. 320.08, F.S.; revising definition of a truck known as a "goat"; amending s. 403.714, F.S.; deleting requirement that the department coordinate development of uniform product specifications for compost used by state agencies; amending s. 487.041, F.S.; authorizing the department to require and review data relating to the claims of pesticide products used as preventive treatment for termites; authorizing the department to adopt rules; amending s. 500.09, F.S.; authorizing fees for certain reinspection of food establishments; amending s. 500.12, F.S.; increasing the maximum food establishment operating permit fee; providing use of such fee; amending ss. 502.012 and 502.014, F.S.; revising references relating to the pasteurized milk ordinance and milk sanitation; deleting requirement that a copy of a federal temporary marketing permit for milk and milk products be forwarded to the department; amending s. 502.053, F.S.; clarifying milk testing requirements; amending s. 502.091, F.S.; authorizing the department to forgo the grading of certain milk products in an emergency; providing for labeling; amending s. 503.041, F.S.; providing that attempting to transfer a frozen dessert plant license is grounds for license suspension or revocation; amending s. 570.07, F.S.; authorizing the department to repair or build structures; providing restrictions; authorizing the department to conduct investigations of violations of laws relating to consumer protection; amending s. 503.071, F.S.; providing for the embargo, detainment, or destruction of food or food processing equipment of a frozen dessert manufacturer; amending s. 570.244, F.S.; clarifying powers and duties of the department relating to the development of agribusinesses; amending s. 570.249, F.S.; clarifying aquacultural crops eligible for Agricultural Economic Development Program disaster loans; revising loan application requirements; directing the department to establish an agribusiness market development grant program; amending s. 570.38, F.S.; increasing membership of the Animal Industry Technical Council; amending s. 580.051, F.S.; revising label requirements for commercial feed; providing a penalty; amending s. 580.065, F.S.; revising feed laboratory standards and procedures; amending s. 580.091, F.S.; removing intent language regarding feed sampling and analysis; revising department procedures relating to approval of a quality-assurance/quality-control plan; amending s. 580.112, F.S.; prohibiting distribution of a feed or feedstuff that is prohibited by federal law or regulation; amending s. 581.211, F.S.; providing a penalty for violation of rules relating to plant industry; amending s. 585.002, F.S.; limiting local government regulation with respect to the humane care and treatment of livestock and poultry; amending s. 585.145, F.S.; providing for qualification of accredited veterinarians to provide official certificates of veterinary inspection; providing conditions for denial of authority to issue such certificates; amending s. 585.155, F.S.; revising vaccination requirements for calves; amending s. 616.242, F.S.; providing additional exemptions from amusement ride safety standards; amending s. 633.557, F.S.; revising exemptions from contractor requirements for certain farm buildings; amending s. 828.22, F.S.; creating the "Humane Slaughter Act"; revising provisions relating to humane slaughter and livestock euthanasia; amending s. 828.23, F.S.; revising definitions; amending s. 828.24, F.S.; revising provisions relating to prohibited acts; amending s. 828.25, F.S.; revising provisions relating to administration of the act by the department; creating s. 828.251, F.S.; directing the department to make current technical information available to slaughterers; creating s. 828.252, F.S.; providing for humane treatment of nonambulatory animals; amending s. 828.26, F.S.; revising penalties; amending ss. 427.804 and 559.921, F.S.; correcting cross references; repealing s. 570.544(10) and (11), F.S., relating to authority of the Division of Consumer Services of the department to conduct investigations of violations of laws relating to consumer protection; providing effective dates.

—was read the second time by title.

Representative(s) Wallace offered the following:

(Amendment Bar Code: 643547)

Amendment 1—On page 10, line 14
remove from the bill: *$1,000*

and insert in lieu thereof: *$500*

Rep. Wallace moved the adoption of the amendment.

Rep. Kyle moved that, under Rule 12.2(c), a late-filed substitute amendment be allowed for consideration, which was not agreed to.

THE SPEAKER PRO TEMPORE IN THE CHAIR

The question recurred on the adoption of **Amendment 1**, which was adopted.

Representative(s) Spratt offered the following:

(Amendment Bar Code: 343353)

Amendment 2 (with title amendment)—On page 13, between lines 21 & 22,

insert:

Section 15. *Effective upon becoming a law, sections 536.20, 536.21, and 536.22, Florida Statutes, are repealed.*

Section 16. *Effective upon becoming a law, section 570.381, Florida Statutes, is repealed.*

Section 17. Effective upon becoming a law, paragraph (b) of subsection (7) of section 550.2625, Florida Statutes, is amended to read:

550.2625 Horseracing; minimum purse requirement, Florida breeders' and owners' awards.—

(7)

(b) The division shall deposit these collections to the credit of the Florida Quarter Horse Racing Promotion Trust Fund in a special account to be known as the "Florida Appaloosa Racing Promotion Fund." The Department of Agriculture and Consumer Services shall administer the funds and adopt suitable and reasonable rules for the administration thereof. The moneys in the Florida Appaloosa Racing Promotion Fund shall be allocated solely for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing Appaloosas in this state; and such moneys may not be used to defray any expense of the Department of Agriculture and Consumer Services in the administration of this chapter~~, except that the moneys generated by Appaloosa registration fees received pursuant to s. 570.381 may be used as provided in paragraph (5)(b) of that section~~.

Section 18. Effective upon becoming a law, subsection (2) of section 550.2633, Florida Statutes, is amended to read:

550.2633 Horseracing; distribution of abandoned interest in or contributions to pari-mutuel pools.—

(2) All moneys or other property which has escheated to and become the property of the state as provided herein and which is held by a permitholder authorized to conduct pari-mutuel pools in this state shall be paid annually by the permitholder to the recipient designated in this subsection within 60 days after the close of the race meeting of the permitholder. Section 550.1645 notwithstanding, such moneys shall be paid by the permitholder as follows:

(a) Funds from any harness horse races shall be paid to the Florida Standardbred Breeders and Owners Association and shall be used for the payment of breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for, and for the general promotion of owning and breeding of, Florida-bred standardbred horses, as provided for in s. 550.2625.

(b) Except as provided in paragraph~~s~~ (c)~~ and (d)~~, funds from quarter horse races shall be paid to the Florida Quarter Horse Breeders and Owners Association and shall be allocated solely for supplementing and

augmenting purses and prizes and for the general promotion of owning and breeding of racing quarter horses in this state, as provided for in s. 550.2625.

~~(c) Funds for Appaloosa races conducted under a quarter horse racing permit shall be deposited into the Florida Quarter Horse Racing Promotion Trust Fund in a special account to be known as the "Florida Appaloosa Racing Promotion Fund" and shall be used for the payment of breeders' awards and stallion awards as provided for in s. 570.381.~~

(c)~~(d)~~ Funds for Arabian horse races conducted under a quarter horse racing permit shall be deposited into the Florida Quarter Horse Racing Promotion Trust Fund in a special account to be known as the "Florida Arabian Horse Racing Promotion Fund" and shall be used for the payment of breeders' awards and stallion awards as provided for in s. 570.382.

And the title is amended as follows:

On page 2, line 13, after the semicolon,

insert: repealing ss. 536.20, 536.21, and 536.22, F.S., relating to timber and lumber; repealing s. 570.381, F.S., relating to Appaloosa racing; amending ss. 550.2625 and 550.2633, F.S.; correcting cross references;

Rep. Spratt moved the adoption of the amendment, which was adopted.

Representative(s) Spratt offered the following:

(Amendment Bar Code: 455985)

Amendment 3 (with title amendment)—On page 13 of the bill, between lines 21 & 22,

insert:

Section 15. *Effective December 31, 2002, sections 504.21, 504.22, 504.23, 504.24, 504.25, 504.26, 504.27, 504.28, 504.29, 504.31, 504.32, 504.33, 504.34, 504.35, and 504.36, Florida Statutes, are repealed.*

And the title is amended as follows:

On page 2, line 13 after the semicolon,

insert: repealing ss. 504.21, 504.22, 504.23, 504.24, 504.25, 504.26, 504.27, 504.28, 504.29, 504.31, 504.32, 504.33, 504.34, 504.35, and 504.36, F.S.; eliminating the Florida Organic Farming and Food Law; providing an effective date.

Rep. Spratt moved the adoption of the amendment, which was adopted.

Representative(s) Spratt offered the following:

(Amendment Bar Code: 662813)

Amendment 4—On page 14 of the bill, line 8, after *department*

insert: *with the coordination of the Department of Legal Affairs and any state attorney, if the violation has occurred or is occurring within her or his judicial circuit,*

Rep. Spratt moved the adoption of the amendment, which was adopted.

Representative(s) Spratt offered the following:

(Amendment Bar Code: 082409)

Amendment 5 (with title amendment)—On page 17 of the bill, between lines 9 & 10,

insert:

Section 20. Subsections (2) and (10) of section 580.031, Florida Statutes, are amended to read:

580.031 Definitions of words and terms.—As used in this chapter, the term:

(2) "Commercial feed" means all materials or combinations of materials that are distributed or intended to be distributed for use as feed or for mixing in a feed for animals other than humans, except:

(a) Unmixed whole seeds, including physically altered entire unmixed seeds, when such seeds are not chemically changed or are not adulterated within the meaning of s. 580.071.

(b) Unground hay, straw, stover, silage, cobs, husks, and hulls, and individual chemical compounds or substances, when such commodities, compounds, or substances are unmixed with other substances and are not adulterated within the meaning of s. 580.071.

(c) Feed mixed by the consumer for the consumer's own use made entirely or in part from products raised on the consumer's farm, except as is provided by rules of the department.

~~(d) Any material or combination of materials that is distributed for use as feed for domestic pets such as but not limited to: dogs, cats, gerbils, hamsters, birds, fish, reptiles, and amphibians.~~

(10) "Feedstuff" means edible materials, other than commercial feed, which are distributed for animal consumption and which contribute energy or nutrients, or both, to an animal diet. The term includes ingredients as defined in this section. ~~The term does not include any material or combination of materials that is distributed for use as feed for domestic pets such as but not limited to: dogs, cats, gerbils, hamsters, birds, fish, reptiles, and amphibians.~~

And the title is amended as follows:

On page 3, line 1, after the semicolon,

insert: amending s. 580.031, F.S.; revising definitions;

Rep. Spratt moved the adoption of the amendment, which was adopted.

Representative(s) Spratt offered the following:

(Amendment Bar Code: 444745)

Amendment 6 (with directory language amendment)—On page 23, line 21,
remove from the bill: all of said line

and insert in lieu thereof: horse, swine, and other ~~agriculture~~ feed.

(a) Unless otherwise provided in this chapter, the department shall not require distributors of 300 tons or less of poultry, dairy cow, beef cattle, horse, swine, or other ~~agriculture~~ feed per year to submit more than one sample of each such feed per year for analysis.

And the directory language is amended as follows:

On page 23, line 9
remove: all of said line

and insert in lieu thereof:

Section 22. Subsection (2) and

Rep. Spratt moved the adoption of the amendment, which was adopted.

Representative(s) Spratt offered the following:

(Amendment Bar Code: 401089)

Amendment 7 (with title amendment)—On page 25, lines 6-18,
remove from the bill: all of said lines

And the title is amended as follows:

On page 3, lines 15-18,
remove from the title of the bill: all of said lines

and insert in lieu thereof: industry; amending s. 585.145, F.S.; providing

Rep. Spratt moved the adoption of the amendment, which was adopted.

Representative(s) Spratt offered the following:

(Amendment Bar Code: 892455)

Amendment 8 (with title amendment)—On page 26 of the bill, between lines 16 & 17,

insert:

Section 28. Section 589.19, Florida Statutes, is amended to read:

589.19 Creation of certain state forests*; naming of certain state forests*.—

(1) When the Board of Trustees of the Internal Improvement Trust Fund, any state agency, or any agency created by state law, authorized to accept reforestation lands in the name of the state, approve the recommendations of the Division of Forestry in reference to the acquisition of land and acquire such land, the said board, state agency, or agency created by state law, may formally designate and dedicate any area as a reforestation project, or state forest, and where so designated and dedicated such area shall be under the administration of the division which shall be authorized to manage and administer said area according to the purpose for which it was designated and dedicated.

(2) The first state forest acquired by the Board of Trustees of the Internal Improvement Trust Fund in Baker County is to be named the John M. Bethea State Forest. This is to honor Mr. John M. Bethea who was Florida's fourth state forester and whose distinguished career in state government spanned 46 years and who is a native of Baker County.

And the title is amended as follows:

On page 3, line 24 after the semicolon,

insert: amending s. 589.19, F.S.; naming a state forest;

Rep. Spratt moved the adoption of the amendment, which was adopted.

Representative(s) Alexander offered the following:

(Amendment Bar Code: 220211)

Amendment 9 (with title amendment)—On page 34, between lines 26 and 27, of the bill

insert:

Section 40. Section 20.29, Florida Statutes, is repealed:

~~20.29 Department of Citrus. The State Citrus Commission, created under chapter 601, is continued and renamed the Department of Citrus.~~

~~(1) The head of the Department of Citrus is the board, established by s. 601.04, and said board is hereby named the "Florida Citrus Commission."~~

~~(2) All of the powers, duties, and functions of the Florida Citrus Commission are continued in the board, as head of the department. The board shall derive all of its powers, duties, and functions from chapter 601.~~

~~(3) All of the personnel, records, property, and unexpended balances of appropriations and other funds are continued with the Department of Citrus as presently held.~~

Section 41. Section 601.01, Florida Statutes, is reenacted and amended to read:

601.01 *Creation of the Florida Citrus Authority* ~~Short title~~.—

(1) This chapter may be known and cited as "the Florida Citrus Code ~~of 1949~~."

(2) There is hereby created the Florida Citrus Authority, a public body corporate and politic and an independent special district and instrumentality of the state, under the supervision of the Florida Citrus Commission, for the purposes and with the powers herein set forth. The Florida Citrus Authority shall have perpetual succession and sovereign immunity as provided in s. 768.28.

(3) The Florida Citrus Authority shall be a body corporate, shall have power to contract and be contracted with, and shall have and possess all the powers of a body corporate for all purposes necessary to fully carry out the provisions and requirements of this chapter. The Florida Citrus Authority shall adopt a corporate seal with which it shall authenticate its proceedings.

(4) All of the assets, personnel records, documents, records, patents, trademarks, copyrights, real property, intangible property, furniture, office equipment, supplies, operating account balances, and unexpended balances of appropriations shall be transferred from the Department of Citrus to the Florida Citrus Authority and shall continue as provided in this chapter. All liabilities of the Department of Citrus shall become the responsibility of the Florida Citrus Authority.

(5) The Legislature acknowledges that there are currently many services that the Department of Citrus receives by virtue of being an agency of the executive branch. These services include, but are not limited to, payroll, purchasing, computer services, accounting services, and insurance and retirement benefits. The Florida Citrus Authority shall continue to receive the same services from executive agencies as the Department of Citrus until such time that the Florida Citrus Authority has made the appropriate transition.

(6) All administrative rules of the Department of Citrus in effect on the effective date of this act shall become the adopted rules of the Florida Citrus Authority on the effective date of this act.

(7) The Florida Citrus Authority is established as an independent special district to be composed of three subdistricts as provided in s. 601.09.

Section 42. Section 601.02, Florida Statutes, is reenacted and amended to read:

601.02 Purposes.—*The purpose of the Florida Citrus Authority is to provide advertising, marketing, research, and promotions for the benefit of the citrus industry, and to implement and enforce the regulations regarding the quality of citrus products. The goals of the Florida Citrus Authority shall be* ~~This chapter is passed~~:

(1) ~~In the exercise of the police power~~ To protect *the* health and welfare and to stabilize and protect the citrus industry of the state.

(2) *To help maximize* ~~Because the planting, growing, cultivating, spraying, pruning, and fertilizing of citrus groves and the harvesting, hauling, processing, packing, canning, and concentrating of the citrus crop produced thereon is the major agricultural enterprise of Florida and, together with~~ the sale and distribution of *the citrus* ~~said~~ crop *for the benefit of the citrus industry.*~~, affects the health, morals, and general economy of a vast number of citizens of the state who are either directly or indirectly dependent thereon for a livelihood, and said business is therefore of vast public interest.~~

(3) ~~Because it is wise, necessary, and expedient~~ To protect and enhance the quality and reputation of Florida citrus fruit and the canned and concentrated products thereof in domestic and foreign markets.

(4) To provide means whereby producers, packers, canners, and concentrators of citrus fruit and the canned and concentrated products thereof may secure prompt and efficient inspection and classification of grades of citrus fruit and the canned and concentrated products thereof at reasonable costs, it being hereby recognized that the standardization of the citrus fruit industry of Florida by the proper grading and classification of citrus fruit and the canned and concentrated products thereof by prompt and efficient inspection under competent authority is beneficial alike to producer, packer, shipper, canner, concentrator, carrier, receiver, and consumer in that it furnishes them prima facie evidence of the quality and condition of such products and informs the

carrier and receiver of the quality of the products carried and received by them and assures the ultimate consumer of the quality of the products purchased.

(5) To enable *the Florida Citrus Authority to assess* citrus producers collectively *to generate funds for* ~~to pay assessments to fund~~ marketing*,* ~~and~~ research*, promotions and regulatory* programs for the direct benefit of the citrus industry of this state. *The Florida Citrus Authority shall collect and maintain the funds collected pursuant to chapter 189 and the Florida Citrus Code; however, provisions of ss. 189.404(3)(n), 189.4045, 189.405, 189.4051, 189.415, and 189.4155 shall not be applicable to the Florida Citrus Authority. No moneys collected by the Florida Citrus Authority shall become general revenue funds nor shall such moneys be subject to legislative appropriations. Assessments collected pursuant to the Florida Citrus Code shall not be used for the purpose of eradication of canker or other pest infestation.* It is the intent of the Legislature that all funds collected under this chapter and the interest accrued on such funds are consideration for a social contract between the *Florida Citrus Authority* ~~state~~ and the citrus growers of the state whereby the *Florida Citrus Authority* ~~state~~ must hold *and use* such funds ~~in trust and inviolate and use them only~~ for the purposes prescribed in this chapter.

(6) To stabilize the Florida citrus industry and to protect the public against fraud, deception, and financial loss through unscrupulous practices and haphazard methods in connection with the processing and marketing of citrus fruit and the canned or concentrated products thereof.

~~(7) Because said act is designed to promote the general welfare of the Florida citrus industry, which in turn will promote the general welfare and social and political economy of the state.~~

In the event any word, phrase, clause, sentence, paragraph, or section of this chapter is declared unconstitutional by any court of competent jurisdiction, then such declaration of such unconstitutionality shall not affect the remainder of this chapter, and the unconstitutional portion shall be considered severable, it being the intent of the Legislature that the remainder of this chapter shall continue in full force and effect.

Section 43. Section 601.03, Florida Statutes, is reenacted and amended to read:

601.03 Definitions.—In construing this chapter, where the context permits the word, phrase, or term:

(1) "Additive" means any foreign substance which, when added to any citrus fruit juice, will change the amount of total soluble solids or anhydrous citric acid therein, or the color or taste thereof, or act as an artificial preservative thereof;

(2) "Agent" means any person who, on behalf of any citrus fruit dealer, negotiates the consignment, purchase, or sale of citrus fruit, or weighs citrus fruit so that the weight thereof may be used in computing the amount to be paid therefor;

(3) "Broker" means any person engaged in the business of negotiating the sale or purchase of citrus fruit for others;

(4) "Canned products" means juices, segments, or sections of citrus fruits sealed in hermetically sealed containers at a concentration of not exceeding 20 degrees Brix and sufficiently processed by heat to ensure preservation of the product, and when regulated by the *Florida Citrus Authority* ~~Department of Citrus~~, these same products packed in any other manner or in any other type container;

(5) "Canning plant" means any building, structure, or place where citrus fruit or the juice thereof is canned or prepared for canning at a concentration of not exceeding 20 degrees Brix for market or shipment;

(6) "Cash buyer" means any person who purchases citrus fruit in this state from the producer for the purpose of resale;

(7) "Citrus fruit" means all varieties and regulated hybrids of citrus fruit and also means processed citrus products containing 20 percent or more citrus fruit or citrus fruit juice, but, for the purposes of this chapter, shall not mean limes, lemons, marmalade, jellies, preserves, candies, or citrus hybrids for which no specific standards have been established by the *Florida Citrus Authority* ~~Department of Citrus~~;

(8) "Citrus fruit dealer" means any consignor, commission merchant, consignment shipper, cash buyer, broker, association, cooperative association, express or gift fruit shipper, or person who in any manner makes or attempts to make money or other thing of value on citrus fruit in any manner whatsoever, other than of growing or producing citrus fruit, but the term shall not include retail establishments whose sales are direct to consumers and not for resale or persons or firms trading solely in citrus futures contracts on a regulated commodity exchange;

(9) "Citrus producing area" means that part or parts of the state in which citrus fruit is grown or produced;

(10) "Color-add" or "color-added" means the application or use of any coloring matter to any citrus fruit;

(11) "Coloring matter" means any dye, or any liquid or concentrate or material containing a dye or materials which react to form a dye, used or intended to be used for the purpose of enhancing the color of citrus fruit by the addition of artificial color to the peel thereof; provided that said term shall not include any process or treatment of fruit which merely brings out or accelerates the natural color of the fruit;

(12) "Coloring room" means any room or place where citrus fruit is placed, with or without the use of heat or any gas, for the purpose of bringing out the natural color of the fruit;

(13) "*Florida Citrus* Commission" *or "commission"* means the *12-member board appointed by the Governor and confirmed by the Senate that serves* ~~Florida Citrus Commission~~ as *the* head *and governing body* of the *Florida Citrus Authority* ~~Department of Citrus~~;

(14) "*Florida Citrus Authority* ~~Department of Agriculture~~" *or "authority"* means the *Florida Citrus Authority* ~~Department of Agriculture and Consumer Services~~ of the State of Florida;

(15) "Commission merchant" means any person engaged in the business of receiving any citrus fruit for sale on commission for or on behalf of another;

(16) "Concentrated products" means:

(a) Frozen citrus fruit juice frozen at a concentration of exceeding 20 degrees Brix and kept at a sufficiently freezing temperature to ensure preservation of the product; and

(b) Citrus fruit juice sealed in hermetically sealed containers at a concentration of exceeding 20 degrees Brix and sufficiently processed by heat to ensure preservation of the product;

(17) "Concentrating plant" means any building, structure, or place where citrus fruit is canned, frozen, or prepared for canning or freezing at a concentration of more than 20 degrees Brix for market or shipment;

(18) "Consignment shipper" means any person who contracts with the producer of citrus fruit for the marketing thereof for the sole account and risk of such producer and who agrees to pay such producer the net proceeds derived from such sale;

(19) "Consignor" means any person, other than a producer, who ships or delivers to any commission merchant or dealer any citrus fruit for handling, sale, or resale;

(20) "Express or gift fruit shipper" means any person having an established place of business who ships or delivers for transportation in any manner, citrus fruit to a consumer and not for the purpose of resale;

(21) "Fresh fruit juice distributor" means any person extracting and preparing for market or shipment any citrus fruit juice in fresh form;

(22) "Grapefruit" means the fruit Citrus paradisi Macf., commonly called grapefruit and shall include white, red, and pink meated varieties;

(23) "Handler" means any person engaged within this state in the business of distributing citrus fruit in the primary channel of trade or

any person engaged as a processor in the business of processing citrus fruit;

(24) "Manufacturer" means any person who shall manufacture, sell or offer for sale, or license or offer for license for use any coloring matter, or any soaps, oils, waxes, gases, gas-forming material, or other similar compositions, or the component parts thereof on or in the processing of citrus fruits;

(25) "Oranges" means the fruit Citrus sinensis Osbeck, commonly called sweet oranges;

(26) "Packinghouse" means any building, structure, or place where citrus fruit is packed or otherwise prepared for market or shipment in fresh form;

(27) "Person" means any natural person, partnership, association, corporation, trust, estate, or other legal entity;

(28) "Primary channel of trade" means that fruit shall be deemed to have been delivered into the primary channel of trade when it is sold or delivered for shipment in fresh form, or when it is received and accepted at a canning, concentrating, or processing plant for canning, concentrating, or processing;

(29) "Producer" means any person growing or producing citrus in this state for market;

(30) "Ship" or "shipping" means to move or cause citrus fruit or the canned or concentrated products thereof to be moved in intrastate, interstate, or foreign commerce by rail, truck, boat, or airplane, or any other means;

(31) "Shipper" means any person engaged in shipping, or causing to be shipped, citrus fruit or the canned or concentrated products thereof in intrastate, interstate, or foreign commerce, whether as owner, agent, or otherwise;

(32) "Shipping season" means that period of time beginning August 1 of one year and ending July 31 of the following year;

(33) "Standard packed box" means 1⅗ bushels of citrus fruit, whether in bulk or containers;

(34) "Tangerines" means the fruit Citrus reticulata Blanco, commonly called tangerines;

(35) "Lemons" including "rough" lemons means the acid lemons of Citrus limon, including the varieties eureka, genoa, wheatley, amerfo, belair, and villafranca of the Eureka group; varieties bonnie brae, kennedy, lisbon, messer, messina, and sicily of the Lisbon group; varieties meyer, cuban, ponderosa, and rough of the Anomalous group; varieties dorshapo and millsweet of the Sweet Lemon group, and other varieties not included above such as everbearing, palestine sweet, perrine, and spheriola;

(36) "Sour oranges"—"sour" or "bitter" oranges means the fruit of Citrus aurantium L. and contains several subspecies. Among the most important are varieties african, brazilian, rubidoux, and standard of the Normal group; varieties daidai, goleta, bouquet of the Aberrant group; variety chinooto of the Myrtifolia group; and varieties bittersweet and paraguay of the Bittersweet group;

(37) "Citrus hybrids" means but shall not be limited to hybrids between or among sour orange (C. aurantium), pummelo (C. grandis), lemon (C. limon), lime (C. aurantifolia), citron (C. medica), grapefruit (C. paradisi), tangerine or mandarin orange (C. reticulata), sweet orange (C. sinensis), tangelo (C. reticulata x C. paradisi or C. grandis), tangor (C. reticulata x C. sinensis), kumquat (Fortunella, species), trifoliate orange (Poncirus trifoliata), and varieties of these species;

(38) "Processor" means any person engaged within this state in the business of canning, concentrating, or otherwise processing citrus fruit for market other than for shipment in fresh fruit form.

Section 44. Section 601.04, Florida Statutes, is reenacted and amended to read:

601.04 Florida Citrus Commission; creation and membership.—

(1)(a) There is hereby created and established within the *Florida Citrus Authority* ~~Department of Citrus~~ a board to be known and designated as the "Florida Citrus Commission" to be composed of 12 practical citrus fruit persons who are resident citizens of the state, each of whom is and has been actively engaged in growing, growing and shipping, or growing and processing of citrus fruit in the state for a period of at least 5 years immediately prior to appointment to the said commission and has, during said period, derived a major portion of her or his income therefrom or, during said time, has been the owner of, member of, officer of, or paid employee of a corporation, firm, or partnership which has, during said time, derived the major portion of its income from the growing, growing and shipping, or growing and processing of citrus fruit.

(b) Seven members of the commission shall be designated as grower members and shall be primarily engaged in the growing of citrus fruit as an individual owner; as the owner of, or as stockholder of, a corporation; or as a member of a firm or partnership primarily engaged in citrus growing. None of such members shall receive any compensation from any licensed citrus fruit dealer or handler, as defined in s. 601.03, other than gift fruit shippers, but any of the grower members shall not be disqualified as a member if, individually, or as the owner of, a member of, an officer of, or a stockholder of a corporation, firm, or partnership primarily engaged in citrus growing which processes, packs, and markets its own fruit and whose business is primarily not purchasing and handling fruit grown by others. Five members of the commission shall be designated as grower-handler members and shall be engaged as owners, or as paid officers or employees, of a corporation, firm, partnership, or other business unit engaged in handling citrus fruit. Two of such five grower-handler members shall be primarily engaged in the fresh fruit business and three of such five grower-handler members shall be primarily engaged in the processing of citrus fruits.

(c) There shall be four members of the commission from each of the three citrus *subdistricts* ~~districts~~. Each member must reside in the *subdistrict* ~~district~~ from which she or he was appointed. For the purposes of this section, the residence of a member shall be the actual physical and permanent residence of the member.

(2)(a) The members of such commission shall possess the qualifications herein provided and shall be appointed by the Governor for terms of 3 years each. Appointments shall be made by February 1 preceding the commencement of the term and shall be subject to confirmation by the Senate in the following legislative session. Four members shall be appointed each year. Such members shall serve until their respective successors are appointed and qualified. The regular terms shall begin on June 1 and shall end on May 31 of the third year after such appointment.

(b) When appointments are made, the Governor shall publicly announce the actual classification and *subdistrict* ~~district~~ that each appointee represents. A majority of the members of the commission shall constitute a quorum for the transaction of all business and the carrying out of the duties of the commission. Before entering upon the discharge of their duties as members of the commission, each member shall take and subscribe to the oath of office prescribed in s. 5, Art. II of the State Constitution. The qualification of each member as herein required shall continue throughout the respective term of office, and in the event a member should, after appointment, fail to meet the qualifications or classification which she or he possessed at the time of appointment as above set forth, such member shall resign or be removed and be replaced with a member possessing the proper qualifications and classification.

(c) When making an appointment to the commission, the Governor shall announce the *subdistrict* ~~district~~ and classification of the person appointed.

(3)(a) The commission is authorized to elect a chair and vice chair and such other officers as it may deem advisable.

(b) The chair, subject to commission concurrence, may appoint such advisory committees or councils composed of industry representatives as the chair deems appropriate, setting forth areas of committee or council concern which are consistent with the statutory powers and duties of the commission and the *Florida Citrus Authority* ~~Department of Citrus~~.

(4) It is the intent of the Legislature that the commission be redistricted every 5 years. Redistricting shall be based on the total boxes produced from each of the three *subdistricts* ~~districts~~ during that 5-year period.

Section 45. Section 601.05, Florida Statutes, is repealed:

~~601.05 Department of Citrus a body corporate.—The Department of Citrus shall be a body corporate, shall have power to contract and be contracted with, and shall have and possess all the powers of a body corporate for all purposes necessary for fully carrying out the provisions and requirements of this chapter. The Department of Citrus shall adopt a corporate seal with which it shall authenticate its proceedings.~~

Section 46. Section 601.06, Florida Statutes, is reenacted and amended to read:

601.06 Compensation and expenses of commission members.—Each member of the commission shall receive the sum of $25 per day for each day or fraction thereof spent while en route to or from, or in actual attendance at, regular or special meetings of the commission or meetings of committees of the commission, or in transacting other business authorized by the *Florida Citrus Authority* ~~Department of Citrus~~ in addition to per diem and reimbursement of expenses as authorized by law. *All laws that are applicable to state agencies and public officers and employees regarding per diem and reimbursement shall be applicable to the Florida Citrus Authority and the Florida Citrus Commission.*

Section 47. Section 601.07, Florida Statutes, is reenacted and amended to read:

601.07 Location of executive offices.—The executive offices of the *Florida Citrus Authority* ~~Department of Citrus~~ shall be established and maintained at Lakeland.

Section 48. Section 601.08, Florida Statutes, is reenacted and amended to read:

601.08 Authenticated copies of commission records as evidence.—Copies of the proceedings, records, and acts of the commission and certificates purporting to relate the facts concerning such proceedings, records, and acts signed by the chair of the commission and authenticated by the seal of the *Florida Citrus Authority* ~~Department of Citrus~~ shall be prima facie evidence thereof in all the courts of the state.

Section 49. Section 601.09, Florida Statutes, is reenacted and amended to read:

601.09 Citrus *subdistricts* ~~districts~~.—The *independent special district known as the Florida Citrus Authority* ~~citrus belt of the state, for purposes of this chapter,~~ is divided into three *subdistricts* ~~districts~~ composed of the following counties:

(1) Citrus *Subdistrict* ~~District~~ One: Pasco, Pinellas, Sarasota, Hillsborough, Manatee, Hernando, Citrus, Sumter, Lake, Seminole, Marion, Levy, Alachua, Putnam, Flagler, Highlands, Orange, Polk, and St. Johns Counties.

(2) Citrus *Subdistrict* ~~District~~ Two: Hardee, DeSoto, Charlotte, Glades, Lee, Hendry, Collier, and Monroe Counties.

(3) Citrus *Subdistrict* ~~District~~ Three: Brevard, Indian River, St. Lucie, Martin, Okeechobee, Broward, Osceola, Dade, Volusia, and Palm Beach Counties.

Section 50. Section 601.091, Florida Statutes, is reenacted to read:

601.091 Florida SunRidge, Indian River, and Gulf production areas, boundaries and designation.—

(1) Unless otherwise specifically provided by final court order entered as a result of a legal proceeding instituted prior to July 1, 1976, only citrus fruit grown within the boundaries of a specified production area of this state, or processed citrus products prepared solely from such citrus fruit, may be identified, classified, labeled, or otherwise designated with the name of such production area or identified, classified, labeled, or otherwise designated in any manner so as to imply that such citrus fruit, or processed citrus product produced therefrom, was grown in the specified production area.

(2) The "Indian River" production area of this state shall encompass only that part of the state particularly described as follows: Beginning at a point on the shore of the Atlantic Ocean where the line between Flagler and Volusia Counties intersects said shore, thence follow the line between said two counties to the southwest corner of Section 23, Township 14 South, Range 31 East; thence continue south to the southwest corner of Section 35, Township 14 South, Range 31 East; thence east to the northwest corner of Township 15 South, Range 32 East; thence south to the southwest corner of Township 17 South, Range 32 East; thence east to the northwest corner of Township 18 South, Range 33 East; thence south to the St. Johns River, thence along the main channel of the St. Johns River and through Lake Harney, Lake Poinsett, Lake Winder, Lake Washington, Sawgrass Lake, and Lake Helen Blazes to the range line between Ranges 35 East and 36 East; thence south to the south line of Brevard County; thence east to the line between Ranges 36 East and 37 East; thence south to the southwest corner of St. Lucie County; thence east to the line between Ranges 39 East and 40 East; thence south to the south line of Martin County; thence east to the line between Ranges 40 East and 41 East; thence south to the West Palm Beach Canal (also known as the Okeechobee Canal); thence follow said canal eastward to the mouth thereof; thence east to the shore of the Atlantic Ocean; thence northerly along the shore of the Atlantic Ocean to the point of beginning.

(3) The "Gulf" production area of this state shall encompass all of Charlotte, Collier, Glades, Hendry, and Lee Counties.

(4) The "Florida SunRidge" production area of this state shall encompass all the area of the state not included within the boundaries established by subsections (2) and (3).

Section 51. Section 601.10, Florida Statutes, is reenacted and amended to read:

601.10 Powers of the *Florida Citrus Authority* ~~Department of Citrus~~.—The *Florida Citrus Authority* ~~Department of Citrus~~ shall have and shall exercise such general and specific powers as are delegated to it by *the Florida Constitution,* this chapter and other statutes of the state *regarding special taxing districts*, which powers shall include, but shall not be confined to, the following:

(1) To assess and collect taxes to conduct marketing, advertising, research, regulatory, or promotional activities for citrus products in the United States and foreign countries with the intent of increasing the use, purchase, and consumption of citrus products.

(2) To authorize, conduct, or participate in programs and/or efforts designed to develop and protect the domestic and foreign markets of citrus products.

(3) The Florida Citrus Authority shall plan and conduct campaigns for commodity advertising, publicity, and sales promotion, and may conduct campaigns to encourage noncommodity advertising, to increase the consumption of citrus fruits, and may contract for any such advertising, publicity, and sales promotion service. To accomplish such purpose, the Florida Citrus Authority shall have the powers and duties:

(a) To disseminate information relating to:

1. Citrus fruits and the importance thereof in preserving the public health, the economy thereof in the diet of the people, and the importance thereof in the nutrition of children;

2. The manner, method, and means used and employed in the production and marketing of citrus fruits and information relating to

laws of the state regulating and safeguarding such production and marketing;

3. The added cost to the producer and dealer in producing and handling citrus fruits to meet the high standards imposed by the state that ensure a pure and wholesome product;

4. The effect upon the public health which would result from a breakdown of the Florida citrus industry or any part thereof;

5. The reasons why producers and dealers should receive a reasonable return on their labor and investment;

6. The problem of furnishing the consumer at all times with an abundant supply of fine quality citrus fruits at reasonable prices;

7. Factors of instability peculiar to the citrus fruit industry, such as unbalanced production, the effect of the weather, the influence of consumer purchasing power, and price relative to the cost of other items of food in the normal diet of people, all to the end that an intelligent and increasing consumer demand may be created;

8. The possibilities with particular reference to increased consumption of citrus fruits; and

9. Such other, further, and additional information which tends to promote increased consumption of citrus fruits and which fosters a better understanding and more efficient cooperation among producers, dealers, and the consuming public; and

(b) To decide upon some distinctive and suggestive trade name and to promote its use in all ways to advertise Florida citrus fruit.

(4)~~(1)~~ To adopt and, from time to time, alter, rescind, modify, or amend all proper and necessary rules, regulations, and orders for the exercise of its powers and the performance of its duties under this chapter and other statutes of the state, which rules and regulations shall have the force and effect of law when not inconsistent therewith. *In implementing, amending, and enforcing rules, the Florida Citrus Authority shall follow the provisions of chapter 120 and subsequent amendments thereto.*

(5)~~(2)~~ To act as the general supervisory authority over the administration and enforcement of this chapter and to exercise such other powers and perform such other duties as may be imposed upon it by other laws of the state. *The Florida Citrus Authority has the authority to appoint the Florida Citrus Commission members to serve as hearing officers regarding rulings and decisions of the Florida Citrus Authority and the Florida Citrus Commission.*

(6)(a)~~(3)~~ To employ and, at its pleasure, discharge an executive director, a secretary, and such attorneys, clerks, and employees as it deems necessary and to outline their powers and duties and fix their compensation.

(b) The Florida Citrus Authority shall have the authority to implement and amend rules and policies regarding, but not limited to, job designations, classifications, annual leave, sick leave, overtime, and compensatory time that are applicable to each Florida Citrus Authority employee. The Florida Citrus Authority shall utilize the provisions of chapter 110 and administrative rules regarding state and public employees as guidelines when adopting its own policies and procedures.

(c) The *Florida Citrus Authority* ~~Department of Citrus~~ may pay, or participate in the payment of, premiums for health, accident, and life insurance for its full-time employees, pursuant to such rules or regulations as it may adopt; and such payments shall be in addition to the regular salaries of such full-time employees. *It is the intent of the Legislature that the Florida Citrus Authority will continue to participate in the Florida Retirement System and the state group health insurance plan based upon the fee and cost structure consistent with fees and costs assessed to state agencies and employees for participation in these programs. However, the Florida Citrus Authority is authorized and empowered to provide group insurance for its employees in the same manner and with the same provisions and limitations authorized for other employees by ss. 112.08, 112.09, 112.10, 112.11, and 112.14.* The payment of such or similar benefits to its employees in foreign countries, including, but not limited to, social security, retirement, and other similar fringe benefit costs, may be in accordance with laws in effect in the country of employment, except that no benefits will be payable to employees not authorized for other state employees, as provided in the Career Service System.

(d) The Florida Citrus Authority shall have the authority to establish policies and procedures regarding employees' rights to ownership of patents, trademarks, copyrights, or other intellectual property created or developed while employed by the Florida Citrus Authority.

(7)(a) The fiscal year of the Florida Citrus Authority created under the provisions of this chapter shall extend from October 1 of one year through September 30 of the following year. The executive director of the Florida Citrus Authority shall, on or before July 15 of each year, submit for consideration by the Florida Citrus Commission a tentative budget for the Florida Citrus Authority covering its proposed operation and requirements for the ensuing fiscal year. The budget shall set forth, classified by object and purpose, and by fund if so designated, the proposed expenditures of the Florida Citrus Authority or other debt for the conduct of the affairs of the Florida Citrus Authority generally, and for other purposes, to which may be added an amount to be held as a reserve. Florida Citrus Authority administrative and operating expenses must be identified in the budget and allocated among programs.

(b) The budget shall also show the estimated amount which will appear at the beginning of the fiscal year as obligated upon commitments made but uncompleted. There shall be shown the estimated unobligated or net balance which will be on hand at the beginning of the fiscal year, and the estimated amount to be raised by district taxes and from other sources for meeting the requirements of the district.

(c) The meeting to finally adopt a budget shall be by and before the Florida Citrus Commission and may be continued from day to day until terminated by the Florida Citrus Commission. The final budget for the Florida Citrus Authority will thereupon be the operating and fiscal guide for the Florida Citrus Authority for the ensuing year; however, transfers of funds may be made within the budget by action of the Florida Citrus Commission at a public meeting of the Florida Citrus Commission. Should the Florida Citrus Authority receive unanticipated funds after the adoption of the final budget, the final budget may be amended by including such funds. However, in the event of a disaster or an emergency arising to prevent or avert the same, the Florida Citrus Commission shall not be limited by the budget but shall have authority to apply such funds as may be available therefor or as may be procured for such purpose.

(d) The Florida Citrus Authority shall have an annual financial audit of its accounts and records as provided in s. 11.45. A copy of the audit shall be filed with the Auditor General and the Florida Citrus Commission.

(8)(a) To establish and amend purchasing and contracting policies and procedures for the Florida Citrus Authority. The Florida Citrus Authority is authorized to establish procedures for disbursement of funds and such amendments and in such a manner as prescribed by the Florida Citrus Commission. The Florida Citrus Commission may establish, by rule, a procedure for the disbursement of funds by means of wire or electronic transfer. It is the intent of the Legislature that the Florida Citrus Authority shall utilize chapter 287 and other state administrative purchasing rules as guidelines when adopting its own policies and procedures.

(b) In order to provide for the works described by this chapter, the Florida Citrus Authority, as approved by the Florida Citrus Commission, is hereby authorized and empowered to borrow money temporarily, from time to time, for a period not to exceed 1 year at any one time, not including renewals thereof, and to issue its promissory notes therefor upon such terms and at such rates of interest as the Florida Citrus Commission may deem advisable, payable from the taxes herein levied and imposed, and the increment thereof. Any of such notes may be used in payment of amounts due, or to become due, upon contracts made or to be made by the Florida Citrus Authority for carrying out the work authorized and provided for herein, and the Florida Citrus Authority

may, to secure the payment of any of such notes, hypothecate bonds herein authorized to be issued, and may thereafter redeem such hypothecated bonds. Any of the notes so issued may be paid out of the proceeds of revenues authorized to be assessed by this chapter.

(9)~~(4)~~ To purchase or authorize the purchase of all office equipment and supplies and to incur all necessary expenses in connection with and required for the proper carrying out of the provisions of this chapter and other applicable laws.

(10)~~(5)~~ To investigate violations of the provisions of this chapter and other laws conferring powers and duties upon the *Florida Citrus Authority* ~~Department of Citrus~~, and to report its findings or recommendations in connection therewith to the Department of Agriculture and Consumer Services.

(11)~~(6)~~ To incur such reasonable obligations and expenses as may be necessary and proper for the discharge of its powers and duties under this or other laws, and to have such obligations and expenses paid out of the funds authorized by *this chapter* ~~law~~ to be collected and expended. The executive director of the *Florida Citrus Authority* ~~Department of Citrus~~, or such other person specifically designated by the commission to act in the event the executive director is either unable or not available to act, is authorized to execute contracts and agreements previously approved by the commission during a regular or special meeting, on behalf of the *Florida Citrus Authority* ~~Department of Citrus~~; and the secretary or assistant secretary of the commission is authorized to attest to the signature of the executive director or other designated person.

(12)~~(7)~~ To adopt, promulgate, alter, rescind, modify, amend, and enforce rules and regulations and establish minimum maturity and quality standards for citrus fruits not inconsistent with existing laws, to regulate and control methods and practices followed or used in harvesting, grading, packing, extracting, canning, concentrating, sectionizing, or otherwise processing citrus fruits or citrus juices or the products thereof for human consumption, including the addition or prohibition of any and all additives, and including application to or use of coloring matter thereon and coloring of fruit by placing in coloring room with or without use of heat or any form of gas in such process, to the end that such methods and practices as affect the eating and keeping qualities and depreciate the value of citrus fruits or the juices or other food products thereof in any form may be minimized to the greatest extent possible, if not altogether eliminated. *The provisions of chapter 120 shall apply to the rulemaking activities of the Florida Citrus Authority.*

(13)~~(8)~~ To prepare and disseminate information of importance to citrus growers, handlers, shippers, processors, and industry-related and interested persons and organizations, relating to *Florida Citrus Authority* ~~Department of Citrus~~ activities and the production, handling, shipping, processing, and marketing of citrus fruit and processed citrus products. Any information which consists of a trade secret as defined in s. 812.081(1)(c) is confidential and exempt from the provisions of s. 119.07(1), and shall not be disclosed. For referendum and other notice and informational purposes, the *Florida Citrus Authority* ~~Department of Citrus~~ may prepare and maintain, from the best available sources, a citrus grower mailing list. Such list shall be a public record available as other public records, but it shall not be subject to the purging provisions of s. 283.55.

(14)(a)~~(9)~~ *The Florida Citrus Authority shall have the authority to deposit funds, revenues, and/or assessments into banks or saving associations. All deposits shall be in accordance with chapter 280, and rule 4C-2, Florida Administrative Code, and amendments thereto.*

(b) When, in the opinion of the *Florida Citrus Authority* ~~Department of Citrus~~, the *funds and/or* tax revenues collected pursuant to this chapter, whether allocated for research, advertising or promotion, reserve funds, advertising incentive plans, *regulatory programs,* or other purposes, are not immediately needed for the purpose for which such funds are provided, the *Florida Citrus Authority* ~~Treasurer is authorized and shall, upon the request and approval of the Department of Citrus~~, or its *executive director* ~~general manager~~ if she or he has been given such authority, *is authorized to* invest and reinvest the funds designated and for the period of time specified in such request. In the investment of such funds, the *Florida Citrus Authority* ~~Treasurer~~ shall have the powers and be subject to the limitations provided for in s. 18.125.

~~(10) Subject to the concurrence of the Treasurer,~~

(15) Whenever the *Florida Citrus Authority* ~~department~~ contracts with a foreign entity for performance of services or the purchase of materials, and such contract requires payment in equivalent foreign currency, the *Florida Citrus Authority* ~~department~~ may, for payment of such contract obligation, deposit sufficient *Florida Citrus Authority* ~~state~~ funds in a foreign bank, or purchase foreign currency at the current market rate, up to an amount not in excess of the contract obligation. ~~All payments from these funds must have prior audit approval from the office of the Comptroller.~~

(16)~~(11)~~ To conduct an annual merchandising and management meeting in this state for department field personnel and to make direct payment, by means of vendor contracts approved by the commission, for all necessary lodging, meals, facilities, and training expenses for department employees attending such annual meeting, in lieu of payment of individual employee per diem allowances as established by s. 112.061.

~~(12) Notwithstanding the provisions of part I of chapter 287, to promulgate rules for the purpose of entering into contracts which are primarily for promotional and advertising services and promotional 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. Contracts pursuant to this subsection may provide for advance payments when the department determines that such provision is essential to acquiring the service.~~

(17) To maintain all Florida Citrus Authority records in accordance with chapter 119.

(18) To conduct all meetings of the Florida Citrus Authority, committees, and councils in accordance with the public meetings law pursuant to chapter 286.

(19) To conduct all activities in accordance with the Code of Ethics for Public Officers and Employees, part III of chapter 112.

(20)~~(13)~~ To investigate or address the transportation problems affecting the citrus industry.

(21)~~(14)~~ To investigate or research the mechanical harvesting of citrus fruit grown in Florida.

(22) To advertise cattle feed and promote its use.

(23)~~(15)~~ To provide by rule a list of forms used in conducting its business. The adoption of such rule constitutes sufficient notice to the public of the existence of the forms and negates the need to place specific citation to such list throughout the related chapters of the Florida Administrative Code.

Section 52. Section 601.101, Florida Statutes, is reenacted and amended to read:

601.101 Ownership of rights under patent and trademark laws developed or acquired pursuant to the authorities of this chapter.—Notwithstanding any provision of chapter 286, the legal title and every right, interest, claim, or demand of any kind in and to any patent, trademark, copyright, certification mark, or other right acquired under the patent and trademark laws of the United States or this state or any foreign country, or the application for the same, now, heretofore, or as may be hereafter owned or held, acquired, or developed by the *Florida Citrus Authority* ~~Department of Citrus~~, under the authority and directions given it by this chapter, is vested in the *Florida Citrus Authority* ~~Department of Citrus~~ for the use, benefit, and purposes provided in this chapter. The *Florida Citrus Authority* ~~Department of Citrus~~ is hereby vested with and is authorized to exercise any and all of

the normal incidents of such ownership, including the receipt and disposition of royalties. Any sums received as royalties from any such rights are hereby appropriated to the *Florida Citrus Authority* ~~Department of Citrus~~ for any and all of the purposes and uses provided in this chapter.

Section 53. Section 601.11, Florida Statutes, is reenacted and amended to read:

601.11 Power of *Florida Citrus Authority* ~~Department of Citrus~~ to establish standards.—The *Florida Citrus Authority* ~~Department of Citrus~~ shall have full and plenary power to, and may, establish state grades and minimum maturity and quality standards not inconsistent with existing laws for citrus fruits and food products thereof containing 20 percent or more citrus or citrus juice, whether canned or concentrated, or otherwise processed, including standards for frozen concentrate for manufacturing purposes, and for containers therefor, and shall prescribe rules or regulations governing the marking, branding, labeling, tagging, or stamping of citrus fruit, or products thereof whether canned or concentrated, or otherwise processed, and upon containers therefor for the purpose of showing the name and address of the person marketing such citrus fruit or products thereof whether canned or concentrated or otherwise processed; the grade, quality, variety, type, or size of citrus fruit, the grade, quality, variety, type, and amount of the products thereof whether canned or concentrated or otherwise processed, and the quality, type, size, dimensions, and shape of containers therefor, and to regulate or prohibit the use of containers which have been previously used for the sale, transportation, or shipment of citrus fruit or the products thereof whether canned or concentrated or otherwise processed, or any other commodity; provided, however, that the use of secondhand containers for sale and delivery of citrus fruit for retail consumption within the state shall not be prohibited; provided, however, that no standard, regulation, rule, or order under this section which is repugnant to any requirement made mandatory under federal law or regulations shall apply to citrus fruit, or the products thereof, whether canned or concentrated or otherwise processed, or to containers therefor, which are being shipped from this state in interstate commerce. All citrus fruit and the products thereof whether canned or concentrated or otherwise processed sold, or offered for sale, or offered for shipment within or without the state shall be graded and marked as required by this section and the regulations, rules, and orders adopted and made under authority of this section, which regulations, rules, and orders shall, when not inconsistent with state or federal law, have the force and effect of law.

Section 54. Section 601.111, Florida Statutes, is reenacted and amended to read:

601.111 *Florida Citrus Authority* ~~Department of Citrus~~ authorized to lower maturity standards.—

(1) The Legislature of the state finds and declares that emergencies creating abnormal conditions in the Florida citrus industry, such as unusual climatic conditions that produce unusual growing conditions of citrus fruit, freezes and hurricanes, or other acts of God that may affect a substantial part of the citrus industry, require that the *Florida Citrus Authority* ~~Department of Citrus~~ be given the power and authority to lower the maturity standards established by law for citrus fruit or any variety thereof, not including oranges except as specified in subsection (2), under and subject to the limitations, conditions, restrictions, and provisions and within the standards hereinafter prescribed and established.

(2) In the event of an emergency such as is mentioned in subsection (1), the said *Florida Citrus Authority* ~~Department of Citrus~~, in addition to all other powers and authority which it now possesses, which have heretofore been granted or delegated to it by the Legislature shall have the additional power to issue rules and regulations to:

(a) Lower by not more than 10 percent the existing minimum requirement as to the total soluble solids of the juice of citrus fruit or any variety, except oranges, or size thereof;

(b) Lower by not more than 10 percent the existing ratio of total soluble solids of the juice of citrus fruit or any variety thereof, except oranges, to the anhydrous citric acid;

(c) Lower by not more than 10 percent the existing minimum requirement for juice content of citrus fruit or any variety or size thereof; and

(d) Lower by not more than 10 percent the existing minimum requirement for the content of anhydrous citric acid for oranges.

Any action under this subsection shall not be taken without the consent of at least nine members of the Florida Citrus Commission. Any regulation adopted pursuant to this section shall be by the affirmative vote of at least nine members of said Florida Citrus Commission, and every such regulation shall contain an expiration date not later than 1 year from its effective date.

(3) This act shall not repeal any other section or part of this chapter, but shall be deemed as supplemental and additional to the express power vested in the *Florida Citrus Authority* ~~Department of Citrus~~, subject only to the limitations, restrictions, conditions, provisions, and standards herein set forth.

Section 55. Section 601.13, Florida Statutes, is reenacted and amended to read:

601.13 Citrus research; administration by *Florida Citrus Authority* ~~Department of Citrus~~; appropriation.—

(1) The administration of this section shall be vested in the *Florida Citrus Authority* ~~Department of Citrus~~ which shall prescribe suitable and reasonable rules and regulations for the proper carrying out of the provisions hereof.

(2) It shall be the duty of the *Florida Citrus Authority* ~~Department of Citrus~~, and it is empowered:

(a) To conduct or cause to be conducted a thorough and comprehensive study of citrus fruit and the juices thereof

1. With respect to the quality and maturity of said fruit and the juices thereof, including proper effort to assemble data and arrive at a proper standard of quality, grade, and maturity with reference to its texture, stability, and general marketability and so far as possible reduce such findings to specific and readily understood chemical, mathematical, or descriptive terms, and

2. With respect to the nutritional and other value or values of such fruit and the juices thereof

and to provide suitable facilities and equipment of every kind whatsoever proper and necessary in connection with all such work.

(b) To conduct or cause to be conducted such study and research as is necessary to provide all the information and data required to be disseminated pursuant to the provisions of this section.

(c) To provide suitable and sufficient laboratory facilities and equipment, making use of the laboratory facilities and equipment of the University of Florida, insofar as it is practicable for the purpose of conducting thorough and comprehensive study and research to determine all possible new and further uses for citrus fruit and citrus fruit juices and the products and byproducts into which the same can be converted or manufactured, as well as to determine and develop new and profitable methods and instruments of distribution thereof.

(d) To carry on, or cause to be carried on, suitable experiments in an effort to prove the commercial value of each, and determine and develop new and further use for citrus fruit and citrus fruit juices or the products and byproducts into which the same can be converted or manufactured.

(e) To carry on or cause to be carried on suitable experiments in an effort to prove the commercial value of any and all new profitable methods and instruments of distribution of citrus fruit and citrus fruit juices and the products and byproducts into which the same can be converted or manufactured.

(f) To carry on or cause to be carried on an economic and marketing research program relating to citrus fruits, products or byproducts thereof.

(g) To enter into any mutually satisfactory contracts or agreements with any person, firm, institution, corporation, or business unit, as well as any state or federal agency, which the *Florida Citrus Authority* ~~Department of Citrus~~ deems wise, necessary, and expedient in the carrying out of any of the provisions of this chapter.

(h) To incur and pay such expenses and obligations as are necessary in connection with and required for the proper carrying out of the provisions of this chapter.

(3) There is hereby appropriated and made available for defraying the expenses of the administration of this section from the moneys derived from advertising excise taxes levied on citrus fruit such amounts as the *Florida Citrus Authority* ~~Department of Citrus~~ may deem necessary within the percentage limitations imposed by s. 601.15.

Section 56. Section 601.15, Florida Statutes, is reenacted and amended to read:

601.15 ~~Advertising campaign; methods of conducting;~~ Excise tax; emergency *reserves* ~~reserve fund~~; citrus research.—

(1) The administration of this section shall be vested in the *Florida Citrus Authority* ~~Department of Citrus~~, which shall prescribe suitable and reasonable rules and regulations for the enforcement hereof, and the *Florida Citrus Authority* ~~Department of Citrus~~ shall administer the taxes levied and imposed hereby. All funds collected under this section and the interest accrued on such funds are consideration for a social contract between the *Florida Citrus Authority* ~~state~~ and the citrus growers of the state whereby the state must hold *and utilize* such funds ~~in trust and inviolate and use them only~~ for the purposes prescribed in this chapter. The *Florida Citrus Authority* ~~Department of Citrus~~ shall have power to cause its duly authorized agent or representative to enter upon the premises of any handler of citrus fruits and to examine or cause to be examined any books, papers, records, or memoranda bearing on the amount of taxes payable and to secure other information directly or indirectly concerned in the enforcement hereof. Any person who is required to pay the taxes levied and imposed and who by any practice or evasion makes it difficult to enforce the provisions hereof by inspection, or any person who, after demand by the *Florida Citrus Authority* ~~Department of Citrus~~ or any agent or representative designated by it for that purpose, refuses to allow full inspection of the premises or any part thereof or any books, records, documents, or other instruments in any manner relating to the liability of the taxpayer for the tax imposed or hinders or in anywise delays or prevents such inspection, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

~~(2) The Department of Citrus shall plan and conduct campaigns for commodity advertising, publicity, and sales promotion, and may conduct campaigns to encourage noncommodity advertising, to increase the consumption of citrus fruits and may contract for any such advertising, publicity, and sales promotion service. To accomplish such purpose, the Department of Citrus shall have power, and it shall be its duty:~~

~~(a) To disseminate information relating to:~~

~~1. Citrus fruits and the importance thereof in preserving the public health, the economy thereof in the diet of the people, and the importance thereof in the nutrition of children;~~

~~2. The manner, method, and means used and employed in the production and marketing of citrus fruits and information relating to laws of the state regulating and safeguarding such production and marketing;~~

~~3. The added cost to the producer and dealer in producing and handling citrus fruits to meet the high standards imposed by the state that ensure a pure and wholesome product;~~

~~4. The effect upon the public health which would result from a breakdown of the Florida citrus industry or any part thereof;~~

~~5. The reasons why producers and dealers should receive a reasonable return on their labor and investment;~~

~~6. The problem of furnishing the consumer at all times with an abundant supply of fine quality citrus fruits at reasonable prices;~~

~~7. Factors of instability peculiar to the citrus fruit industry, such as unbalanced production, the effect of the weather, the influence of consumer purchasing power, and price relative to the cost of other items of food in the normal diet of people, all to the end that an intelligent and increasing consumer demand may be created;~~

~~8. The possibilities with particular reference to increased consumption of citrus fruits; and~~

~~9. Such other, further, and additional information which tends to promote increased consumption of citrus fruits and which fosters a better understanding and more efficient cooperation among producers, dealers, and the consuming public; and~~

~~(b) To decide upon some distinctive and suggestive trade name and to promote its use in all ways to advertise Florida citrus fruit.~~

(2)~~(3)~~(a) There is hereby levied and *assessed* ~~imposed~~ upon each standard-packed box of citrus fruit grown and placed into the primary channel of trade in this state an excise tax at annual rates for each citrus season as determined from the tables in this paragraph and based upon the previous season's actual statewide production as reported in the United States Department of Agriculture Citrus Crop Production Forecast as of June 1.

1. The following tax rates, expressed in cents per box, shall apply to grapefruit which enters the primary channel of trade for use in fresh form:

Previous season crop size (millions of boxes)	1995-1996	1996-1997	1997-1998	1998-1999	1999-2000 and thereafter
80 and greater	33	34	35	36	37
75-79.99	35	36	37	38	39
70-74.99	37	38	39	41	42
65-69.99	40	41	42	44	45
60-64.99	43	44	46	47	49
55-59.99	47	48	50	51	53
50-54.99	51	53	55	56	58
45-49.99	57	59	60	62	64
40-44.99	63	65	67	69	71
Less than 40	72	74	76	79	81

2. The following tax rates, expressed in cents per box, shall apply to grapefruit which enters the primary channel of trade for use in processed forms:

Previous season crop size (millions of boxes)	1995-1996	1996-1997	1997-1998	1998-1999	1999-2000 and thereafter
80 and greater	23	24	25	25	26
75-79.99	25	25	26	27	28
70-74.99	26	27	28	29	30
65-69.99	28	29	30	31	32
60-64.99	31	32	32	33	34
55-59.99	33	34	35	36	37
50-54.99	36	38	39	40	41
45-49.99	40	41	43	44	45
40-44.99	45	46	48	49	51
Less than 40	51	53	54	56	57

3. The following tax rates, expressed in cents per box, shall apply to oranges which enter the primary channel of trade for use in fresh form:

Previous season crop size (millions of boxes)	1995-1996	1996-1997	1997-1998	1998-1999	1999-2000 and thereafter
255 and greater	23	24	25	26	26
245-254.9	24	25	26	27	27
235-244.9	25	26	27	28	28
225-234.9	26	27	28	29	30
215-224.9	28	28	29	30	31
205-214.9	29	30	31	32	33
195-204.9	30	31	32	33	34
185-194.9	32	33	34	35	36
175-184.9	34	35	36	37	38
165-174.9	36	37	38	39	40
155-164.9	38	39	40	41	43
Less than 155	41	42	43	44	46

4. The following tax rates, expressed in cents per box, shall apply to oranges which enter the primary channel of trade for use in processed form:

Previous season crop size (millions of boxes)	1995-1996	1996-1997	1997-1998	1998-1999	1999-2000 and thereafter
255 and greater	15	16	16	17	17
245-254.9	16	16	17	17	18
235-244.9	17	17	18	18	19
225-234.9	17	18	18	19	19
215-224.9	18	19	19	20	20
205-214.9	19	20	20	21	21
195-204.9	20	21	21	22	22
185-194.9	21	22	22	23	24
175-184.9	22	23	23	24	25
165-174.9	23	24	25	26	26
155-164.9	25	26	26	27	28
Less than 155	27	27	28	29	30

5. The tax rate levied each year upon oranges which enter the primary channel of trade for use in processed form, pursuant to this paragraph and subsection (4), shall also apply in that year to tangerines and citrus hybrids regulated by the *Florida Citrus Authority* ~~Department of Citrus~~ which enter the primary channel of trade for use in processed form.

6. The following tax rates, expressed in cents per box, shall apply to tangerines and citrus hybrids regulated by the *Florida Citrus Authority* ~~Department of Citrus~~ which enter the primary channel of trade for use in fresh form:

Previous season crop size (millions of boxes)	1995-1996	1996-1997	1997-1998	1998-1999	1999-2000 and thereafter
13 and greater	24	24	25	26	27
12 - 12.99	26	26	27	28	29
11 - 11.99	28	29	30	30	31
10 - 10.99	31	31	32	33	34
9 - 9.99	34	35	36	37	38
8 - 8.99	38	39	40	41	42
7 - 7.99	43	44	45	47	48
Less than 7	49	51	52	54	56

(b) Whenever citrus fruit is purchased, acquired, or handled on a weight basis, the following weights shall be deemed the equivalent of one standard-packed box for tax purposes under this section:

1. Grapefruit, 85 pounds.

2. Oranges, 90 pounds.

3. Tangerines, 95 pounds.

4. Citrus hybrids, 90 pounds.

(c) The excise taxes imposed by this section do not apply to citrus fruit used for noncommercial domestic consumption on the premises where produced.

(d) For purposes of this subsection, a citrus season begins on August 1 of a year and ends on July 31 of the following year.

(e) The commission, upon an affirmative vote of nine of its members and by an order entered by it prior to August 1 of any year, may reduce the tax rates specified in this subsection if the commission determines that the specified tax rate will result in collection of funds, during the ensuing citrus season, which exceed projected needs. The reduction shall apply only to the citrus season which immediately follows entry of the order providing for reduction. Such tax reduction may be applied by variety and on the basis of whether the fruit enters the primary channel of trade for use in fresh or processed form.

(3)~~(4)~~ Every handler shall keep a complete and accurate record of all citrus fruit handled by her or him. Such record shall be in such form and contain such other information as the *Florida Citrus Authority* ~~Department of Citrus~~ shall by rule or regulation prescribe. Such records shall be preserved by such handlers for a period of 1 year and shall be offered for inspection at any time upon oral or written demand by the *Florida Citrus Authority* ~~Department of Citrus~~ or its duly authorized agents or representatives.

(4)~~(5)~~ Every handler shall, at such times and in such manner as the *Florida Citrus Authority* ~~Department of Citrus~~ may by rule require, file with the *Florida Citrus Authority* ~~Department of Citrus~~ a return certified as true and correct, on forms furnished by the *Florida Citrus Authority* ~~Department of Citrus~~, stating, in addition to other information, the number of standard-packed boxes of each kind of citrus fruit handled by such handler in the primary channel of trade during the period of time covered by the return. Full payment of all excise taxes due for the period reported shall accompany each handler's return.

(5)~~(6)~~(a) All excise taxes levied and imposed pursuant to the provisions of this section shall be due and payable and shall be paid, or the amount thereof guaranteed as hereinafter provided, at the time the citrus fruit is first handled in the primary channels of trade. All such taxes shall be paid, or the payment thereof shall be guaranteed, to the *Florida Citrus Authority* ~~Department of Citrus~~ by the person first handling the fruit in the primary channel of trade, except that payment of taxes on fruit delivered or sold for processing in this state shall be paid, or payment thereof shall be guaranteed in accordance with *Florida Citrus Authority* ~~Department of Citrus~~ rules, by the person processing such fruit.

(b) Periodic payment of excise taxes upon citrus fruit by the person liable for such payment shall be permitted only in accordance with *Florida Citrus Authority* ~~Department of Citrus~~ rules; and the payment thereof shall be guaranteed by the posting of a good and sufficient cash bond, an appropriate certificate of deposit, or an approved surety bond in an amount and manner as prescribed by *Florida Citrus Authority* ~~Department of Citrus~~ rule. Evidence of such guarantee of payment of excise taxes shall be made on the grade certificate in such manner and form as may be prescribed by *Florida Citrus Authority* ~~Department of Citrus~~ rule.

(c) All taxes collected by the *Florida Citrus Authority* ~~Department of Citrus~~ shall be delivered *directly* to the *Florida Citrus Authority* ~~State Treasury~~ for payment into the proper *operating account* ~~advertising fund~~.

(6)~~(7)~~ All excise taxes levied and collected under the provisions of this chapter shall be paid *to the Florida Citrus Authority* ~~into the State Treasury~~ on or before the 15th day of each month; such moneys shall be accounted for in *the operating accounts of* ~~a special fund to be designated as~~ the *Florida Citrus Authority* ~~Florida Citrus Advertising Trust Fund~~, and all moneys in such *accounts* ~~fund~~ are *to be* ~~hereby~~ appropriated to the *Florida Citrus Authority* ~~Department of Citrus~~ for the following purposes:

~~(a) Three percent of all income of a revenue nature deposited in this fund, including transfers from any subsidiary accounts thereof and any interest income, shall be deposited in the General Revenue Fund pursuant to chapter 215.~~

(a)~~(b)~~ Not more than 24 percent of such *operating accounts* ~~trust fund~~ shall be expended for the activities authorized by s. 601.13 and for the cost of those general overhead, research and development, maintenance, salaries, professional fees, enforcement costs, and other such expenses which are not related to advertising, merchandising, public relations, trade luncheons, publicity, and other associated activities. The cost of general overhead, maintenance, salaries, professional fees, enforcement costs, and other such expenses which are related to advertising, merchandising, public relations, trade luncheons, publicity, and associated activities shall be paid from the balance of the *operating accounts* ~~Citrus Advertising Trust Fund~~ and shall not be included in the 24-percent limitation.

(b)~~(c)~~ The balance of the moneys in the *Florida Citrus Authority operating accounts* ~~Florida Citrus Advertising Trust Fund~~ shall be used by the *Florida Citrus Authority* ~~Department of Citrus~~ for defraying those expenses not included within the 24-percent limitation established by paragraph (b). After payment of such expenses, the money levied and collected under the provisions of subsection (3) shall be used exclusively for commodity and noncommodity advertising, merchandising, publicity, or sales promotion of citrus products in both fresh form and processed form, including citrus cattle feed and all other products of citrus fruits, produced in the state, in such equitable manner and proration as the *Florida Citrus Authority* ~~Department of Citrus~~ may determine, but funds expended for commodity advertising thereunder shall be expended through an established advertising agency. A proration of moneys between commodity programs and noncommodity programs, and among types of citrus products, shall be made on or before November 1 of each shipping season and may not thereafter be modified for that shipping season unless the department finds such action necessary to preserve the economic welfare of the citrus industry.

(c)~~(d)~~ The pro rata portion of moneys allocated to each type of citrus product in noncommodity programs shall be used by the department to encourage substantial increases in the effectiveness, frequency, and volume of noncommodity advertising, merchandising, publicity, and sales promotion of such citrus products through rebates and incentive payments to handlers and trade customers for these activities. The *Florida Citrus Authority* ~~Department of Citrus~~ is authorized and directed to adopt rules providing for the use of such moneys. The rules shall establish alternate incentive programs, including at least one incentive program for product sold under advertised brands, one incentive program for product sold under private label brands, and one incentive program for product sold in bulk. For each incentive program, the rules shall establish eligibility and performance requirements and shall provide appropriate limitations on amounts payable to a handler or trade customer for a particular season. Such limitations may relate to the amount of citrus excise taxes levied and collected on the citrus product handled by such handler or trade customer during a 12-month representative period. The department may require from participants in noncommodity advertising and promotional programs commercial information necessary to determine eligibility for and performance in such programs. Any information so required which constitutes a "trade secret" as defined in s. 812.081 is confidential and exempt from the provisions of s. 119.07(1).

(7)~~(8)~~(a) On certification by any employee of the *Florida Citrus Authority* ~~Department of Citrus~~ that her or his actual and necessary expenses on any particular day while traveling outside the state exceeded the per diem provided by law, such employee shall show such excess on her or his regular expense voucher and support the same by the proof required pursuant to rules and regulations to be promulgated by the *Florida Citrus Authority* ~~Department of Citrus~~.

(b) The *Florida Citrus Authority* ~~Department of Citrus~~ is authorized to spend such amount as it deems advisable for guests involved in promotional activities in the sale of Florida citrus fruits and products.

(c) All obligations, expenses, and costs incurred under the provisions of this section *and other applicable sections of this chapter* shall be paid *in the method and manner established by the Florida Citrus Authority* ~~out of the Citrus Advertising Fund upon warrant of the Comptroller when vouchers thereof, approved by the Department of Citrus, are exhibited~~.

(8)~~(9)~~(a) Any handler who fails to file a return or to pay any tax within the time required shall thereby forfeit to the *Florida Citrus Authority* ~~Department of Citrus~~ a penalty of 5 percent of the amount of tax determined to be due; but the *Florida Citrus Authority* ~~Department of Citrus~~, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the *Florida Citrus Authority* ~~Department of Citrus~~ and disposed of as provided with respect to moneys derived from the taxes levied and imposed by subsection (3).

(b) The *Florida Citrus Authority* ~~Department of Citrus~~ may collect any taxes levied and assessed by this chapter in any or all of the following methods:

1. By the voluntary payment by the person liable therefor.

2. By a suit at law. *All actions filed by or against the Florida Citrus Authority shall be initiated in the courts located in Polk County, Florida.*

3. By a suit in equity to enjoin and restrain any handler, citrus fruit dealer, or other person owing such taxes from operating her or his business or engaging in business as a citrus fruit dealer until the delinquent taxes are paid. Such action may include an accounting to determine the amount of taxes plus delinquencies due. In any such proceeding, it is not necessary to allege or prove that an adequate remedy at law does not exist.

(10) The powers and duties of the *Florida Citrus Authority are outlined in s. 601.10.* ~~Department of Citrus include the following:~~

~~(a) To adopt and from time to time alter, rescind, modify, and amend all proper and necessary rules, regulations, and orders for the exercise of its powers and the performance of its duties under this chapter.~~

~~(b) To employ and at its pleasure discharge an advertising manager, agents, advertising agencies, and such clerical and other help as it deems necessary and to outline their powers and duties and fix their compensation.~~

~~(c) To make in the name of the Department of Citrus such advertising contracts and other agreements as may be necessary.~~

~~(d) To keep books, records, and accounts of all of its doings, which books, records, and accounts shall be open to inspection and audit by the Auditor General at all times.~~

~~(e) To purchase or authorize the purchase of all office equipment and supplies and to incur all other reasonable and necessary expenses and obligations in connection with and required for the proper carrying out of the provisions of this chapter.~~

~~(f) To conduct, and pay out of the Florida Citrus Advertising Trust Fund, premium and prize promotions designed to increase the use of citrus in any form.~~

~~(g) To advertise citrus cattle feed and promote its use.~~

~~(h) To conduct marketing activities in foreign countries and other programs designed to develop and protect domestic and international markets.~~

Section 57. Section 601.152, Florida Statutes, is reenacted and amended to read:

601.152 Special marketing orders.—

(1)(a) Whenever, upon its own motion or upon petition of any handler or producer or group or association of handlers or producers of citrus fruit, the commission, upon affirmative vote of nine of its members, determines:

1. That the conduct of a special advertising and promotional marketing campaign or the conduct of market and product research and development, in addition to the advertising campaign being conducted pursuant to s. 601.15 and the research being conducted pursuant to the other provisions of the Florida Citrus Code, may substantially further increase the consumer acceptance and consumption of, and strengthen the market for, any type, variety, or form of citrus fruit or processed citrus product by further increasing the number of families buying such citrus fruit or such processed citrus product or by further increasing the quantity of such citrus fruit or processed citrus product purchased by buying families; and

2. That such substantial further increase and strengthening may be of substantial benefit to handlers thereof, producers thereof, and to the economy and well-being of the state

the commission shall direct that a proposed marketing order be formulated for a special marketing campaign of advertising and sales promotion, including, but not limited to, brand advertising rebate promotions or the conduct of market and product research and development for such type, variety, or form of citrus fruit or processed citrus product, and shall designate a public hearing to consider adoption and implementation of such proposed marketing order.

(b) Notice of the time, place, and purpose of such public hearing shall be:

1. Mailed, not less than 10 days prior to such hearing, to each handler who, during the 12 months immediately preceding such mailing, has first handled in the primary channel of trade in Florida the type, variety, and form of citrus fruit or citrus product specified in the proposed marketing order, and to each handler who the *Florida Citrus Authority* ~~Department of Citrus~~ has good cause to believe will, during the period of time covered by the proposed marketing order, first handle in the primary channel of trade in Florida the type, variety, and form of citrus fruit or processed citrus product specified in such proposed marketing order.

2. Published in the Florida Administrative Weekly not less than 10 days prior to such hearing.

(c) A full and complete record of all proceedings at such public hearing shall be made and filed by the department at its offices, which record, when signed by the chair of the commission and authenticated by the seal of the department, shall constitute prima facie evidence of such proceedings in all courts of this state.

(d) Copies of the proposed marketing order shall be made available to the public at the offices of the *Florida Citrus Authority* ~~Department of Citrus~~ at Lakeland at least 5 days prior to such hearing and shall be in sufficient detail to apprise all persons having an interest therein of the approximate amount of moneys proposed to be expended; the assessments to be levied thereunder; and the general details of the proposed marketing order for a special marketing campaign of advertising or sales promotion or market or product research and development. Among the details so specified shall be the period of time during which the assessment imposed pursuant to subsection (8) will be levied upon the privilege so assessed, which period may not be greater than 2 years. The order may, however, provide that the expenditure of the funds received from the imposition of such assessments shall not be so confined, but may be expended during such time or times as shall be specified in the proposed marketing order, which may be either during the shipping season immediately preceding the shipping seasons during which such assessments are imposed or during, or at any time subsequent to, the shipping seasons during which such assessments are imposed. Nothing herein shall be construed to prevent the imposition of a subsequent marketing order either before, during, or after the expenditure of funds collected pursuant to a previously imposed marketing order, provided the aggregate of the assessments imposed may not exceed the maximum permitted under subsection (8).

(e) A proposed marketing order shall specify the type, variety, and form of citrus fruit or processed citrus product to be covered by the order and whether it applies:

1. To such citrus fruit or processed citrus product if it was so packed or processed from fruit first placed in the primary channel of trade in Florida during the period of time specified in the marketing order for the imposition of such assessments, or

2. To such citrus fruit or processed citrus product if it was so packed, processed, or shipped in such type, variety, and form during the period of time specified in the marketing order for the imposition of such assessments.

(f) If a marketing order provides for a brand advertising rebate promotion, the details specified shall include the requirements which must be met by the handler, broker, distributor, or grower in order to be eligible for rebate of advertising or promotional expenditures; the amount, or a method for computing the amount, rebatable; and the procedure for making rebates.

(g) Any marketing order may provide that policy decisions with respect to details not specifically set forth in such marketing order may be made either by the commission upon its own motion or by the commission upon the recommendation of any handlers' committee that may be established by the order. Otherwise such policy decisions shall be made by the commission.

(2) After such notice and hearing, the commission shall determine whether or not implementation of the new special marketing order, as originally proposed or as amended at the public hearing, will substantially further increase the consumer acceptance and consumption of the citrus fruit or processed citrus product specified in such marketing order and that such substantial further increase in the consumer acceptance and consumption thereof will be of substantial benefit to the handlers and producers thereof and to the economy and well-being of the state. If the commission so determines and if it adopts a marketing order, the commission shall direct that such marketing order be subjected to a referendum of the handlers who have, during a representative period to be selected by the commission, handled in the primary channel of trade in Florida the type, variety, and form of citrus fruit or processed citrus product specified in such marketing order.

(3) No marketing order adopted pursuant to this section shall be effective unless and until the commission, at a public meeting, determines such marketing order to have been assented to by referendum by at least 67 percent of the handlers covered by the marketing order who, during the representative period determined by the commission, first handled in the primary channel of trade in Florida not less than 51 percent of the total volume of the type, variety, and form of citrus fruit or processed citrus product specified in the marketing order.

(4) The *Florida Citrus Authority* ~~Department of Citrus~~ is authorized to prescribe such procedures as it deems necessary properly to conduct a referendum among handlers covered by the marketing order to determine whether such marketing order has been so assented to.

(5)(a) Any marketing order adopted pursuant to this section and subsequently approved by referendum as provided herein shall become effective 15 days after referendum approval is officially determined by the commission. Chapter 120 does not apply to this section. Any such marketing order shall be reviewable by any person adversely affected, by certiorari to the district courts of appeal in the manner prescribed by the Florida Rules of Appellate Procedure. The venue of the proceeding for such review shall be the appellate district which includes the county in which the hearings were conducted or, if the venue cannot be thus determined, the appellate district wherein the *Florida Citrus Authority* ~~Department of Citrus~~ executive offices are located.

(b) In cases in which certiorari is granted pursuant to this section, the court may issue its mandate or order with directions to the agency to enter in the proceedings as is appropriate on the record, or the court may remand the cause for such further proceedings, including the taking of testimony, as may to the court seem necessary or proper:

1. To accord the parties due process of law;

2. To establish a sufficient record for review;

3. To accord the parties their constitutional, statutory, or procedural rights; or

4. To accomplish the purposes and objectives of the law pursuant to which the administrative proceeding was initiated.

(6) Any marketing order so implemented under this section may be amended subsequent to its implementation, provided such amendment has been formulated, published, subjected to public hearing, determined by the commission to meet the requirements set forth in the other subsections hereof, and assented to in the same manner and in accordance with all of the procedures and requirements set forth in this section for implementation of the original marketing order. Any such amendment may:

(a) Terminate, extend, accelerate, or defer the conduct of the campaign.

(b) Defer for one or more shipping seasons the imposition of assessments thereunder.

(c) Extend by not more than 2 additional years the period of time during which the assessments imposed pursuant to subsection (8) may be levied upon the privilege so assessed.

(d) Increase (subject to the maximum limitations imposed herein) or reduce the assessments or the amount of moneys to be expended.

(e) Alter the general details of the campaign.

(f) Otherwise amend the originally implemented marketing order.

(7) For the purpose of carrying out any and all provisions of this section, the department, or its duly authorized or designated representative or representatives, may hold hearings, take testimony, and administer oaths. Copies of the proceedings, records, and acts of the department and the handlers' committee, if any, established by the marketing order and certificates purporting to relate the facts concerning such proceedings, records, and acts signed by the chair of the commission and authenticated by the seal of the department shall be prima facie evidence thereof in all the courts of the state.

(8)(a) Each person who, during the period of time specified in any marketing order implemented pursuant to this section, first handles in the primary channel of trade in Florida any citrus fruit or processed citrus product of the type, variety, and form specified in such marketing order shall, for the privilege of so handling such citrus fruit or such citrus product, pay to the *Florida Citrus Authority* ~~Department of Citrus~~ such assessments as are levied and imposed thereon by such marketing order, which funds shall be used by the *Florida Citrus Authority* ~~Department of Citrus~~ to defray the necessary expenses incurred in the formation, issuance, administration, and enforcement of such marketing order and in the conduct of the special marketing campaign or market and product research and development provided for in such marketing order. However, such assessments levied and imposed pursuant hereto shall be at a rate not to exceed 8 cents per standard-packed box on citrus fruits in fresh form, 1.3 cents per gallon on single strength citrus juices or sections, or 1.3 cents per pound of soluble citrus solids on concentrated citrus juices.

(b) The *Florida Citrus Authority* ~~Department of Citrus~~ shall prescribe procedures for the assessment and collection of such funds to defray the necessary expenses incurred, or expected to be incurred, by the *Florida Citrus Authority* ~~Department of Citrus~~ in the formation, issuance, administration, and enforcement of any marketing order implemented pursuant to the provisions of this section.

(c) Every handler shall, at such times as the department may require, file with the *Florida Citrus Authority* ~~Department of Citrus~~ a return, not under oath, on forms to be prescribed and furnished by the *Florida Citrus Authority* ~~Department of Citrus~~, certified as true and correct, stating the quantity of the type, variety, and form of citrus fruit or citrus product specified in the marketing order first handled in the primary channels of trade in Florida by such handler during the period of time specified in the marketing order. Such returns shall contain any further information deemed by the *Florida Citrus Authority* ~~Department of Citrus~~ to be reasonably necessary to properly administer or enforce the provisions of this section or any marketing order implemented hereunder. Information that, if disclosed, would reveal a trade secret, as defined in s. 812.081, of any person subject to a marketing order is confidential and exempt from the provisions of s. 119.07(1).

(d) All assessments imposed under and pursuant to the provisions of this section shall be due and payable and shall be paid by such handlers at such times and in such installments as the commission shall prescribe in such marketing order, or the amount thereof shall be provided for and guaranteed by giving a surety bond or cash deposit or as the *Florida Citrus Authority* ~~Department of Citrus~~ may otherwise prescribe.

(9)(a) All moneys collected by the *Florida Citrus Authority* ~~Department of Citrus~~ under this section shall be set aside in the *operating accounts of the Florida Citrus Authority*. ~~Florida Citrus Advertising Trust Fund as a special fund to be known as the "Citrus Special Marketing Order Fund."~~ All moneys in such *accounts* ~~fund, after deducting the service charge provided in s. 601.15(7),~~ are hereby appropriated to the *Florida Citrus Authority* ~~Department of Citrus~~ for the actual expenses incurred by the *Florida Citrus Authority* ~~Department of Citrus~~ with respect to the formulation, issuance, administration, and enforcement of any marketing order so implemented and in the conduct of the special marketing campaign or market and product research and development to be carried out pursuant to any such marketing order so implemented. Upon the completion of the special marketing campaign or market and product research and development provided for pursuant to any marketing order so implemented hereunder, any and all moneys remaining and not required by the *Florida Citrus Authority* ~~Department of Citrus~~ to defray the expenses of such marketing order shall be deposited to and made a part of the *general operating accounts of the Florida Citrus Authority* ~~Florida Citrus Advertising Trust Fund created by s. 601.15~~.

(b) If the *Florida Citrus Authority* ~~Department of Citrus~~ finds it necessary to do so, it may transfer to the Citrus Special Marketing Order Fund from any other portion of the *Florida Citrus Authority operating accounts* ~~Florida Citrus Advertising Trust Fund~~, including the emergency *reserves* ~~Reserve Fund~~ and any other special or reserve fund, such sum of money as the *Florida Citrus Authority* ~~Department of Citrus~~ determines is initially required to formulate, issue, administer, and enforce any such marketing order and conduct the special marketing campaign or market and product research and development to be carried out pursuant to such marketing order until moneys in the Citrus Special Marketing Order Fund derived from assessments imposed and collected pursuant to this section are sufficient for such purposes, and thereafter repay such advance out of the Citrus Special Marketing Order Fund.

(10)(a) Any handler who fails to file a return or to pay any assessment within the time required shall thereby forfeit to the *Florida Citrus Authority* ~~Department of Citrus~~ a penalty of 5 percent of the amount of assessment then due; but the *Florida Citrus Authority* ~~Department of Citrus~~, upon good cause shown, may waive all or any part of such penalty. Such penalty shall be paid to the *Florida Citrus Authority* ~~Department of Citrus~~ and disposed of as provided with respect to moneys derived from the assessments imposed pursuant to this section.

(b) The *Florida Citrus Authority* ~~Department of Citrus~~ may collect the assessments imposed pursuant to this section in either or all of the following methods:

1. The voluntary payment by the handler liable therefor.~~;~~

2. By a suit at law. *Any suit initiated by or filed against the Florida Citrus Authority, must be filed in the courts located in Polk County, Florida.*~~;~~

3. By a suit in equity to enjoin and restrain any handler owing such assessments from operating his or her business or engaging in business as a citrus fruit dealer until the delinquent assessments are paid. Such

action may include an accounting to determine the amount of assessments plus delinquencies due. In any such proceeding, it shall not be necessary to allege or prove that an adequate remedy at law does not exist.

(11) This section shall be liberally construed to effectuate the purposes set forth and as additional and supplemental powers vested in the *Florida Citrus Authority* ~~Department of Citrus~~ under the police power of this state.

Section 58. Section 601.154, Florida Statutes, is reenacted and amended to read:

601.154 Citrus Stabilization Act of Florida.—

(1) The purposes of this section are:

(a) To enable producers of oranges (Citrus sinensis Osbeck), grapefruit (Citrus paradisi Macf.), tangerines (Citrus reticulata Blanco), or citrus hybrids regulated by the *Florida Citrus Authority* ~~Department of Citrus~~ in the State of Florida, which producers deliver or cause such oranges, grapefruit, tangerines, or citrus hybrids to be delivered into the primary channel of trade, with the aid and under the direction and control of the state, more effectively to correlate the supply of their oranges, grapefruit, tangerines, or citrus hybrids with market demands therefor.

(b) To establish and maintain orderly marketing of oranges, grapefruit, tangerines, or citrus hybrids grown in Florida or the products thereof.

(c) To provide methods and means for the development of new and larger markets for oranges, grapefruit, tangerines, or citrus hybrids grown in Florida, or the products thereof.

(d) To eliminate or reduce economic waste in the production, handling, and marketing of oranges, grapefruit, tangerines, or citrus hybrids grown in Florida.

(e) To restore and maintain adequate purchasing power for orange, grapefruit, tangerine, or citrus hybrid producers of Florida.

(f) To conserve the agricultural wealth of the state.

(g) To stabilize the production and marketing of oranges, grapefruit, tangerines, or citrus hybrids and products thereof in the Florida citrus industry, as the Legislature finds it will promote and protect the health, peace, safety, and general welfare of the people of this state, which in turn will promote the general welfare and social and political economy of this state.

(2)(a) The *Florida Citrus Authority* ~~Department of Citrus~~ shall administer and enforce the provisions of this section. In order to effectuate the declared purposes of this section, the *Florida Citrus Authority* ~~Department of Citrus~~ is hereby authorized to issue, administer, and enforce the provisions of marketing orders hereunder in the way and manner hereinafter provided.

(b) Whenever the commission has reason to believe that the issuance of a marketing order, or any amendment thereof after its issuance, will tend to effectuate the declared purposes of this section, it shall at a regular or special meeting of the commission, either upon its own motion or upon application of any producer or group or association of producers of oranges, grapefruit, tangerines, or citrus hybrids, provide for a public hearing upon a proposed marketing order or amendment thereof.

(c) Due notice of any hearing called for such purpose shall be given by the commission by publishing notice one time of the time and place of such hearing in at least eight daily newspapers of wide circulation within the citrus producing area of the state to be selected by the commission. Such notice shall be so published not fewer than 7 days or more than 60 days prior to the date set for such hearing. A copy of the proposed marketing order or amendment thereto shall be available at the commission for examination or copying by any interested party on or before the date of publication of notice of hearing, and such notice shall so state. Such hearing shall be open to the public. All testimony shall be received under oath and a full and complete record of all proceedings at any such hearing shall be made and filed by the commission in its offices, which record signed by the chair of the commission and authenticated by the seal of the commission shall constitute prima facie evidence of such proceedings in all courts of the state.

(3)(a) After such notice and hearing, the *Florida Citrus Authority* ~~Department of Citrus~~ may issue a marketing order or amendment as originally proposed or as the same may be modified based on evidence submitted at the hearing if it finds and sets forth in such marketing order or amendment that such order or amendment, as the case may be, will tend to:

1. Return to producers of oranges, grapefruit, tangerines, or citrus hybrids in Florida at least average cost of production.

2. Prevent the unreasonable or unnecessary waste of the wealth of the orange, grapefruit, tangerine, or citrus hybrid industry and of the economy of the state.

3. Protect the interests of consumers of oranges, grapefruit, tangerines, or citrus hybrids and the products thereof.

(b) In making the findings set forth in this subsection, the *Florida Citrus Authority* ~~Department of Citrus~~ shall take into consideration any and all relevant and material facts available to it, including but not limited to the following factors:

1. The quantity and quality of oranges, grapefruit, tangerines, or citrus hybrids and products thereof available for sale and distribution.

2. The quantity and quality of oranges, grapefruit, tangerines, or citrus hybrids and products thereof being purchased by consumers.

3. The cost of producing oranges, grapefruit, tangerines, or citrus hybrids as determined by available records, statistics, and surveys.

4. The level of prices of commodities which compete with Florida oranges, grapefruit, tangerines, or citrus hybrids and products thereof.

5. The level of prices of commodities, services, and articles which orange, grapefruit, tangerine, or citrus hybrid producers and handlers commonly buy and utilize.

(4)(a) Every marketing order issued pursuant to the provisions of this section shall provide for an advisory council to advise the *Florida Citrus Authority* ~~Department of Citrus~~ in the administration thereof. Two members of such advisory council shall be appointed by the commission chair, subject to commission concurrence, from each of the three citrus districts as defined in s. 601.09 from producer nominees submitted by producers on or before the date of the hearing provided for in subsection (2). To qualify for appointment, such producer nominees shall meet the same qualifications as those for grower members of the commission set forth in s. 601.04(1).

(b) If the marketing order contains provisions authorized by paragraph (5)(c) or paragraph (5)(e) pertaining to processed citrus products, six additional members of such advisory council shall be appointed by the commission chair, subject to commission concurrence, from processor nominees, each of whom shall be experienced in and actively engaged in an executive capacity as an officer, employee, or owner of a corporation or other business unit engaged in processing the type of processed orange, grapefruit, tangerine, or citrus hybrid products to be purchased or marketed pursuant to the provisions of such marketing order, which processor nominees shall have been submitted by processors on or before the date of such hearing.

(c) If the marketing order contains provisions authorized by paragraph (5)(b) or paragraph (5)(e) pertaining to fresh citrus fruits, six additional members of such advisory council shall be appointed by the commission chair, subject to commission concurrence, from shipper nominees, each of whom shall be experienced in and actively engaged in an executive capacity as an officer, employee, or owner of a corporation or other business unit engaged in shipping fresh oranges, grapefruit, tangerines, or citrus hybrids to be purchased or marketed pursuant to

the provisions of such marketing order, which fresh fruit shipper nominees shall have been submitted by fresh fruit shippers on or before the date of such hearing.

(d) Members appointed pursuant to paragraph (a), paragraph (b), or paragraph (c) shall initially include two such members appointed for 4-year terms and two such members appointed for 2-year terms. Thereafter, members shall be appointed for 4-year terms. An appointment to fill a vacancy shall be for the remainder of the unexpired term. Upon expiration of the terms of members of existing advisory councils created pursuant to this section, members shall be appointed for 4-year terms.

(e) The advisory council shall elect annually a chair, a vice chair, and a secretary. The advisory council shall meet at the call of its chair, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules of procedure. A complete record of the proceedings of each meeting shall be kept, which shall show the names of the members present and the actions taken.

(f) The *Florida Citrus Authority* ~~Department of Citrus~~ may, if it sees fit, appoint one or more advisory committees to advise the department in the administration of each marketing order created pursuant to this section. The majority of the members of any such advisory committee or committees shall be producers.

(g) No member of the advisory council or advisory committees shall receive a salary, but each member of the advisory council shall be entitled to reimbursement for per diem and travel expenses as provided in s. 112.061.

(h) The *Florida Citrus Authority* ~~Department of Citrus~~ may employ necessary personnel, including those performing or furnishing professional or technical services, fix their compensation and terms of employment, and may incur such expenses to be paid from moneys collected as hereinafter provided as the *Florida Citrus Authority* ~~Department of Citrus~~ may deem necessary to perform properly such of its duties and those of the advisory council as are authorized herein. The duties of such advisory council shall include the following:

1. To recommend to the *Florida Citrus Authority* ~~Department of Citrus~~ administrative rules and regulations relating to the marketing order. With respect to rules and regulations relating to the provisions of paragraph (5)(c) or paragraph (5)(e), the same may be adopted by the *Florida Citrus Authority* ~~Department of Citrus~~ only upon the recommendation of the advisory council by a vote of both a majority of the producer members and a majority of the processor members of such advisory council. With respect to rules and regulations relating to paragraph (5)(b), the same may be adopted by the *Florida Citrus Authority* ~~Department of Citrus~~ only upon the recommendation of the advisory council by a vote of both a majority of the producer members and a majority of the fresh orange, grapefruit, tangerine, or citrus hybrid shipper members of such advisory council.

2. To receive and report to the *Florida Citrus Authority* ~~Department of Citrus~~ any and all complaints with respect to alleged violations of the marketing order and rules and regulations thereunder.

3. To recommend to the *Florida Citrus Authority* ~~Department of Citrus~~ amendments to the marketing order and request a public hearing and referendum thereon.

4. To advise the *Florida Citrus Authority* ~~Department of Citrus~~ in the assessment and the collection of funds hereunder.

5. To advise the *Florida Citrus Authority* ~~Department of Citrus~~ in the collection of such necessary information and data as the *Florida Citrus Authority* ~~Department of Citrus~~ may deem necessary to the proper administration of this section.

(5) Subject to the legislative restrictions and limitations set forth herein, any marketing order issued by the *Florida Citrus Authority* ~~Department of Citrus~~ pursuant to this section may contain one or more of the following provisions relating to oranges, grapefruit, tangerines, or citrus hybrids, or products thereof, produced within this state, but no others:

(a) Provisions for determining, or providing methods for determining, the present and future existence and extent of the supply of oranges, grapefruit, tangerines, or citrus hybrids or products thereof.

(b) Provisions authorizing the imposition of quality standards for oranges, grapefruit, tangerines, or citrus hybrids, fixing the minimum ratios of total soluble solids of the juice of such oranges, grapefruit, tangerines, or citrus hybrids to the anhydrous citric acid thereof or the minimum total soluble solids of the juice thereof or both at levels higher than those provided in s. 601.20(1)-(31) or s. 601.17, or in the *Florida Citrus Authority* ~~Department of Citrus~~ rules governing the same.

(c) Provisions for the establishment of a reserve pool of frozen concentrated orange or grapefruit juice or any other type of processed orange or grapefruit product which can be stored without expectation of significant quality loss for a period of not less than 20 years, for disposition following serious freezes, hurricanes, or other catastrophes which result in a shortage of oranges or grapefruit or processed orange or grapefruit products as hereinafter provided, and for the renting or leasing of facilities for the storage thereof.

(d) Provisions for the establishing of assessments as hereinafter provided on producers, or associations of producers, to provide funds for the formulation, issuance, administration, operation, and enforcement of any marketing order promulgated hereunder.

(e) Provisions for underwriting or subsidizing the development or expansion of markets for oranges, grapefruit, tangerines, or citrus hybrids, or the products thereof.

(f) Provisions for the borrowing of money by the *Florida Citrus Authority* ~~Department of Citrus~~ to effectuate the particular marketing order.

(g) Provisions for the establishment of such plans or programs for advertising, merchandising, and sales promotion to create new or larger domestic or foreign markets for oranges, grapefruit, tangerines, or citrus hybrids grown in the state and the processed products and byproducts thereof as circumstances may warrant.

(h) Provisions incidental to and not inconsistent with the foregoing provisions.

(6)(a) No marketing order, or amendment thereto, issued pursuant to this section shall become effective unless and until the *Florida Citrus Authority* ~~Department of Citrus~~ finds that such order has been assented to in writing by at least 65 percent of the producers voting in a referendum on the marketing order. The marketing order must also be consented to in writing by producers voting in the referendum who, during a preceding representative shipping season determined by the *Florida Citrus Authority* ~~Department of Citrus~~, produced and delivered or caused to be delivered into the primary channel of trade not less than 65 percent of the total number of standard-packed boxes of oranges, grapefruit, tangerines, or citrus hybrids, or the equivalent thereof which were found by the *Florida Citrus Authority* ~~Department of Citrus~~ to have been produced and delivered by such voting producers into the primary channel of trade during such representative period.

(b) No marketing order or amendment thereto issued pursuant to this section which contains provisions authorized by paragraph (5)(c) or paragraph (5)(e) pertaining to processed citrus products shall become effective unless and until such order has also been submitted to processors who, during a preceding representative shipping season determined by the *Florida Citrus Authority* ~~Department of Citrus~~, handled in the primary channel of trade the type or types of processed orange, grapefruit, tangerine, or citrus hybrid products specified for purchase or marketing by the provisions of such marketing order, and the *Florida Citrus Authority* ~~Department of Citrus~~ finds that such order has been assented to in writing by at least 51 percent of such processors voting in such referendum who processed, from oranges, grapefruit, tangerines, or citrus hybrids delivered into the primary channels of trade during such representative period, not less than 65 percent of the

number of gallons of such processed orange, grapefruit, tangerine, or citrus hybrid products, expressed on a single-strength basis, so processed by such voting processors from oranges, grapefruit, tangerines, or citrus hybrids delivered into the primary channel of trade during such representative period.

(c) No marketing order or amendment thereto issued pursuant to this section which contains provisions authorized by paragraph (5)(b) or paragraph (5)(e) pertaining to fresh citrus fruit shall become effective unless and until such order has also been submitted to shippers of fresh oranges, grapefruit, tangerines, or citrus hybrids who, during a preceding representative shipping season determined by the *Florida Citrus Authority* ~~Department of Citrus~~, handled oranges, grapefruit, tangerines, or citrus hybrids in the primary channel of trade, and the *Florida Citrus Authority* ~~Department of Citrus~~ finds that such order has been assented to in writing by at least 51 percent of such shippers of fresh oranges, grapefruit, tangerines, or citrus hybrids voting in such referendum who, during such representative period, handled in the primary channel of trade not less than 65 percent of the number of standard-packed boxes of such oranges, grapefruit, tangerines, or citrus hybrids handled by such voting shippers of fresh oranges, grapefruit, tangerines, or citrus hybrids in the primary channel of trade during such representative period.

(7) The *Florida Citrus Authority* ~~Department of Citrus~~ is authorized to prescribe by rule or regulation such procedures as it deems necessary or required to properly conduct a referendum hereunder.

(8) Every marketing order and amendment thereto issued by the *Florida Citrus Authority* ~~Department of Citrus~~, under the provisions of this section, shall be published one time, within 10 days after the same is adopted, in at least one daily newspaper of general circulation in each of two cities within the citrus-producing area of the state, to be selected by the *Florida Citrus Authority* ~~Department of Citrus~~. All such orders shall become effective 5 days after the orders are found by the *Florida Citrus Authority* ~~Department of Citrus~~ to be so assented to, unless the *Florida Citrus Authority* ~~Department of Citrus~~ orders a later date. In case written protest by any affected person shall be made to any such order within 15 days after the *Florida Citrus Authority* ~~Department of Citrus~~ has found it so assented to, a hearing shall be conducted at a place and time determined by the *Florida Citrus Authority* ~~Department of Citrus~~ or its authorized agent or representative; all interested persons shall have an opportunity to be heard. Due notice of the time and place of such hearing by the *Florida Citrus Authority* ~~Department of Citrus~~ or its designated agent, representative, or administrative law judge shall be given to the persons making such protest. In all cases such written protests shall be filed with the *Florida Citrus Authority* ~~Department of Citrus~~; however, the filing thereof shall not stay the effective date of such order. The *Florida Citrus Authority* ~~Department of Citrus~~ may, on application of the protestant and for good cause shown, stay the effective date of the order for such time as the *Florida Citrus Authority* ~~Department of Citrus~~ may direct. Any action of the *Florida Citrus Authority* ~~Department of Citrus~~ refusing to modify the order protested or refusing to stay the effective date of such order shall be subject to review by any court of competent jurisdiction.

(9) For the purpose of carrying out any and all provisions of this section, the commission, or its duly authorized or designated representative or representatives, may hold hearings, take testimony, and administer oaths and may, after any marketing order has become final, subpoena witnesses and issue subpoenas for the production of books, records, or documents relevant and material to the marketing order. Copies of the proceedings, records, and acts of the commission and certificates purporting to relate the facts concerning such proceedings, records, and acts, signed by the chair of the commission and authenticated by the seal of the commission, shall be prima facie evidence thereof in all the courts of the state.

(10)(a) The *Florida Citrus Authority* ~~Department of Citrus~~ shall suspend or terminate any marketing order, or any provision thereof, whenever it finds such order or provision does not tend to effectuate the declared purposes of this section within the standards and subject to the limitations and restrictions herein imposed. Such suspension or termination shall not be effective until the expiration of the then-current marketing, shipping, or harvesting season, unless otherwise provided in any such marketing order.

(b) If the *Florida Citrus Authority* ~~Department of Citrus~~ finds that the termination or suspension of any marketing order is requested in writing by producers who produced for market during the last preceding shipping season more than 51 percent of the total standard-packed boxes of the variety of citrus fruit covered by the marketing order, the *Florida Citrus Authority* ~~Department of Citrus~~ shall terminate or suspend for a specified period such marketing order or provision thereof.

(11) Upon the issuance of any order of suspension or termination of any marketing order, a notice thereof shall be published one time in at least one daily newspaper of general circulation in each of two cities within the citrus-producing area of the state to be selected by the *Florida Citrus Authority* ~~Department of Citrus~~. No order of suspension or termination shall become effective until the expiration of a period of 5 days from the date of such publication.

(12) For the privilege of delivering the variety of citrus fruit covered by a marketing order into the primary channel of trade, every person so engaged shall pay to the *Florida Citrus Authority* ~~Department of Citrus~~ an assessment specified in the marketing order. However, the aggregate of all assessments levied against any variety of citrus fruit with respect to one or more marketing orders shall not exceed 10 cents per standard-packed box or the equivalent thereof with respect to any shipping season in which such marketing order or orders are in effect. The *Florida Citrus Authority* ~~Department of Citrus~~ shall prescribe rules and regulations with respect to the assessment and collection of such funds.

(13)(a) Every handler, producer, or other person delivering oranges, grapefruit, tangerines, or citrus hybrids to any handler or other person shall keep a complete and accurate record of all oranges, grapefruit, tangerines, or citrus hybrids handled by her or him. Such record shall be in such form and contain such information as the *Florida Citrus Authority* ~~Department of Citrus~~ shall by rule or regulation prescribe. Such records shall be preserved by all such persons for a period of at least 1 year after the termination of the marketing order to which such records relate and shall be offered for inspection at any time upon oral or written demand by the *Florida Citrus Authority* ~~Department of Citrus~~ or its duly authorized agent or representative.

(b) Every handler shall, at such times as the *Florida Citrus Authority* ~~Department of Citrus~~ may by rule or regulation require, file with the *Florida Citrus Authority* ~~Department of Citrus~~ a return on forms to be prescribed and furnished by the *Florida Citrus Authority* ~~Department of Citrus~~ certifying the number of standard-packed boxes of the variety of citrus fruit covered by a marketing order handled by her or him in the primary channel of trade during the period of time prescribed by the *Florida Citrus Authority* ~~Department of Citrus~~.

(c) All assessments levied and imposed under and pursuant to the provisions of this section shall be due and payable and shall be paid, or the amount thereof provided for and guaranteed as hereinafter provided, at such times and in such installments as the *Florida Citrus Authority* ~~Department of Citrus~~ shall by regulation prescribe. All such assessments shall be paid by the producer or other person delivering the oranges, grapefruit, tangerines, or citrus hybrids into the primary channel of trade. However, the handler who receives the citrus fruit in the primary channel of trade shall not be construed to be the person delivering the citrus fruit into the primary channel of trade, except when such handler and the producer are one and the same person. Such assessments shall be collected from the producer or other person delivering the oranges, grapefruit, tangerines, or citrus hybrids into the primary channel of trade by the handler first handling the citrus fruit in the primary channel of trade and shall be guaranteed and transmitted to the *Florida Citrus Authority* ~~Department of Citrus~~ by the handler so shipping or processing such citrus fruit by the giving of a security bond or cash deposit under rules and regulations promulgated by the *Florida Citrus Authority* ~~Department of Citrus~~. Such assessments shall not be absorbed by the handler, unless the handler is one and the same person as the producer, but shall be deducted by the handler from the price paid or to be paid by the handler to the producer

or other person who delivered the citrus fruit into the primary channel of trade.

(14)(a) All money so collected by the *Florida Citrus Authority* ~~Department of Citrus~~ under this section, including the net proceeds received by the *Florida Citrus Authority* ~~Department of Citrus~~ from the sale of any processed orange product pursuant to paragraph (5)(c), shall be set aside in *Florida Citrus Authority operating accounts.* ~~the Florida Citrus Advertising Trust Fund as a special fund to be known as the "Citrus Stabilization Fund."~~ All moneys in such *operating accounts* ~~fund, after deducting the service charge provided in s. 601.15(7),~~ are hereby appropriated to the *Florida Citrus Authority* ~~Department of Citrus~~ for the payment of the actual expenses incurred by the *Florida Citrus Authority* ~~Department of Citrus~~ in the formulation, issuance, administration, enforcement, and operation of the marketing order pursuant to which such funds are so collected, except as hereinafter provided. The marketing order may provide that any moneys remaining in such fund upon the termination of a marketing order shall be refunded on a pro rata basis to all persons assessed pursuant to such marketing order; may provide that such moneys may be used to pay expenses incurred by the *Florida Citrus Authority* ~~Department of Citrus~~ in the formulation, issuance, administration, enforcement, and operation of any other marketing order issued pursuant to this chapter; or may provide that such moneys may be deposited to and made a part of *Florida Citrus Authority operating accounts which are funded* ~~the Citrus Advertising Trust Fund created~~ by s. 601.15. During the administration, enforcement, and operation of any marketing order adopted hereunder, if the commission determines that funds derived pursuant to that marketing order exceed the requirements for the desired operation of that marketing order, it may transfer such funds as it determines by its vote are excess to *operating accounts which are funded by* ~~the Florida Citrus Advertising Trust Fund established by~~ s. 601.15. Such transfer shall be for the purposes of advertising and promoting, including brand advertising rebate promotions, merchandising and research in regard to the particular form of citrus fruit or processed citrus product for which the funds were collected pursuant to the marketing order. The commission may also transfer any excess for the purpose of the formulation, issuance, administrative enforcement, or operation of any other marketing order adopted hereunder that is directed to the same form of citrus fruit or processed citrus product. No such transfer shall be accomplished without a public hearing and a subsequent referendum being conducted to approve such a transfer. If, after any such transfer of excess funds, it is subsequently determined that additional funds are needed for the administration, enforcement, and operation of the marketing order from which funds were transferred, and there are sufficient funds available in the fund which was the recipient of the funds transferred, the commission, upon an affirmative vote of nine of its members, may retransfer, from the recipient fund to the original fund, an amount not to exceed that originally transferred.

(b) If the commission finds it necessary to do so, it may transfer to the Citrus Stabilization Fund from the *Florida Citrus Authority operating accounts* ~~Florida Citrus Advertising Trust Fund created in this chapter~~ only such sum of money as the commission determines is required to formulate and issue any such marketing order until moneys in the Citrus Stabilization Fund derived from assessments imposed and collected pursuant to this section are sufficient to finance the administration, enforcement, and operation of such marketing order and to replace such transferred funds.

(15)(a) Any marketing order which contains provisions authorized by paragraph (5)(c) shall include provisions specifying:

1. The type and form of processed orange or grapefruit product proposed to be purchased, stored, and sold.

2. The maximum price at which the processed orange or grapefruit product to be pooled may be purchased or the criteria to be used in computing such maximum price.

3. The criteria to be used in determining whether a freeze, hurricane, or other catastrophe which results in a shortage of oranges or grapefruit or processed orange or grapefruit products is sufficiently serious to justify the sale of all or part of the processed orange or grapefruit products then held in the reserve pool.

4. The minimum price at which the pooled processed orange or grapefruit product will be sold after a determination pursuant to subparagraph 3., or the criteria to be used in computing such minimum price.

5. The criteria to be used in determining upon what basis or allocation, or both, and upon what time schedule the pooled processed orange or grapefruit product may be sold to Florida processors of processed orange or grapefruit products after a determination pursuant to subparagraph 3.

6. The quality standards to which the processed orange or grapefruit product to be pooled will be required to conform.

7. The criteria for determining at what level the quantity of processed orange or grapefruit products in the reserve pool will be sufficient to accomplish the purposes intended.

8. The criteria to be used in determining to what limited extent processed orange or grapefruit products held in such reserve pool may be sold to defray costs of storage at such times when no other funds are available for such purpose.

(b) Notwithstanding any other provision of this section, the provisions of any marketing order authorized by paragraph (5)(c) may not, under any circumstances, be suspended, terminated, or amended within 12 months following a catastrophe which, under the criteria established pursuant to subparagraph (a)3., is sufficiently serious to justify the sale of all or part of the processed citrus products then held in the reserve pool.

(16) Any person who violates any provision of this section, any provision of any marketing order, or any rule or regulation of the *Florida Citrus Authority* ~~Department of Citrus~~ relating thereto is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(17) The ~~several~~ circuit *court* ~~courts~~ *in Polk County, Florida, is* ~~of the state are~~ hereby vested with jurisdiction specifically to enforce and to enjoin and restrain any person from violating any provisions of this section, or of any marketing order, rules, or regulations duly issued by the *Florida Citrus Authority* ~~Department of Citrus~~ hereunder, in any proceeding brought by the *Florida Citrus Authority* ~~Department of Citrus in any of the circuit~~ courts; and in any such proceeding it shall not be necessary for the *Florida Citrus Authority* ~~Department of Citrus~~ to post any bond or to allege or prove that an adequate remedy at law does not exist. *The* ~~A~~ circuit court may issue a temporary restraining order and preliminary injunction, as in other actions for injunctive relief, and, upon final hearing, if the final decree is in favor of the *Florida Citrus Authority* ~~Department of Citrus~~, the court shall permanently enjoin the defendant or defendants from further violations, and any such final decree in favor of the *Florida Citrus Authority* ~~Department of Citrus~~ shall provide that the defendant or defendants pay it reasonable costs of such suit, including reasonable attorney's fees. Any such action may be commenced either in the county where the defendant resides, or in the county where any other defendant resides, if more than one defendant, or in the county where any act or omission, or part thereof, complained of occurred.

(18) This section shall be liberally construed to effectuate the purposes set forth and as additional and supplemental powers vested in the *Florida Citrus Authority* ~~Department of Citrus~~ under the police power of this state.

(19) Nothing herein shall be construed to authorize the *Florida Citrus Authority* ~~Department of Citrus~~ in any manner to fix prices of citrus.

Section 59. Section 601.155, Florida Statutes, is reenacted and amended to read:

601.155 Equalizing excise tax; credit; exemption.—

(1) The first person who exercises in this state the privilege of processing, reprocessing, blending, or mixing processed orange products or processed grapefruit products or the privilege of packaging or repackaging processed orange products or processed grapefruit products into retail or institutional size containers or, except as provided in subsection (9) or except if a tax is levied and collected on the exercise of one of the foregoing privileges, the first person having title to or possession of any processed orange product or any processed grapefruit product who exercises the privilege in this state of storing such product or removing any portion of such product from the original container in which it arrived in this state for purposes other than official inspection or direct consumption by the consumer and not for resale shall be assessed and shall pay an excise tax upon the exercise of such privilege at the rate described in subsection (2).

(2) ~~Upon the exercise of any privilege described in subsection (1),~~ The excise tax levied by this section *may* ~~shall~~ be *set by the Florida Citrus Authority* at *a* ~~the same~~ rate *not to exceed the rate* per box of oranges or grapefruit utilized in the initial production of the processed citrus products so handled as that imposed~~, at the time of exercise of the taxable privilege,~~ by s. 601.15 ~~per box of oranges~~. *The department shall set the rate for each citrus season by August 1 of each year.*

(3) For the purposes of this section, the number of boxes of oranges or grapefruit utilized in the initial production of processed citrus products subject to the taxable privilege shall be:

(a) The actual number of boxes so utilized, if known and verified in accordance with *Florida Citrus Authority* ~~Department of Citrus~~ rules; or

(b) An equivalent number established by *Florida Citrus Authority* ~~Department of Citrus~~ rule which, on the basis of existing data, reasonably equates to the quantity of citrus contained in the product, when the actual number of boxes so utilized is not known or properly verified.

(4) For purposes of this section:

(a) "Processed orange products" means products for human consumption consisting of 20 percent or more single strength equivalent orange juice; orange sections, segments, or edible components; or whole peeled fruit.

(b) "Processed grapefruit products" means products for human consumption consisting of 20 percent or more single strength equivalent grapefruit juice; grapefruit sections, segments, or edible components; or whole peeled fruit.

(c) "Original container" includes any vessel, tanker or tank car or other transport vehicle.

(d) "Retail or institutional container" means a container having a capacity of 10 gallons or less.

(5) All products subject to the taxable privileges under this section, which products are produced in whole or in part from citrus fruit grown within the United States, are exempt from the tax imposed by this section to the extent that the products are derived from oranges or grapefruit grown within the United States. In the case of products made in part from citrus fruit grown within the United States, it shall be the burden of the persons liable for the excise tax to show the *Florida Citrus Authority* ~~Department of Citrus~~, through competent evidence, proof of that part which is not subject to a taxable privilege.

(6) Every person liable for the excise tax imposed by this section shall keep a complete and accurate record of the receipt, storage, handling, exercise of any taxable privilege under this section, and shipment of all products subject to the tax imposed by this section. Such record shall be preserved for a period of 1 year and shall be offered for inspection upon oral or written request by the *Florida Citrus Authority* ~~Department of Citrus~~ or its duly authorized agent.

(7) Every person liable for the excise tax imposed by this section shall, at such times and in such manner as the *Florida Citrus Authority* ~~Department of Citrus~~ may by rule require, file with the *Florida Citrus Authority* ~~Department of Citrus~~ a return, certified as true and correct, on forms to be prescribed and furnished by the *Florida Citrus Authority* ~~Department of Citrus~~, stating, in addition to other information reasonably required by the *Florida Citrus Authority* ~~Department of Citrus~~, the number of units of processed orange or grapefruit products subject to this section upon which any taxable privilege under this section was exercised during the period of time covered by the return. Full payment of excise taxes due for the period reported shall accompany each return.

(8) All taxes levied and imposed by this section shall be due and payable within 61 days after the first of the taxable privileges is exercised in this state. Periodic payment of the excise taxes imposed by this section by the person first exercising the taxable privileges and liable for such payment shall be permitted only in accordance with *Florida Citrus Authority* ~~Department of Citrus~~ rules, and the payment thereof shall be guaranteed by the posting of an appropriate certificate of deposit, approved surety bond, or cash deposit in an amount and manner as prescribed by the *Florida Citrus Authority* ~~Department of Citrus~~.

(9) When any processed orange or grapefruit product is stored or removed from its original container as provided in subsection (1), the equalizing excise tax is levied on such storage or removal, and such product is subsequently shipped out of the state in a vessel, tanker or tank car, or container having a capacity greater than 10 gallons, the person who is liable for the tax shall be entitled to a tax refund, if such tax has been paid, or to a tax credit, provided she or he can provide satisfactory proof that such product has been shipped out of the state and that no privilege taxable under subsection (1) other than storage or removal from the original container was exercised prior to such shipment out of the state.

(10) All excise taxes levied and collected under the provisions of this section, including penalties, shall be paid *directly to the Florida Citrus Authority* ~~into the State Treasury~~ to be made a part of the *Florida Citrus Authority general operating accounts* ~~Florida Citrus Advertising Trust Fund~~ in the same manner, for the same purposes, and in the same proportions as set forth in s. 601.15*(6)*~~(7)~~. Any person failing to file a return or pay any assessment within the time required shall thereby forfeit to the *Florida Citrus Authority* ~~Department of Citrus~~ a penalty of 5 percent of the amount of assessment then due; but the *Florida Citrus Authority* ~~Department of Citrus~~, on good cause shown, may waive all or any part of such penalty.

(11) This section shall be liberally construed to effectuate the purposes set forth and as additional and supplemental powers vested in the *Florida Citrus Authority* ~~Department of Citrus~~ under the police power of this state.

(12) Where a taxpayer claims a refund of citrus excise taxes based upon reasons as provided in s. 215.26 and the Florida Citrus Authority agrees with the claim, the authority may enter into agreements with such taxpayer or third parties, or both, to pay all or a portion of such refund by cash or through the suspension of the authority's collection of citrus excise taxes until the amount of such refund is returned or credited to the claimant's benefit.

Section 60. Section 601.16, Florida Statutes, is reenacted to read:

601.16 Grapefruit maturity standards; fresh and processed.—

(1)(a) Seedless grapefruit for fresh use, except as provided herein, shall not be deemed mature until:

1. Each fruit, after having been severed from the tree, shows a break in color, with yellow color predominating on not less than 25 percent of the fruit's surface in the aggregate;

2. The total soluble solids (Brix) of the juice is not less than 7.5 percent;

3. The ratio of the total soluble solids to anhydrous citric acid meets the requirements of s. 601.17; and

4. The juice content of each fruit is not less than the minimum requirements for the respective fruit size as set forth in s. 601.18.

(b) Except for the period January 1 through July 31, seedless grapefruit meeting minimum color break, ratio, and juice content requirements of paragraph (a) shall be deemed mature when the total soluble solids (Brix) of the juice is not less than 7 percent.

(c) Except for the period April 15 through July 31, seedless grapefruit meeting minimum color break, soluble solids, and juice content requirements of paragraph (a) shall be deemed mature when the ratio of soluble solids to anhydrous citric acid is not less than six to one.

(d) Except the commission may, by rule, during the period November 1 through July 31, lower by not more than 0.5 percent the minimum total soluble solids requirement established by this section for pink and red seedless grapefruit. Any such rule shall automatically expire on July 31 next following its adoption.

(2)(a) Seeded grapefruit for fresh use, except as provided herein, shall not be deemed mature until:

1. Each fruit, after having been severed from the tree, shows a break in color, with yellow color predominating on not less than 25 percent of the fruit's surface in the aggregate;

2. The total soluble solids (Brix) of the juice is not less than 8 percent;

3. The ratio of the total soluble solids to anhydrous citric acid meets the requirements of s. 601.17; and

4. The juice content of each fruit is not less than the minimum requirements for the respective fruit size as set forth in s. 601.18.

(b) Except for the period January 1 through July 31, seeded grapefruit meeting minimum color break, ratio, and juice content requirements of paragraph (a) shall be deemed mature when the total soluble solids (Brix) of the juice is not less than 7.5 percent.

(c) Except for the period April 15 through July 31, seeded grapefruit meeting minimum color break, soluble solids, and juice content requirements of paragraph (a) shall be deemed mature when the ratio of soluble solids to anhydrous citric acid is not less than six to one.

(3) Grapefruit for processing into juices and juice products shall be deemed mature as follows:

(a) For the period August 1 through November 30, maturity requirements for juice content, acid, and color break shall be the same as established herein for grapefruit for fresh use. After November 30, there shall be no minimum requirement for juice content, acid, or color break.

(b) For the period August 1 through November 30, the total soluble solids (Brix) of the juice from seedy grapefruit shall be not less than 8 percent, and the minimum ratio of total soluble solids to anhydrous citric acid shall be not less than eight to one.

(c) For the period August 1 through November 30, the total soluble solids (Brix) of the juice from seedless grapefruit shall be not less than 7.5 percent, and the minimum ratio of total soluble solids to anhydrous citric acid shall be not less than eight to one.

(d) For the period December 1 through December 31, the total soluble solids (Brix) of the juice from seedy and seedless grapefruit shall be not less than 7 percent, and the minimum ratio of total soluble solids to anhydrous citric acid shall be not less than eight to one.

(e) For the period January 1 through January 31, the total soluble solids (Brix) of the juice from seedy and seedless grapefruit shall be not less than 6.5 percent, and the minimum ratio of total soluble solids to anhydrous citric acid shall be not less than eight to one.

(f) For the period February 1 through April 14, the total soluble solids (Brix) of the juice from seedy and seedless grapefruit shall be not less than 6.5 percent, and the minimum ratio of total soluble solids to anhydrous citric acid shall be not less than six and one-half to one.

(g) For the period April 15 through July 31, the total soluble solids (Brix) of the juice from seedy and seedless grapefruit shall be not less than 6.5 percent, and the minimum ratio of total soluble solids to anhydrous citric acid shall be not less than six to one.

(h) All grapefruit subject to inspection at a registered packinghouse, eliminated from final packing, and legally diverted from the packinghouse for processing into juice and juice products shall be deemed mature as provided in paragraphs (a)-(g), except that, for the period August 1 through January 31, the minimum ratio of total soluble solids to anhydrous citric acid shall be not less than seven and one-half to one. For the period August 1 through January 31, such fruit failing to meet maturity standards as provided may be used in the production of products as provided in s. 601.9906(2).

(i) Any grapefruit which is subject to inspection at a registered citrus processing plant for processing into grapefruit sections and salads, eliminated from processing into grapefruit sections and salads, and diverted for processing into juice and juice products shall be deemed mature as provided in subsection (4).

(4) Grapefruit for processing into grapefruit sections and salads shall be deemed mature as follows:

(a) For the period August 1 through November 30, maturity requirements shall be the same as established herein for grapefruit for fresh use.

(b) After November 30, there shall be no minimum requirements for juice content, acid, or color break.

(c) For the period December 1 through December 31, the total soluble solids (Brix) of the juice shall be not less than 7 percent, and the minimum ratio of total soluble solids to anhydrous citric acid shall meet the requirements of s. 601.17.

(d) For the period January 1 through April 14, the total soluble solids (Brix) of the juice shall be not less than 6.5 percent, and the minimum ratio of total soluble solids to anhydrous citric acid shall be not less than six and one-half to one.

(e) For the period April 15 through July 31, the total soluble solids (Brix) of the juice shall be not less than 6.5 percent, and the minimum ratio of total soluble solids to anhydrous citric acid shall be not less than six to one.

(5) The commission may, by rule, for the period April 15 through July 31, adjust any minimum total soluble solids requirement for grapefruit for processing purposes established by this section. Any such rule shall automatically expire on July 31 following its adoption.

Section 61. Section 601.17, Florida Statutes, is reenacted to read:

601.17 Grapefruit; minimum ratios of solids to acid.—The minimum ratios of the total soluble solids of the juice of grapefruit to the anhydrous citric acid shall be as follows:

(1) When the total soluble solids of the juice is not less than 6.5 percent and not more than 9.1 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 7 to 1.

(2) When the total soluble solids of the juice is not less than 9.1 percent and not more than 9.2 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.95 to 1.

(3) When the total soluble solids of the juice is not less than 9.2 percent and not more than 9.3 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.90 to 1.

(4) When the total soluble solids of the juice is not less than 9.3 percent and not more than 9.4 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.85 to 1.

(5) When the total soluble solids of the juice is not less than 9.4 percent and not more than 9.5 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.80 to 1.

(6) When the total soluble solids of the juice is not less than 9.5 percent and not more than 9.6 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.75 to 1.

(7) When the total soluble solids of the juice is not less than 9.6 percent and not more than 9.7 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.70 to 1.

(8) When the total soluble solids of the juice is not less than 9.7 percent and not more than 9.8 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.65 to 1.

(9) When the total soluble solids of the juice is not less than 9.8 percent and not more than 9.9 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.60 to 1.

(10) When the total soluble solids of the juice is not less than 9.9 percent and not more than 10 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.55 to 1.

(11) When the total soluble solids of the juice is not less than 10 percent and not more than 10.1 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.50 to 1.

(12) When the total soluble solids of the juice is not less than 10.1 percent and not more than 10.2 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.475 to 1.

(13) When the total soluble solids of the juice is not less than 10.2 percent and not more than 10.3 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.45 to 1.

(14) When the total soluble solids of the juice is not less than 10.3 percent and not more than 10.4 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.425 to 1.

(15) When the total soluble solids of the juice is not less than 10.4 percent and not more than 10.5 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.40 to 1.

(16) When the total soluble solids of the juice is not less than 10.5 percent and not more than 10.6 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.375 to 1.

(17) When the total soluble solids of the juice is not less than 10.6 percent and not more than 10.7 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.35 to 1.

(18) When the total soluble solids of the juice is not less than 10.7 percent and not more than 10.8 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.325 to 1.

(19) When the total soluble solids of the juice is not less than 10.8 percent and not more than 10.9 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.30 to 1.

(20) When the total soluble solids of the juice is not less than 10.9 percent and not more than 11 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.275 to 1.

(21) When the total soluble solids of the juice is not less than 11 percent and not more than 11.1 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.25 to 1.

(22) When the total soluble solids of the juice is not less than 11.1 percent and not more than 11.2 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.225 to 1.

(23) When the total soluble solids of the juice is not less than 11.2 percent and not more than 11.3 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.20 to 1.

(24) When the total soluble solids of the juice is not less than 11.3 percent and not more than 11.4 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.175 to 1.

(25) When the total soluble solids of the juice is not less than 11.4 percent and not more than 11.5 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.15 to 1.

(26) When the total soluble solids of the juice is not less than 11.5 percent and not more than 11.6 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.125 to 1.

(27) When the total soluble solids of the juice is not less than 11.6 percent and not more than 11.7 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.10 to 1.

(28) When the total soluble solids of the juice is not less than 11.7 percent and not more than 11.8 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.075 to 1.

(29) When the total soluble solids of the juice is not less than 11.8 percent and not more than 11.9 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.05 to 1.

(30) When the total soluble solids of the juice is not less than 11.9 percent and not more than 12 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6.025 to 1.

(31) When the total soluble solids of the juice is not less than 12 percent or is more than 12 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 6 to 1.

Section 62. Section 601.18, Florida Statutes, is reenacted and amended to read:

601.18 Grapefruit; minimum juice content.—

(1) During that period of time beginning with August 1 of each year and ending with November 15 of the same year, both dates inclusive, the minimum juice content of the juice of the respective sizes of grapefruit is as follows, each size being designated by the commercial number assigned to it based on the number of grapefruit of said size packed commercially in a standard 4/5 Florida packed box of grapefruit:

(a) A grapefruit of size 14 shall contain not less than 400 cubic centimeters of juice.

(b) A grapefruit of size 18 shall contain not less than 350 cubic centimeters of juice.

(c) A grapefruit of size 23 shall contain not less than 305 cubic centimeters of juice.

(d) A grapefruit of size 27 shall contain not less than 275 cubic centimeters of juice.

(e) A grapefruit of size 32 shall contain not less than 245 cubic centimeters of juice.

(f) A grapefruit of size 36 shall contain not less than 230 cubic centimeters of juice.

(g) A grapefruit of size 40 shall contain not less than 210 cubic centimeters of juice.

(h) A grapefruit of size 48 shall contain not less than 185 cubic centimeters of juice.

(i) A grapefruit of size 56 shall contain not less than 170 cubic centimeters of juice.

(j) A grapefruit of size 64 shall contain not less than 165 cubic centimeters of juice.

(2) During that period of time beginning with November 16 of each year and ending with March 1 of the following year, both dates inclusive, the minimum juice content of the juice of the respective sizes of grapefruit shall be as follows:

(a) A grapefruit of size 14 shall contain not less than 380 cubic centimeters of juice.

(b) A grapefruit of size 18 shall contain not less than 335 cubic centimeters of juice.

(c) A grapefruit of size 23 shall contain not less than 290 cubic centimeters of juice.

(d) A grapefruit of size 27 shall contain not less than 265 cubic centimeters of juice.

(e) A grapefruit of size 32 shall contain not less than 230 cubic centimeters of juice.

(f) A grapefruit of size 36 shall contain not less than 220 cubic centimeters of juice.

(g) A grapefruit of size 40 shall contain not less than 200 cubic centimeters of juice.

(h) A grapefruit of size 48 shall contain not less than 180 cubic centimeters of juice.

(i) A grapefruit of size 56 shall contain not less than 165 cubic centimeters of juice.

(j) A grapefruit of size 64 shall contain not less than 160 cubic centimeters of juice.

(3) During that period of time beginning with March 2 of each year and ending with July 31 of the same year, both dates inclusive, the minimum juice content of the juice of respective sizes of grapefruit shall be as follows:

(a) A grapefruit of size 14 shall contain not less than 360 cubic centimeters of juice.

(b) A grapefruit of size 18 shall contain not less than 320 cubic centimeters of juice.

(c) A grapefruit of size 23 shall contain not less than 275 cubic centimeters of juice.

(d) A grapefruit of size 27 shall contain not less than 250 cubic centimeters of juice.

(e) A grapefruit of size 32 shall contain not less than 220 cubic centimeters of juice.

(f) A grapefruit of size 36 shall contain not less than 210 cubic centimeters of juice.

(g) A grapefruit of size 40 shall contain not less than 190 cubic centimeters of juice.

(h) A grapefruit of size 48 shall contain not less than 170 cubic centimeters of juice.

(i) A grapefruit of size 56 shall contain not less than 155 cubic centimeters of juice.

(j) A grapefruit of size 64 shall contain not less than 150 cubic centimeters of juice.

(4) Provided, however, that if the *Florida Citrus Authority* ~~Department of Citrus~~ determines that unusual or abnormal conditions exist and a change in the juice requirements will be in the best interests of the citrus industry, it may, by resolution, decrease the required juice content of grapefruit, by varieties, during the period beginning November 16 and ending March 1 of the following year, both dates inclusive as provided in subsection (2), but in no event shall the required juice content during this period be less than the juice content required during the period beginning March 2 of each year and ending July 31 of the same year, as provided in subsection (3).

(5) Provided further, however, that the *Florida Citrus Authority* ~~Department of Citrus~~ is hereby authorized to establish by regulation different sizes, including changes in diameter ranges for existing sizes, for grapefruit based on the number of grapefruit as packed commercially. At that time it shall also fix for each period the minimum juice content for the respective sizes so established, but in no event shall the juice content, during any period, be proportionately less than as above fixed.

Section 63. Section 601.19, Florida Statutes, is reenacted and amended to read:

601.19 Oranges; maturity standards.—

(1) During that period of time beginning with August 1 of each year and ending with October 31 of the same year, both dates inclusive, oranges shall be deemed to be mature only when each orange, after having been clipped, picked, or otherwise severed from the tree, shows a break in color, with yellow color predominating on not less than 50 percent of the fruit's surface in the aggregate, except that oranges of the Parson Brown variety need show only such a break in color on not less than 25 percent of the fruit's surface in the aggregate; when the total soluble solids of the juice of the sample thereof is not less than 9 percent; when the ratio of total soluble solids of the juice of the sample thereof to the anhydrous citric acid is as set forth in s. 601.20; when the juice of the sample contains not less than 0.4 percent of anhydrous citric acid; and when the juice content of said orange sample is in an amount not less than at the rate of 4½ gallons of juice per standard-packed box.

(2) During that period of time beginning with November 1 of each year and ending with November 15 of the same year, both dates inclusive, oranges shall be deemed to be mature only when each orange, after having been clipped, picked, or otherwise severed from the tree, shows a break in color, with yellow color predominating on not less than 50 percent of the fruit's surface in the aggregate, except that oranges of the Parson Brown variety need show only such a break in color on not less than 25 percent of the fruit's surface in the aggregate; when the total soluble solids of the juice of the sample thereof is not less than 8.7 percent; when the ratio of total soluble solids of the juice of the sample thereof to the anhydrous citric acid is as set forth in s. 601.20; when the juice of the sample contains not less than 0.4 percent of anhydrous citric acid; and when the juice content of said orange sample is in an amount not less than at the rate of 4½ gallons of juice per standard-packed box.

(3) During that period of time beginning with November 16 of each year and ending with July 31 of the following year, both dates inclusive, oranges shall be deemed to be mature only when each orange, after having been clipped, picked, or otherwise severed from the tree, shows a break in color, with yellow color predominating on not less than 25 percent of the fruit's surface in the aggregate; when the total soluble solids of the juice of the sample thereof is not less than 8.5 percent; when the ratio of the total soluble solids of the juice of the sample thereof to the anhydrous citric acid is as set forth in s. 601.20; when the juice of the sample contains not less than 0.4 percent of anhydrous citric acid; and when the juice content of said orange sample is in an amount not less than at the rate of 4½ gallons of juice per standard-packed box. If in any particular shipping season it shall appear to the *Florida Citrus Authority* ~~Department of Citrus~~, after a public hearing held not earlier than October 5 and called and held to determine such question, that oranges are then maturing earlier than normally as herein defined in this section, then the *Florida Citrus Authority* ~~Department of Citrus~~ may by order, rule, or regulation to be issued or promulgated and to become effective not later than October 10, declare and provide that during that period of time beginning with August 1 and ending with October 16, both dates inclusive, oranges meeting all other maturity standards shall be deemed to be mature when the total soluble solids of the juice of the sample thereof is not less than 9 percent, and during that period of time beginning with October 17 and ending with October 31, both dates inclusive, oranges meeting all other maturity standards shall be deemed to be mature when the total soluble solids of the juice of the sample thereof is not less than 8.7 percent, and during that period of time beginning with November 1 and ending July 31 of the following year, both dates inclusive, oranges meeting all other maturity standards shall be deemed to be mature when the total soluble solids of the juice of the sample thereof is not less than 8.5 percent.

(4) However, from December 1 of each year to July 31 of the following year, both dates inclusive, oranges shall be deemed to be mature for canning and concentrating purposes when the total soluble solids of the juice thereof is not less than 8 percent and when the minimum ratio of the total soluble solids of the juice thereof to the anhydrous citric acid is as set forth in s. 601.20, with no minimum requirement as to juice content, acid, or color break.

Section 64. Section 601.20, Florida Statutes, is reenacted to read:

601.20 Oranges; minimum ratios of solids to acid.—The minimum ratios of the total soluble solids of the juice of oranges to the anhydrous citric acid shall be as follows:

(1) When the total soluble solids of the juice is not less than 8 percent and not more than 8.1 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 10.50 to 1.

(2) When the total soluble solids of the juice is not less than 8.1 percent and not more than 8.2 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 10.45 to 1.

(3) When the total soluble solids of the juice is not less than 8.2 percent and not more than 8.3 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 10.40 to 1.

(4) When the total soluble solids of the juice is not less than 8.3 percent and not more than 8.4 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 10.35 to 1.

(5) When the total soluble solids of the juice is not less than 8.4 percent and not more than 8.5 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 10.30 to 1.

(6) When the total soluble solids of the juice is not less than 8.5 percent and not more than 8.6 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 10.25 to 1.

(7) When the total soluble solids of the juice is not less than 8.6 percent and not more than 8.7 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 10.20 to 1.

(8) When the total soluble solids of the juice is not less than 8.7 percent and not more than 8.8 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 10.15 to 1.

(9) When the total soluble solids of the juice is not less than 8.8 percent and not more than 8.9 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 10.10 to 1.

(10) When the total soluble solids of the juice is not less than 8.9 percent and not more than 9 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 10.05 to 1.

(11) When the total soluble solids of the juice is not less than 9 percent and not more than 9.1 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 10 to 1.

(12) When the total soluble solids of the juice is not less than 9.1 percent and not more than 9.2 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9.95 to 1.

(13) When the total soluble solids of the juice is not less than 9.2 percent and not more than 9.3 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9.90 to 1.

(14) When the total soluble solids of the juice is not less than 9.3 percent and not more than 9.4 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9.85 to 1.

(15) When the total soluble solids of the juice is not less than 9.4 percent and not more than 9.5 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9.80 to 1.

(16) When the total soluble solids of the juice is not less than 9.5 percent and not more than 9.6 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9.75 to 1.

(17) When the total soluble solids of the juice is not less than 9.6 percent and not more than 9.7 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9.70 to 1.

(18) When the total soluble solids of the juice is not less than 9.7 percent and not more than 9.8 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9.65 to 1.

(19) When the total soluble solids of the juice is not less than 9.8 percent and not more than 9.9 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9.60 to 1.

(20) When the total soluble solids of the juice is not less than 9.9 percent and not more than 10 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9.55 to 1.

(21) When the total soluble solids of the juice is not less than 10 percent and not more than 10.1 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9.50 to 1.

(22) When the total soluble solids of the juice is not less than 10.1 percent and not more than 10.2 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9.45 to 1.

(23) When the total soluble solids of the juice is not less than 10.2 percent and not more than 10.3 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9.40 to 1.

(24) When the total soluble solids of the juice is not less than 10.3 percent and not more than 10.4 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9.35 to 1.

(25) When the total soluble solids of the juice is not less than 10.4 percent and not more than 10.5 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9.30 to 1.

(26) When the total soluble solids of the juice is not less than 10.5 percent and not more than 10.6 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9.25 to 1.

(27) When the total soluble solids of the juice is not less than 10.6 percent and not more than 10.7 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9.20 to 1.

(28) When the total soluble solids of the juice is not less than 10.7 percent and not more than 10.8 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9.15 to 1.

(29) When the total soluble solids of the juice is not less than 10.8 percent and not more than 10.9 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9.10 to 1.

(30) When the total soluble solids of the juice is not less than 10.9 percent and not more than 11 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9.05 to 1.

(31) When the total soluble solids of the juice is 11 percent or more, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9 to 1.

Section 65. Section 601.21, Florida Statutes, is reenacted to read:

601.21 Tangerine maturity standards.—

(1) Tangerines shall be deemed to be mature only when each tangerine after having been clipped, picked, or otherwise severed from the tree, shows a break in color, with yellow color predominating on not less than 50 percent of the fruit's surface in the aggregate; when the total soluble solids of the juice thereof is not less than 9 percent; and when the ratio of total soluble solids of the juice thereof to the anhydrous citric acid is as set forth in s. 601.22.

(2) From November 15th of each year to July 31st of the following year, both dates inclusive, tangerines shall be deemed to be mature only when each tangerine, after having been clipped, picked, or otherwise severed from the tree, shows a break in color, with yellow color predominating on not less than 50 percent of the fruit's surface in the aggregate; and when the total soluble solids of the juice thereof is not less than 8.75 percent; and when the ratio of total soluble solids of the juice thereof to the anhydrous citric acid is as set forth in s. 601.22.

(3) From November 15th of each year to July 31 of the following year, both dates inclusive, tangerines shall be deemed to be mature for canning and concentrating purposes when the total soluble solids of the juice thereof is not less than 8.75 percent and when the minimum ratio of the juice thereof to the anhydrous citric acid is as set forth in s. 601.22, with no minimum requirements as to juice content, acid, or color break.

Section 66. Section 601.22, Florida Statutes, is reenacted to read:

601.22 Tangerines; minimum ratios of solids to acid.—The minimum ratios of the total soluble solids of the juice of tangerines to the anhydrous citric acid shall be as follows:

(1) When the total soluble solids of the juice is not less than 9 percent and not more than 9.1 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 9 to 1.

(2) When the total soluble solids of the juice is not less than 9.1 percent and not more than 9.2 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.9 to 1.

(3) When the total soluble solids of the juice is not less than 9.2 percent and not more than 9.3 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.8 to 1.

(4) When the total soluble solids of the juice is not less than 9.3 percent and not more than 9.4 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.7 to 1.

(5) When the total soluble solids of the juice is not less than 9.4 percent and not more than 9.5 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.6 to 1.

(6) When the total soluble solids of the juice is not less than 9.5 percent and not more than 9.6 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.5 to 1.

(7) When the total soluble solids of the juice is not less than 9.6 percent and not more than 9.7 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.4 to 1.

(8) When the total soluble solids of the juice is not less than 9.7 percent and not more than 9.8 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.3 to 1.

(9) When the total soluble solids of the juice is not less than 9.8 percent and not more than 9.9 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.2 to 1.

(10) When the total soluble solids of the juice is not less than 9.9 percent and not more than 10 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.1 to 1.

(11) When the total soluble solids of the juice is not less than 10 percent and not more than 10.1 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8 to 1.

(12) When the total soluble solids of the juice is not less than 10.1 percent and not more than 10.2 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 7.9 to 1.

(13) When the total soluble solids of the juice is not less than 10.2 percent and not more than 10.3 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 7.8 to 1.

(14) When the total soluble solids of the juice is not less than 10.3 percent and not more than 10.4 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 7.7 to 1.

(15) When the total soluble solids of the juice is not less than 10.4 percent and not more than 10.5 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 7.6 to 1.

(16) When the total soluble solids of the juice is not less than 10.5 percent or is more than 10.5 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 7.5 to 1.

(17) Provided, however, that after November 15th of each year to July 31st of the following year, both dates inclusive, the minimum ratio of the total soluble solids of the juice of tangerines to the anhydrous citric acid shall be as follows:

(a) When the total soluble solids of the juice is not less than 8.75 percent and not more than 8.80 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.75 to 1.

(b) When the total soluble solids of the juice is not less than 8.80 percent and not more than 8.90 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.75 to 1.

(c) When the total soluble solids of the juice is not less than 8.90 percent and not more than 9 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.75 to 1.

(d) When the total soluble solids of the juice is not less than 9 percent and not more than 9.10 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.75 to 1.

(e) When the total soluble solids of the juice is not less than 9.10 percent and not more than 9.20 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.65 to 1.

(f) When the total soluble solids of the juice is not less than 9.20 percent and not more than 9.30 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.55 to 1.

(g) When the total soluble solids of the juice is not less than 9.30 percent and not more than 9.40 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.45 to 1.

(h) When the total soluble solids of the juice is not less than 9.40 percent and not more than 9.50 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.35 to 1.

(i) When the total soluble solids of the juice is not less than 9.50 percent and not more than 9.60 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.25 to 1.

(j) When the total soluble solids of the juice is not less than 9.60 percent and not more than 9.70 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.15 to 1.

(k) When the total soluble solids of the juice is not less than 9.70 percent and not more than 9.80 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 8.05 to 1.

(l) When the total soluble solids of the juice is not less than 9.80 percent and not more than 9.90 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 7.95 to 1.

(m) When the total soluble solids of the juice is not less than 9.90 percent and not more than 10 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 7.85 to 1.

(n) When the total soluble solids of the juice is not less than 10 percent and not more than 10.10 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 7.75 to 1.

(o) When the total soluble solids of the juice is not less than 10.10 percent and not more than 10.20 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 7.65 to 1.

(p) When the total soluble solids of the juice is not less than 10.20 percent and not more than 10.30 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 7.55 to 1.

(q) When the total soluble solids of the juice is not less than 10.30 percent and not more than 10.40 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 7.45 to 1.

(r) When the total soluble solids of the juice is not less than 10.40 percent and not more than 10.50 percent, the minimum ratio of the total soluble solids to anhydrous citric acid shall be 7.35 to 1.

(s) When the total soluble solids of the juice is not less than 10.50 percent or is more than 10.50 percent the minimum ratio of the total soluble solids to anhydrous citric acid shall be 7.25 to 1.

Section 67. Section 601.24, Florida Statutes, is reenacted and amended to read:

601.24 *Florida Citrus Authority* ~~Department of Citrus~~ to prescribe methods of testing and grading.—The *Florida Citrus Authority* ~~Department of Citrus~~ shall by rule or regulation provide the manner and method to be used in drawing samples and the quantity to be used in testing and grading of citrus fruit and the canned and concentrated products thereof and shall provide specifications and methods for use of

juice extractors to be used in extracting juice for such tests and grading purposes.

Section 68. Section 601.25, Florida Statutes, is reenacted and amended to read:

601.25 Determination of soluble solids and acid.—The *Florida Citrus Authority* ~~Department of Citrus~~ by rule or regulation shall determine the method by which juice is tested for percentage of total soluble solids, the method by which juice is tested for acidity, and the method for testing fruit for juice content. Until such time as the *Florida Citrus Authority* ~~Department of Citrus~~ may see fit to determine such method by rule or regulation, the Brix hydrometer shall be used and the reading of the hydrometer corrected for temperature shall be considered as the percent of the total soluble solids; and anhydrous citric acid shall be determined by titration of the juice using standard alkali and phenolphthalein as indicator, the total acidity being calculated as anhydrous citric acid.

Section 69. Section 601.27, Florida Statutes, is reenacted and amended to read:

601.27 Department of Agriculture *and Consumer Services*; citrus inspectors.—The inspection in the state of all citrus fruit and the canned and concentrated products thereof, and the certifying as to grades and qualifications thereof, and the enforcement of all provisions of this chapter and rules and orders made pursuant to and under authority of this chapter shall be under the direction, supervision, and control of the Department of Agriculture *and Consumer Services*. The sampling, testing, and inspection of all processed citrus products shall be done by authorized agents or inspectors of the Department of Agriculture *and Consumer Services* or pursuant to cooperative agreement between the Department of Agriculture *and Consumer Services* and any agency of the Federal Government.

Section 70. Section 601.28, Florida Statutes, is reenacted and amended to read:

601.28 Inspection fees.—

(1) There is hereby levied upon citrus fruit and processed citrus products the following inspection fees:

(a) Upon each standard-packed box or equivalent, including hourly rate equivalent, thereof of citrus fruit inspected and certified for shipment in fresh form other than fruit on which a fee is imposed by paragraph (b), such fee, to be fixed annually promptly following the release by the United States Department of Agriculture of the October citrus crop estimate, as is determined by the Department of Agriculture *and Consumer Services* to be necessary to pay:

1. The costs expected to be incurred during the then-current shipping season by the Bureau of Citrus Inspection in performing its duties with respect to such citrus fruit and by the Bureau of Citrus Technical Control in performing its duties with respect to such citrus fruit;

2. A pro rata portion of the costs expected to be incurred during the then-current shipping season by the Bureau of Citrus License and Bond;

3. A pro rata portion of the costs expected to be incurred during the then-current shipping season, by the Department of Agriculture *and Consumer Services* through its cooperative agreement with the United States Department of Agriculture, which are directly attributable to the estimation of the size of the citrus crop in Florida; and

4. The amount, if any, by which the costs actually incurred with respect to the foregoing during the preceding shipping season may have exceeded the income received during that season, or less the amounts, if any, by which the income received during the preceding shipping season may have exceeded the costs actually incurred with respect to the foregoing during that season. For the purpose of this subparagraph, income received during the preceding season shall be deemed to include all fees collected under this paragraph, plus a pro rata portion of all fees collected under s. 601.59, plus a pro rata portion of all fines and penalties collected pursuant to this chapter, and plus all interest earned on the investment of the foregoing funds.

(b) Upon each unit, as defined by the *Florida Citrus Authority* ~~Department of Citrus~~, of citrus fruit inspected and certified for shipment in fresh form as gift fruit or for sale at roadside retail fruit stands, such fee, to be fixed annually promptly following the release by the United States Department of Agriculture of the October citrus crop estimate, as is determined by the Department of Agriculture *and Consumer Services* to be necessary to pay:

1. The costs expected to be incurred during the then-current shipping season by the Bureau of Citrus Inspection in performing its duties with respect to such citrus fruit and by the Bureau of Citrus Technical Control in performing its duties with respect to such citrus fruit;

2. A pro rata portion of the costs expected to be incurred during the then-current shipping season by the Bureau of Citrus License and Bond;

3. A pro rata portion of the costs expected to be incurred during the then-current shipping season by the Department of Agriculture *and Consumer Services* through its cooperative agreement with the United States Department of Agriculture which are directly attributable to the estimation of the size of the citrus crop in Florida; and

4. The amount, if any, by which the costs actually incurred with respect to the foregoing during the preceding shipping season may have exceeded the income received during that season, or less the amounts, if any, by which the income received during the preceding shipping season may have exceeded the costs actually incurred with respect to the foregoing during that season. For the purpose of this subparagraph, income received during the preceding shipping season shall be deemed to include all fees collected under this paragraph, plus a pro rata portion of all fees collected under s. 601.59, plus a pro rata portion of all fines and penalties collected pursuant to this chapter, and all interest earned on the investment of the foregoing funds.

(c) Upon each standard-packed box or equivalent thereof of citrus fruit inspected and certified for processing, such fee, to be fixed annually promptly following the release by the United States Department of Agriculture of the October citrus crop estimate, as is determined by the Department of Agriculture *and Consumer Services* to be necessary to pay:

1. The costs expected to be incurred during the then-current shipping season by the Bureau of Citrus Inspection in performing its duties with respect to such citrus fruit and by the Bureau of Citrus Technical Control in performing its duties with respect to such citrus fruit;

2. A pro rata portion of the costs expected to be incurred during the then-current shipping season by the Bureau of Citrus License and Bond;

3. A pro rata portion of the costs expected to be incurred during the then-current shipping season by the Department of Agriculture *and Consumer Services* through its cooperative agreement with the United States Department of Agriculture directly attributable to the estimation of the size of the citrus crop in Florida; and

4. The amount, if any, by which the costs actually incurred with respect to the foregoing during the preceding shipping season may have exceeded the income received during that season, or less the amount, if any, by which the income received during the preceding shipping season may have exceeded the costs actually incurred with respect to the foregoing during that season. For the purpose of this subparagraph, income received during the preceding shipping season shall be deemed to include all fees collected under this paragraph, a pro rata portion of all fees collected under s. 601.59, a pro rata portion of all fines and penalties collected pursuant to this chapter, and all interest earned on the investments of the foregoing funds.

(d) Upon each standard case of 24 No. 2 cans, or the equivalent thereof, of processed citrus products inspected and certified within this state, such fee, to be fixed annually promptly following the release by

the United States Department of Agriculture of the October citrus crop estimate, as is determined by the Department of Agriculture *and Consumer Services* to be necessary to pay:

1. The costs expected to be incurred during the then-current shipping season by the Bureau of Citrus Inspection, through the cooperative agreement between the Department of Agriculture *and Consumer Services* and the United States Department of Agriculture, in performing its duties with respect to processed citrus products; and

2. The amount, if any, by which the costs actually incurred with respect to the foregoing during the preceding shipping season may have exceeded the fees collected under this paragraph during that season, or less the amount, if any, by which the fees collected under this paragraph during the preceding shipping season may have exceeded the costs actually incurred with respect to the foregoing during that season.

(2)(a) Costs and income required to be prorated under the terms of paragraphs (a), (b), and (c) of subsection (1) shall be prorated on the basis of the number of boxes on which fees were assessed under the particular paragraph as compared to the total number of boxes of citrus fruit delivered into the primary channel of trade during the particular shipping season. Expenditures of funds for estimation of the size of the citrus crop in Florida by the Department of Agriculture *and Consumer Services* through its cooperative agreement with the United States Department of Agriculture shall be for service and research work related to estimating and forecasting citrus production in Florida, including, but not limited to, tree counts, using aerial photography and ground surveys, fruit counts, fruit measurement, maturity and yield surveys, damage surveys, opinion surveys, season average price determinations, and related activities.

(b) If, after the release of the October citrus crop estimate, a subsequent citrus crop estimate is so substantially different that any of the foregoing fees fixed following the October estimate are determined by the Department of Agriculture *and Consumer Services* to be insufficient to pay the estimated costs expected to be incurred as set forth in the preceding paragraphs, then the Department of Agriculture *and Consumer Services* shall determine the fee necessary to pay such estimated costs based upon such revised citrus crop estimate and shall amend such fee accordingly.

(c) In fixing the foregoing fees, the Department of Agriculture *and Consumer Services* shall provide for adequate reserves to pay costs expected to be incurred during those periods when costs are expected to exceed income.

(d) The computations of the fees provided for herein and information as to the data upon which they are based shall be furnished by the Department of Agriculture *and Consumer Services* upon request to any person liable for fees hereunder.

(3)(a) All fees levied by this section shall be applicable retroactively to a date to be fixed by the Department of Agriculture *and Consumer Services*. Such fees shall be paid to the Department of Agriculture *and Consumer Services* or the payment thereof guaranteed by the person who is the owner or operator of the facility at which the citrus fruit or processed citrus products so certified are handled under the provisions of this chapter. Payment of such fees shall be due upon the certification of the citrus fruit or processed citrus products and shall be paid periodically under such rules and regulations as shall be prescribed by the Department of Agriculture *and Consumer Services*. Payment shall be secured by the filing and posting of a bond or cash deposit in the form and amount required by the Department of Agriculture *and Consumer Services*.

(b) All fees levied and collected under the provisions of this section shall be paid into the State Treasury on or before the 15th day of each month. Such moneys shall be deposited to and made a part of the Citrus Inspection Trust Fund and are hereby appropriated to the Department of Agriculture *and Consumer Services* to be used to pay the costs incurred in its performance of the duties of the Bureau of Citrus Inspection and under the cooperative agreements referred to in subsection (1) with respect to citrus fruit and processed citrus products.

(4)(a) All persons liable for the fees imposed by this section shall keep a complete and accurate record of the receipt, sale, shipment, and processing of citrus fruit and processed citrus products subject to the fees imposed hereby. Such records shall be preserved by such persons for a period of 1 year following the end of the shipping season to which they pertain and shall be offered for inspection at any time upon oral or written demand by the Department of Agriculture *and Consumer Services*.

(b) All persons liable for the fees imposed by this section shall, at such times as the Department of Agriculture *and Consumer Services* may by rule or regulation require, file with the Department of Agriculture *and Consumer Services* a return certified as true and correct on forms to be prescribed and furnished by the Department of Agriculture *and Consumer Services* stating the number of applicable units of citrus fruit and processed citrus products which were subject to fees hereunder during the period of time covered by the return.

(5) The Department of Agriculture *and Consumer Services* shall have the power to adopt rules providing for the imposition of special fees for inspections conducted during hours not contemplated by regular state work hours. Such rules shall prescribe circumstances under which the fees levied pursuant to paragraphs (1)(a) and (b) would not apply and the fees imposed pursuant to such rules would apply. The rules shall provide that said fees shall be levied when specifically actuated by contract between the department and persons liable for the fees created by this subsection. The rules shall not allow fees to be charged which are in excess of the department's actual cost of the inspection to be made, nor shall such fees be less than those imposed by paragraphs (1)(a) and (b).

(6) When any portion of the revenues deposited to the Citrus Inspection Trust Fund is not immediately needed for the purpose for which such funds are appropriated, the Treasurer shall invest and reinvest such funds, and the earnings thereon shall be deposited to and made a part of the Citrus Inspection Trust Fund.

(7) The duties of the Department of Agriculture and Consumer Services shall include the duty to conduct hearings, through a hearing officer who shall be an attorney authorized to practice law within this state, on violations of this section and rules promulgated thereunder. Said hearing officer shall be selected by the Commissioner of Agriculture and shall be in addition to her or his regular legal staff authorized by law. Said hearing officer shall, in addition to conducting such hearings, be available to the Division of Fruit and Vegetables for other legal services on matters pertaining to violations of this chapter and rules promulgated thereunder.

Section 71. Section 601.281, Florida Statutes, is reenacted to read:

601.281 Road guard fees.—There is hereby levied upon all citrus fruit upon which inspection fees are imposed by s. 601.28 an additional fee in the amount of 1 mill per standard-packed box or the equivalent thereof. This additional fee shall be collected at the same time and in the same manner as citrus inspection fees imposed by s. 601.28. All fees levied and collected under the provisions of this section shall be paid into the State Treasury on or before the 15th day of each month. Such money shall be deposited in the General Inspection Trust Fund and is hereby appropriated to the Department of Agriculture *and Consumer Services* to defray that portion of the cost of operating road guard stations that is attributable to the services performed by the road guard stations with respect to citrus fruit. All such money not required to defray that portion of such costs shall be deposited in the Citrus Inspection Trust Fund and is hereby appropriated in the manner provided by s. 601.28(3)(b).

Section 72. Section 601.29, Florida Statutes, is reenacted and amended to read:

601.29 Powers of Department of Agriculture and Consumer Services.—The powers of the Department of Agriculture and Consumer Services or its authorized representative include, but are not limited to, the following:

(1) To enter and inspect any place within the state where citrus fruit is being prepared, colored, packed, loaded, or stored for shipment, either

in fresh or processed form, and to stop and inspect any shipment of citrus fruit or processed citrus products.

(2) To enter and survey, at any reasonable hour of the day, all commercial citrus groves for the purpose of estimating and forecasting citrus production in Florida. The property owner or lessee shall not be liable for injury to any employee or agent during the course of entry.

(3) To forbid and prohibit the shipment or sale of any citrus fruit or the canned or concentrated products thereof found to be in violation of any of the provisions of this chapter or order made or adopted under the authority of this chapter.

(4) To provide complete and adequate inspection of citrus fruit and canned and concentrated citrus products in order to permit any shipper or canning or concentrating plant to have citrus fruit or canned or concentrated citrus products graded according to the standards fixed by the United States Department of Agriculture and adopted by the Department of Agriculture and Consumer Services by rule. The Department of Agriculture and Consumer Services is authorized to enter into all necessary contracts and agreements with the United States Department of Agriculture to implement this section.

(5) To prosecute for violation of any of the citrus laws or for violation of any rule, regulation, or order promulgated by the commission or by the Department of Agriculture and Consumer Services.

(6) To institute such action at law or in equity as may appear necessary to enforce compliance with any provisions of this chapter, or to enforce compliance with any rule, regulation, or order of the *Florida Citrus Authority* ~~Department of Citrus~~ or the Department of Agriculture and Consumer Services made pursuant to the provisions of this chapter, and, in addition to any other remedy, to apply to any circuit court of this state for relief by injunction, if necessary, to protect the public interest without being compelled to allege or prove that an adequate remedy at law does not exist.

(7) To employ and fix the compensation of attorneys as it deems necessary to assist in exercising the powers and discharging the duties conferred and imposed upon the Department of Agriculture and Consumer Services by law, and particularly by subsections (5) and (6).

Section 73. Section 601.31, Florida Statutes, is reenacted and amended to read:

601.31 Citrus inspectors; employment.—The Department of Agriculture *and Consumer Services* may in each year employ as many citrus fruit inspectors for such period or periods, not exceeding 1 year, as said Department of Agriculture shall deem necessary for the effective enforcement of the citrus fruit laws of this state. All persons authorized to inspect and certify to the maturity and grade of citrus fruit shall be governed in the discharge of their duties as such inspectors by the provisions of law and by the rules and regulations prescribed by the *Florida Citrus Authority* ~~Department of Citrus~~ and the Department of Agriculture *and Consumer Services* and shall perform their duties under the direction and supervision of the Department of Agriculture *and Consumer Services*. ~~All citrus inspectors appointed for the enforcement of this chapter shall be persons who are duly licensed or certified by the United States Department of Agriculture as citrus fruit inspectors.~~

Section 74. Section 601.32, Florida Statutes, is reenacted and amended to read:

601.32 Compensation of inspectors.—The salaries of the chief citrus inspector, the chief laboratory inspector, the district supervising inspectors, the junior and senior inspectors, and all other necessary inspectors shall be in the amount as determined and fixed by the Department of Agriculture *and Consumer Services* and, in addition thereto, each of said inspectors shall be reimbursed for travel expenses as provided in s. 112.061, which shall be paid upon approval of accounts therefor by the Department of Agriculture *and Consumer Services*. The Department of Agriculture *and Consumer Services* may employ such additional field and other agents and clerical assistance at such times and for such periods and incur and pay any other expenses, including travel expenses, as provided in s. 112.061, of the Department of Agriculture *and Consumer Services* during the citrus fruit season, as may be necessary for the effective enforcement of the citrus fruit laws of this state and of the regulations of the *Florida Citrus Authority* ~~Department of Citrus~~ and assure the payments of the inspection fees imposed or that may be imposed under the authority of law.

Section 75. Section 601.33, Florida Statutes, is reenacted and amended to read:

601.33 Interference with inspectors.—It is unlawful for any person to obstruct, hinder, resist, interfere with, or attempt to obstruct, hinder, resist, or interfere with any authorized inspector in the discharge of any duty imposed upon or required of her or him by the provisions of law or by any rule or regulation prescribed by the *Florida Citrus Authority* ~~Department of Citrus~~ or the Department of Agriculture *and Consumer Services*, or to change or attempt to change any instrument, substance, article, or fluid used by such inspector or emergency inspector in making tests of citrus fruit or the canned or concentrated products thereof.

Section 76. Section 601.34, Florida Statutes, is reenacted to read:

601.34 Duties of law enforcement officers.—Each state or county law enforcement officer shall make arrests for violations of the citrus fruit laws of this state or of any rule, regulation, or order promulgated by the commission or the Department of Agriculture and Consumer Services under authority of law when notified of such violation by the department or its duly authorized agent or representative.

Section 77. Section 601.35, Florida Statutes, is reenacted and amended to read:

601.35 Disputes as to quality, etc.; procedure.—When any dispute as to quality, grade, or condition of citrus fruit or the canned or concentrated products thereof arises, the shipper or any financially interested person may call in at his, her, or its expense an inspector licensed or certified only by the United States Department of Agriculture to inspect such citrus fruit or its canned or concentrated products. Such inspector shall issue a regular official certificate to the applicant showing the quality, grade, and condition thereof and, in all cases, such certificate shall be prima facie evidence. If such certificate shows the citrus fruit or the canned or concentrated products thereof therein-mentioned and described to conform to the provisions of this chapter and the rules, regulations, or orders of the *Florida Citrus Authority* ~~Department of Citrus~~ and of the Department of Agriculture *and Consumer Services*, such shipper or such financially interested person may present the original certificate to the person or representative of the person having charge of the vehicle of transportation by which such citrus fruit or the canned or concentrated products thereof is to be transported, which person or representative shall then accept such citrus fruit or the canned or concentrated products thereof for shipment provided that all other provisions of this chapter and of the rules, regulations, and orders of the *Florida Citrus Authority* ~~Department of Citrus~~ and of the Department of Agriculture *and Consumer Services* have been met and complied with.

Section 78. Section 601.36, Florida Statutes, is reenacted to read:

601.36 Inspection information required when two or more lots of fruit run simultaneously.—In the event that any packinghouse packing citrus fruit or canning plant canning citrus fruit or concentrating plant concentrating citrus fruit shall have present therein or shall be packing, canning, or concentrating two or more lots of fruit simultaneously, the manager or other person in charge of said packinghouse or said canning plant or said concentrating plant shall notify the citrus fruit inspector conducting inspections at said packinghouse or canning plant or concentrating plant of said fact and furnish to said inspector full information as to the source of said several lots of fruit and the number of boxes in each several lots.

Section 79. Section 601.37, Florida Statutes, is reenacted to read:

601.37 Unlawful acts of inspectors.—It is unlawful for any authorized inspector to make or deliver a certificate of inspection and maturity and quality of any citrus fruit or the canned or concentrated

products thereof upon which the inspection fees and advertising taxes have not been paid or the payment thereof guaranteed, or to make or issue any false certificate as to inspection, maturity, quality, or payment of inspection fees.

Section 80. Section 601.38, Florida Statutes, is reenacted and amended to read:

601.38 Citrus inspectors; authority.—For the purpose of enforcing the provisions of the citrus fruit laws of this state, as well as the regulations of the *Florida Citrus Authority* ~~Department of Citrus~~, citrus fruit inspectors may enter into any packinghouse or canning plant or concentrating plant at any hour of day or night and have and demand access and admission to any enclosed portion of said packinghouse, canning plant, or concentrating plant. Said citrus fruit inspectors may also inspect all packinghouse or canning plant records pertaining to receipts from groves and to details of receiving, handling, running, processing, packing, or canning citrus fruit.

Section 81. Section 601.39, Florida Statutes, is reenacted and amended to read:

601.39 Special inspectors.—In cases of emergency or necessity, when no citrus fruit inspector is available for inspection of a particular lot of citrus fruit or the canned or concentrated products thereof, the Department of Agriculture *and Consumer Services* may designate some fit and competent individual to inspect, test, and certify as to such lot of fruit or the canned or concentrated products thereof. Certificates made or issued by such designated individual shall be signed by her or him as "Special citrus fruit inspector." The designated individual shall not be required to give any bond, but shall be subject to the penalties imposed for violation of any of the provisions of the citrus fruit laws.

Section 82. Section 601.40, Florida Statutes, is reenacted and amended to read:

601.40 Registration of citrus packinghouses, processing plants with department.—The owner, manager, or operator of each packinghouse, canning plant, or concentrating plant, at which it is intended to pack, can, concentrate, or prepare citrus fruit for market or transportation during the then-present or the next ensuing citrus fruit shipping season, shall register such packinghouse, canning plant, or concentrating plant and its location, shipping point, and post office with the Department of Agriculture *and Consumer Services* not less than 10 days before packing, canning, concentrating, or otherwise preparing any citrus fruit or the canned or concentrated products thereof for sale or transportation in or at such packinghouse, canning plant, or concentrating plant; and she or he shall, in addition to such registration, give the said Department of Agriculture *and Consumer Services* not less than 7 days' written notice of the date on which packing, canning, concentrating, or other preparation for sale or transportation of citrus fruit of the then-current or the next ensuing season's crop will be begun. The Department of Agriculture *and Consumer Services* shall issue a certificate of registration to each such packinghouse, canning plant, or concentrating plant registering; provided, however, that no such certificate of registration shall be issued to any packinghouse, canning plant, or concentrating plant unless the operator thereof shall have first applied for and received her or his license as a citrus fruit dealer and furnished a bond as such citrus fruit dealer in accordance with law.

Section 83. Section 601.41, Florida Statutes, is reenacted and amended to read:

601.41 Operation without registration unlawful.—It is unlawful for any person to operate a citrus fruit packinghouse, canning plant, or concentrating plant, or to pack or otherwise prepare for sale or transportation any citrus fruit at such packinghouse, canning plant, or concentrating plant without having previously registered said packinghouse, canning plant, or concentrating plant and given the notice required in s. 601.40 and having received and still having unrevoked from the Department of Agriculture *and Consumer Services* a certificate; provided, that no certificate of inspection and maturity of any fruit shall be issued by any authorized inspector except to a person who has registered with the Department of Agriculture *and Consumer Services* during the then-current year and has an unrevoked certificate of registration and has given to said Department of Agriculture *and Consumer Services* the notice required.

Section 84. Section 601.42, Florida Statutes, is reenacted and amended to read:

601.42 Revocation of registration.—Whenever the Department of Agriculture *and Consumer Services* shall issue a certificate of registration to any packinghouse, canning plant, or concentrating plant for the purpose of processing citrus fruit or citrus products, as provided by s. 601.40, and said Department of Agriculture *and Consumer Services* shall thereafter revoke or suspend the license of any citrus fruit dealer who may own, operate, or have any proprietary or ownership interest in any such packinghouse, canning plant, or concentrating plant aforesaid, the certificate of registration as provided for in s. 601.40 shall automatically and without further proceedings stand suspended or revoked during the entire period of the suspension or revocation of the citrus fruit dealer's license.

Section 85. Section 601.43, Florida Statutes, is reenacted and amended to read:

601.43 Immature and unfit citrus fruit; individual sampling.—Any oranges, grapefruit, and tangerines not conforming to the minimum maturity requirements set forth in this chapter and any citrus hybrids not conforming to the minimum maturity requirements set forth in *Florida Citrus Authority* ~~Department of Citrus~~ regulations shall be deemed and held to be immature and unfit for human consumption. In the testing of fruit to determine whether the same conforms to such requirements, any inspector shall have the right and authority to test the individual fruit in any given sample of fruit drawn in the number and by the manner as prescribed by regulations of the *Florida Citrus Authority* ~~Department of Citrus~~. If, upon the testing of the juice of said individual fruit in any sample, more than 10 percent of said individual fruit shall fail by more than one-half percentage point to meet the minimum ratio of total soluble solids to anhydrous citric acid which is required for such fruit, then all of the fruit in the lot from which said sample was drawn shall be deemed and held to be immature and unfit for human consumption.

Section 86. Section 601.44, Florida Statutes, is reenacted and amended to read:

601.44 Destruction of immature fruit.—All citrus fruit or processed citrus products prepared for sale or transportation, which is being prepared for such purpose, or which has been or is being delivered for sale or transportation that may be found immature or otherwise unfit for human consumption upon inspection and testing shall be seized and destroyed by a citrus fruit inspector or the sheriff of the county where found as may be provided by regulations prescribed by the *Florida Citrus Authority* ~~Department of Citrus~~. Said determination of immaturity or unfitness for human consumption may be made by a citrus fruit inspector at any place where such citrus fruit may be found after severance from the tree, and such seizure and destruction may likewise occur at any such place. However, in the event of seizure of citrus fruit upon the grounds that such citrus fruit fails to show a break in color required by this chapter or *Florida Citrus Authority* ~~Department of Citrus~~ regulations for that particular variety of citrus fruit, the owner or person in charge of such citrus fruit shall be allowed to separate and retain for subsequent use, in accordance with the provisions of this chapter or *Florida Citrus Authority* ~~Department of Citrus~~ regulations, that portion of such citrus fruit which shows a break in color required by this chapter or *Florida Citrus Authority* ~~Department of Citrus~~ regulations for that particular variety and, in such case, only that portion thereof which fails to show a break in color for such variety, as required by this chapter or *Florida Citrus Authority* ~~Department of Citrus~~ regulations, shall be destroyed by a citrus fruit inspector or the sheriff of the county, as may be prescribed by regulations of the *Florida Citrus Authority* ~~Department of Citrus~~.

Section 87. Section 601.45, Florida Statutes, is reenacted and amended to read:

601.45 Grading of fresh citrus fruit.—

(1) All citrus fruit, except as provided in s. 601.50, sold or shipped, or offered for sale or shipment, for consumption in fresh form shall be graded in a registered packinghouse in this state according to standards established by the *Florida Citrus Authority* ~~Department of Citrus~~, and the grade of such fruit shall be indicated as hereinafter provided.

(2) Fresh citrus fruit being transported in bulk form shall have stamped upon such fruit, subject to department rules:

(a) The actual grade thereof; or

(b) Brands or trademarks properly registered with the *Florida Citrus Authority* ~~department~~ to represent state or U.S. grades, as provided in subsection (4).

(3) For fresh citrus fruit being transported when packed in a closed container approved or otherwise authorized by the *Florida Citrus Authority* ~~Department of Citrus~~, it shall be sufficient if the closed container has the grade indicated thereon, in accordance with *Florida Citrus Authority* ~~department~~ rules, by:

(a) Stamping the grade of the fruit on the container; or

(b) Use of labels, brands, or trademarks properly registered with the *Florida Citrus Authority* ~~department~~ to represent state or U.S. grades, as provided in subsection (4).

(4) In accordance with such rules as the *Florida Citrus Authority* ~~Department of Citrus~~ may prescribe, licensed citrus fruit dealers in this state shall be entitled to register labels, brands, or trademarks for grade identification purposes. The *Florida Citrus Authority* ~~department~~ shall maintain a record of all labels, brands, or trademarks registered for grade identification purposes, which record may be purged as necessary.

Section 88. Section 601.46, Florida Statutes, is reenacted and amended to read:

601.46 Condition precedent to sale of citrus fruit.—

(1) It is unlawful, except as provided in s. 601.50, for any person to sell or offer for sale, to transport, prepare, receive, or deliver for transportation or market any citrus fruit in fresh form unless such fruit has matured in accordance with the maturity standards and is accompanied by a certificate of inspection and maturity thereof issued by a duly authorized citrus fruit inspector of the Department of Agriculture and Consumer Services. However, the *Florida Citrus Authority* ~~Department of Citrus~~ may by regulation provide that, in lieu of the accompaniment of such shipment by a certificate of inspection and maturity, the fact of such inspection may be shown by appropriate means on the manifest or bill of lading covering such shipment.

(2) Inspection for maturity may be made at any time, anywhere, after the fruit is severed from the tree until the shipment, after inspection and certification, is accepted by common carrier or until it has been transported beyond the state lines where being transported other than by a common carrier.

(3) Shipments in bulk, either by common carrier or otherwise, to a packinghouse for repacking in Florida must be reinspected and certified before final delivery to a carrier. However, only one inspection fee shall be paid by the shipper.

(4) It shall be unlawful at any time for any person to sell or offer for sale, transport, prepare, receive, or deliver for transportation or market any citrus fruit which is immature or otherwise unfit for human consumption, or for any person to receive any such citrus fruit under a contract of sale, or for the purpose of sale, offering for sale, transportation, or delivery for transportation thereof. However, these provisions shall not apply to sale of citrus fruit "on the trees" or to common carriers or their agents when the fruit accepted for transportation or transported by any common carrier is accompanied by proper proof of inspection, maturity, and grade.

Section 89. Section 601.461, Florida Statutes, is reenacted to read:

601.461 Falsification of weights; penalty.—

(1) It shall be unlawful for any person, firm, association, or corporation to falsify or alter any certificate, slip, or other document evidencing or pretending to evidence the weight of citrus fruit bought by weight or knowingly to make, utter, or deliver any such certificate, slip, or document which shall be false or to counsel, assist in, or procure any such act.

(2) Any person, firm, association, or corporation convicted of the violation of any provision of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 90. Section 601.47, Florida Statutes, is reenacted and amended to read:

601.47 Condition precedent to processing citrus.—It is unlawful for any person to can any citrus fruits or to can or concentrate the juices thereof unless such fruit is mature in accordance with the maturity standards and is accompanied by a certificate of inspection and maturity thereof issued by a duly authorized citrus fruit inspector of the Department of Agriculture *and Consumer Services*. Inspection for maturity shall be made at the canning or concentrating plant with the further proviso that shipments either by common carrier or otherwise to a canning plant or a concentrating plant in Florida must be reinspected and recertified before use by the canner or concentrator.

Section 91. Section 601.471, Florida Statutes, is reenacted to read:

601.471 Definition of "canned or concentrated citrus fruit products" expanded.—The term "canned or concentrated citrus fruit products" when used in ss. 601.48-601.54 shall include chilled citrus juice, chilled citrus sections, or otherwise processed products of citrus fruit.

Section 92. Section 601.48, Florida Statutes, is reenacted and amended to read:

601.48 Grading processed citrus products.—

~~(1) All processed citrus products for which grade standards may be established, if sold, shipped, or offered for sale or shipment, except as provided in s. 601.50, shall be inspected for grade in a registered processing plant, and shall be graded according to standards established by the Department of Citrus, and the grade of such processed citrus products shall be designated on the immediate container thereof in such manner as the Department of Citrus may by rule prescribe.~~

(1)~~(2)~~ If ~~such~~ processed citrus products meet the requirements of the two highest grades as established by the *Florida Citrus Authority* ~~Department of Citrus~~ or, at the option of the processor, the two highest grades established by the United States Department of Agriculture, the processor shall have the privilege~~, in lieu of the grade declaration requirements of subsection (1),~~ of using labels, brands, or trademarks properly registered with the *Florida Citrus Authority* ~~Department of Citrus~~, as provided in subsection *(2)*~~(3)~~, to represent state or U.S. grades.

(2)~~(3)~~ In accordance with such rules as the *Florida Citrus Authority* ~~Department of Citrus~~ may prescribe, licensed citrus fruit dealers in this state shall be entitled to register labels, brands, or trademarks for grade identification purposes. The *Florida Citrus Authority* ~~department~~ shall maintain a record of all labels, brands, and trademarks registered for grade identification purposes, which record may be purged as necessary.

(3)~~(4)~~ The grade labeling requirements of this section shall not apply to intrastate shipments of processed citrus products between licensed citrus fruit dealers who are operators of processing plants duly registered under s. 601.40.

Section 93. Section 601.49, Florida Statutes, is reenacted and amended to read:

601.49 Condition precedent to selling processed citrus products.—It is unlawful for any person, except as provided in s. 601.50, to sell or offer for sale, to transport, receive, or deliver for transportation, or market any canned or concentrated products of citrus fruits unless the same has

been inspected and is accompanied by a certificate of inspection issued by a duly authorized inspector of the Department of Agriculture *and Consumer Services*, provided, however, that the *Florida Citrus Authority* ~~Department of Citrus~~ shall by regulation provide that in lieu of the accompaniment of such shipment by a certificate of inspection, the fact of such inspection may be shown by appropriate means on the manifest or bill of lading covering such shipment.

Section 94. Section 601.50, Florida Statutes, is reenacted and amended to read:

601.50 Exemptions; sale or shipment of citrus or citrus products for certain purposes.—Irrespective of the provisions of ss. 601.45, 601.46, 601.48, 601.49, 601.51, and 601.52, the *Florida Citrus Authority* ~~Department of Citrus~~ under such precautionary rules and regulations as it may deem expedient may permit sale or shipment of citrus fruit or the canned or concentrated products thereof without the issuance of and filing of inspection certificate and without the grade being shown on the container thereof, of:

(1) Intrastate shipments of fresh citrus fruit for consumption or use within the state;

(2) Shipments to be used for charitable or unemployment relief purposes;

(3) Shipments to the United States Government or any of its agencies and interstate shipments to any packinghouse, canning plant, or concentrate plant for commercial processing, as may be defined by the *Florida Citrus Authority* ~~Department of Citrus~~; or to fresh fruit juice distributors outside the state;

(4) Shipments by any method of transportation by "gift fruit shippers," as defined by the *Florida Citrus Authority* ~~Department of Citrus~~, but such shipments shall not be for the purpose of resale by the consignee thereof;

but, provided however that, no such rule or regulation issued hereunder shall permit or allow the sale or shipment of citrus fruit deemed by this section to be immature and unfit for human consumption nor of canned or concentrated products thereof prepared or made from citrus fruit deemed by this law to be immature and unfit for human consumption; but, provided further, that shipments under subsections (1) and (4) shall meet such minimum grade standards as may, from time to time, be established by the *Florida Citrus Authority* ~~Department of Citrus~~; and, provided further that such rules and regulations shall provide for the due collection of any advertising taxes and inspection fees that may be due thereon.

Section 95. Section 601.501, Florida Statutes, is reenacted to read:

601.501 Charitable shipments tax exempt.—Shipments of citrus fruit when permitted under s. 601.50 for charitable purposes shall be exempt from all advertising taxes.

Section 96. Section 601.51, Florida Statutes, is reenacted and amended to read:

601.51 Certification required for shipment of citrus fruit or products.—No common carrier or other carrier or person, except as provided in s. 601.50, shall accept for shipment, ship, or transport any citrus fruit or the canned or concentrated products thereof until a grade certificate is issued showing the grade thereof, which certificate or a duplicate thereof shall be filed with the carrier at the point of shipment, nor shall any common carrier or other carrier or person accept for shipment or ship any citrus fruit or the canned or concentrated products thereof where written notice has been given to such common carrier, other carrier or person, or her or his representative or agent by the Department of Agriculture *and Consumer Services* or its authorized agent, employee, or inspector that said citrus fruit or the canned or concentrated products thereof does not comply with the provisions of law or the rules and regulations promulgated by the *Florida Citrus Authority* ~~Department of Citrus~~ or the Department of Agriculture *and Consumer Services*; provided that the shipper or handler of such citrus fruit or the canned or concentrated products thereof shall have the privilege of repacking or remarking, and that, if or when the same shall have been repacked or remarked to conform to the provisions of law or said rules, regulations, or orders promulgated by the *Florida Citrus Authority* ~~Department of Citrus~~ or the Department of Agriculture *and Consumer Services*, the Department of Agriculture *and Consumer Services* or its authorized inspector or agent shall notify said common carrier, other carrier or person, or her or his agent that such citrus fruit or the canned or concentrated products thereof may be accepted for shipment, and such shipper or handler shall not be considered as having violated this chapter or said rules, regulations, or orders, but provided further that this section shall be deemed to have been complied with if the shipper shall have conformed to regulations issued by the *Florida Citrus Authority* ~~Department of Citrus~~ under the provisions of s. 601.49.

Section 97. Section 601.52, Florida Statutes, is reenacted to read:

601.52 Carriers not to accept fruit unless same bears evidence of payment of excise taxes.—No common carrier or other carrier or person, except as provided in s. 601.50, shall accept for shipment, ship, or transport any citrus fruit or processed citrus products unless the grade certificate, manifest, or bill of lading covering said citrus fruit or processed citrus products bears evidence of the payment, as provided by law, of the taxes, assessments, and fees imposed by this chapter.

Section 98. Section 601.53, Florida Statutes, is reenacted to read:

601.53 Unlawful to process unwholesome citrus.—It is unlawful for any person to can or concentrate, or buy for canning or concentrating purposes, or sell for canning or concentrating purposes in Florida any citrus fruit that is unwholesome or decomposed so that it is unfit for canning or concentrating purposes.

Section 99. Section 601.54, Florida Statutes, is reenacted and amended to read:

601.54 Seizure of unwholesome fruit by Department of *Agriculture and Consumer Services* ~~Agriculture's~~ agents.—

(1) The Department of Agriculture *and Consumer Services* or its duly authorized inspectors shall seize and destroy all citrus fruit found by said Department of Agriculture *and Consumer Services* or inspectors to be unwholesome or decomposed so that it is unfit for canning or concentrating purposes as defined by law or by any regulation of the *Florida Citrus Authority* ~~Department of Citrus~~ pursuant to authority given in this chapter and, in the event any inspector shall find that any canner or concentrator is canning or concentrating fruit prohibited to be used, she or he may seize and destroy not only such fresh fruit found in the canning or concentrating plant but also citrus fruit or juice in the process of being canned or concentrated or which has been canned or concentrated from the same lot or shipment wherein the fresh fruit is found by said inspector to be subject to seizure under the provisions of this section.

(2) Whenever any inspector finds citrus fruit in the canning or concentrating plant which should be destroyed under the provisions of this law, the operator, manager, or other person in charge of the canning or concentrating plant shall make known to the inspector the code number or other manner of identifying any fruit or the canned or concentrated products thereof that has been canned or concentrated from the same lot or shipment wherein is found the said fruit subject to be seized.

Section 100. Section 601.55, Florida Statutes, is reenacted and amended to read:

601.55 Citrus fruit dealer; license required.—

(1) No person shall act as a citrus fruit dealer in this state without first having applied for and obtained the issuance of a current license for each shipping season, or portion thereof.

(2) An application for a citrus fruit dealer's license shall be within one of the following classifications, and any license that may be issued upon such application shall have an effective date as herein prescribed.

(a) A "repeat application" is defined as an application filed by a dealer who held a valid license during the season immediately preceding

that for which application is made; and, if the application is approved on or before August 1, such license shall be in effect for the period August 1 through July 31 of the shipping season applied for. Any license issued upon approval of such application, if approval is granted after August 1, shall be effective from the date of license issuance through July 31 of the shipping season applied for.

(b) Any application filed by an applicant who was not licensed during the immediately preceding shipping season for which the license application is made shall be considered a "new application." Any license subsequently issued upon approval of such application shall be effective from the date of license issuance through July 31 of the shipping season applied for.

The termination dates of citrus fruit dealers' licenses as set forth above shall not apply to a temporary license approved and issued in accordance with s. 601.57(3).

(3) An applicant shall be limited to the filing of one application for each citrus shipping season, which application may be amended if necessary to comply with the requirements of this chapter and regulations of the *Florida Citrus Authority* ~~Department of Citrus~~.

Section 101. Section 601.56, Florida Statutes, is reenacted and amended to read:

601.56 Application for dealers' licenses; requirements.—Any person desiring to engage in the business of citrus fruit dealer in the state shall make application to the *Florida Citrus Authority* ~~Department of Citrus~~ for a license. The *Florida Citrus Authority* ~~Department of Citrus~~ shall by regulation prescribe the information to be contained in such application.

(1) All such applications, in addition to other information which may be prescribed by the *Florida Citrus Authority* ~~Department of Citrus~~, must contain the following information:

(a) Name and address of the individual, firm, partnership, association, corporation, or other business unit applying for a license;

(b) Names and addresses of the principal stockholders, officers, partners, or other individuals belonging to or connected with the applicant if the applicant for a license is a firm, partnership, association, corporation, or other business unit, whether it be for profit or otherwise;

(c) The length of time the applicant has been engaged in the citrus fruit business in Florida in any manner whatsoever;

(d) A statement of delinquent accounts growing out of the ordinary course of business with producers, if any there be;

(e) A financial statement of the applicant, if required by the *Florida Citrus Authority* ~~Department of Citrus~~, showing such information as the *Florida Citrus Authority* ~~Department of Citrus~~ may prescribe regarding the financial conditions of the applicant;

(f) Whether or not the applicant or any of its officers, directors, or stockholders have previously been licensed as a citrus fruit dealer, or connected with a licensed citrus fruit dealer in the state and, if so, the date all such licenses were obtained; and

(g) The number of boxes of citrus fruit, measured in terms of standard-packed boxes, which the applicant intends to deal with during the current or ensuing shipping season.

(2) If the applicant is an individual and is shown to be a nonresident of the state, or is a copartnership and each member is shown to be a nonresident of the state, in either event, the said applicant shall designate some bona fide resident of the state as such applicant's resident agent upon whom process may be served. The service of process of any of the courts of this state upon such resident agent shall be as effectual and binding upon said applicant as if personally served upon said applicant.

(3) If the applicant is a corporation, then such corporation must be one organized and existing under the laws of this state or having an unrevoked permit authorizing it to transact business in this state.

(4) When a license application is submitted for a person or business entity which has an unpaid balance due and owing the *Florida Citrus Authority* ~~Department of Citrus~~ for any citrus excise taxes or delinquency fees levied and imposed under the authority of this chapter, the applicant shall be notified immediately by the department; and such application shall not be further processed or presented to the commission for action until such taxes and fees are paid in full. However, any applicant whose taxes are under review by the *Florida Citrus Authority* ~~Department of Citrus~~ or are contested in the appropriate administrative agency or court shall not have its application denied solely on the basis of owed taxes or fees, until the matter is determined by the department, agency, or court.

Section 102. Section 601.57, Florida Statutes, is reenacted and amended to read:

601.57 Examination of application; approval of dealers' licenses.—

(1) The *Florida Citrus Authority* ~~Department of Citrus~~ shall, within a reasonable time, examine the application and consider the information submitted therewith, including the applicant's financial statement and the reputation of the applicant as shown by applicant's past and current history and activities, including applicant's method and manner of doing business. The *Florida Citrus Authority* ~~Department of Citrus~~ shall also consider the past history of any applicant, either individually or in connection with any individual, copartnership, corporation, association, or other business unit with whom any applicant shall have been connected in any capacity, and may in proper cases impute to any individual, corporation, copartnership, association, or other business unit liability for any wrong or unlawful act previously done or performed by such individual, corporation, copartnership, association, or other business unit.

(2) If the Florida Citrus Commission shall, by a majority vote, be of the opinion that the applicant is qualified and entitled to a license as a citrus fruit dealer, the commission shall approve the application; otherwise the application shall be disapproved. However, commission approval of any application may be contingent upon such reasonable conditions as may be endorsed thereon by the commission, or commission action on an application may, by majority vote, be deferred to a subsequent date.

(3) In cases of deferred action, as set forth in subsection (2), if the applicant so requests and the factual circumstances are deemed by the commission so to justify, the commission may approve the granting of a temporary license to be valid for a period to be set by the commission, not to exceed 60 days. No more than one temporary license shall be approved for any applicant during a shipping season. No temporary license may be approved unless all requirements relating to bonds or fees required to be posted or paid by the applicant have been met the same as though the approval were not of a temporary nature.

(4) Grounds for the disapproval of the application include, but are not limited to:

(a) Any previous conduct of the applicant which would have been grounds for revocation or suspension of a license as hereinafter provided if the applicant had been licensed.

(b) Delinquent accounts of the applicant owing to and growing out of the ordinary course of business with producers and other persons or firms.

(c) Delinquent accounts of the applicant with any person or persons with whom applicant has dealt in its operations under a previous license.

(d) Failure of the applicant or its owners, partners, officers, or agents to comply with any valid order of the Department of Agriculture *and Consumer Services* or the *Florida Citrus Authority* ~~Department of Citrus~~ relating to citrus fruit laws or rules.

(e) Applicant's violation, or aiding or abetting in the violation, of any federal or Florida law or governmental agency rule or regulation governing or applicable to citrus fruit dealers.

(5) When the applicant is a corporate or other business entity, the term "applicant" as used in this section shall be deemed to include within its meaning those individuals who have been, or can reasonably be expected to be, actively engaged in the managerial affairs of the corporate or other business entity applicant.

(6) The *Florida Citrus Authority* ~~Department of Citrus~~ shall designate not more than three employees directly involved in the processing of citrus fruit dealer license applications, who shall be a part of, and shall have access to, the criminal justice information system described in chapter 943, for purposes of investigating license applicants.

(7) The *Florida Citrus Authority* ~~Department of Citrus~~ is authorized to establish by rule the procedure and guidelines for granting interim conditional staff approval for issuance of a conditional citrus fruit dealer's license, which license shall at all times be subject to final approval or other action by the commission at its next regular meeting. Any license so issued shall clearly and conspicuously indicate thereon the conditional nature of the approval and pendency of final action.

Section 103. Section 601.58, Florida Statutes, is reenacted to read:

601.58 Application approval or disapproval.—

(1) Each citrus fruit dealer's license application which is approved, or approved subject to conditions, shall be forwarded immediately to the Department of Agriculture and Consumer Services, which shall, upon satisfaction of the stated conditions, if any are endorsed thereon, issue to the applicant an appropriate license as prescribed in s. 601.60.

(2) Each temporary license granted under s. 601.57(3), license with conditions approved by the commission under s. 601.57(2), or conditional license issued upon interim staff approval under s. 601.57(7) shall clearly and conspicuously show thereon the specific conditions, or the temporary or conditional nature, thereof.

(3) No license shall be issued to any applicant whose application has been finally disapproved by the commission. Once an application has been finally disapproved by the commission, the application shall remain disapproved for the remainder of the subject shipping season.

Section 104. Section 601.59, Florida Statutes, is reenacted and amended to read:

601.59 Dealer's license fee; agent's registration fee.—

(1) Each applicant who qualifies for a citrus fruit dealer's license shall pay to the Department of Agriculture *and Consumer Services*, prior to issuance of such license, a license fee of $25 per shipping season or portion thereof covered by the license.

(2) A registration fee of $10 per shipping season or portion thereof covered by the dealer's license shall be paid to the Department of Agriculture *and Consumer Services* for the registration of each agent of a licensed citrus fruit dealer.

(3) All license and registration fees imposed and collected under the provisions of this section shall be paid to the State Treasury on or before the 15th day of each month. Such moneys shall be deposited in the Citrus Inspection Trust Fund and are hereby appropriated in the manner provided by s. 601.28(3)(b).

Section 105. Section 601.60, Florida Statutes, is reenacted and amended to read:

601.60 Issuance of dealers' licenses.—

(1) Whenever an application bears the approved endorsement of the *Florida Citrus Authority* ~~Department of Citrus~~ and satisfactions of conditions of approval, if any, and the applicant has paid the prescribed fee, the Department of Agriculture and Consumer Services shall issue to such applicant a license, as approved by the *Florida Citrus Authority* ~~Department of Citrus~~, which shall entitle the licensee to do business as a citrus fruit dealer during the effective term of such license in accordance with s. 601.55 or until such license may be suspended or revoked by the Department of Agriculture and Consumer Services in accordance with the provisions of law. The Department of Agriculture and Consumer Services may issue a provisional license for a period of no longer than 1 year to an applicant who is under investigation for an action that would constitute a violation of this chapter or has pending against such applicant an administrative or civil proceeding which alleges an action that would constitute a violation of this chapter. The department shall establish by rule requirements for renewal of a provisional license. When the investigation is complete or the pending proceeding has been disposed of, the department may issue a regular license under this section.

(2) If, during the effective term of such license, there is any change in the ownership, officers, managership, or stockholders of any copartnership, association, corporation, or other business unit to which a license has been issued, the licensee shall immediately notify the *Florida Citrus Authority* ~~Department of Citrus~~ in writing specifying the change in detail. The *Florida Citrus Authority* ~~Department of Citrus~~ shall be entitled to receive, and the licensee shall be required to promptly furnish, such additional information as if the licensee were applying for a new license. If, after investigating the facts and applying the standards prescribed for the issuance of new licenses, the commission finds that the licensee is not entitled to a citrus fruit dealer's license, the commission shall recommend to the Department of Agriculture and Consumer Services that such existing license be suspended or revoked and, upon such recommendation, the Department of Agriculture and Consumer Services shall immediately take necessary steps to suspend or revoke such existing license.

Section 106. Section 601.601, Florida Statutes, is reenacted and amended to read:

601.601 Registration of dealers' agents.—Every licensed citrus fruit dealer shall:

(1) Register with the Department of Agriculture *and Consumer Services* each and every agent, as defined in s. 601.03(2), authorized to represent such dealer; make application for registration of such agent or agents on a form approved by the Department of Agriculture *and Consumer Services* and filed with the Department of Agriculture *and Consumer Services* not less than 5 days prior to the active participation of the agent or agents on behalf of such dealer in any transaction described in s. 601.03(2); and be held fully liable for and legally bound by all contracts and agreements, verbal or written, involving the consignment, purchase, or sale of citrus fruit executed by a duly registered agent on the dealer's behalf during the entire period of valid registration of such agent the same as though such contracts or agreements were executed by the dealer. Registration of each agent shall be for the entire shipping season for which the applying dealer's license is issued; however, a licensed dealer may cancel the registration of any agent registered by her or him by returning the agent's identification card to the Department of Agriculture *and Consumer Services* and giving formal written notice to the Department of Agriculture *and Consumer Services* of not less than 10 days. In addition, such dealer shall make every effort to alert the public to the fact that the agent is no longer authorized to represent her or him. An agent may be registered by more than one licensed dealer for the same shipping season, provided that each licensed dealer shall apply individually for registration of the agent and further provided that written consent is given by each and every dealer under whose license the agent has valid prior registration.

(2) When the above requirements and such additional requirements as may be set forth by regulations adopted by the *Florida Citrus Authority* ~~Department of Citrus~~ for registration of an agent have been met and the fee required by s. 601.59(2) has been paid, the Department of Agriculture *and Consumer Services* shall duly register the agent and issue an identification card certifying such registration. The identification card, among other things, shall show in a prominent manner:

(a) The name and address of the agent;

(b) The authorizing dealer's name, address, and license number;

(c) The effective date and season for which registration is made;

(d)1. A space for signature of the agent;

2. A space to be countersigned by the licensed dealer;

3. A statement providing that the card is not valid unless so signed and countersigned.

The *Florida Citrus Authority* ~~Department of Citrus~~ may, from time to time, adopt additional requirements or conditions relating to the registration of agents as may be necessary.

Section 107. Section 601.61, Florida Statutes, is reenacted and amended to read:

601.61 Bond requirements of citrus fruit dealers.—

(1) Except as hereinafter provided, prior to the approval of a citrus fruit dealer's license, the applicant therefor must deliver to the Department of Agriculture and Consumer Services a good and sufficient cash bond, appropriate certificate of deposit, or a surety bond executed by the applicant as principal and by a surety company qualified to do business in this state as surety, in an amount as determined by the *Florida Citrus Authority* ~~Department of Citrus~~. The amount of such bond or certificate of deposit shall be determined by taking into consideration any one or more of the following: The number of standard packed boxes of citrus fruit, or the equivalent thereof, which the applicant intends to handle during the term of the license as set forth in the application; the total volume of fruit handled by the dealer the previous season; the highest month's volume handled the previous season; the anticipated increase in the total citrus crop during the season for which the application for license is made; and other relevant factors based on the following schedule:

(a) $1,000 up to 2,000 boxes;

(b) $2,000 up to 5,000 boxes;

(c) $3,750 up to 7,500 boxes;

(d) $5,000 up to 10,000 boxes;

(e) $10,000 up to 20,000 boxes;

(f) $1,000 for each additional 20,000 boxes or fraction thereof in excess of 20,000 boxes, with a maximum bond of $100,000.

If a citrus fruit dealer during the term of her or his license finds that she or he has handled, or can reasonably expect to handle a volume of fruit greater than that covered by a posted bond or certificate of deposit, the dealer shall have the affirmative duty of immediately notifying the Department of Agriculture and Consumer Services and initiating an increase in such bond or certificate of deposit to an amount that will meet the requirements set forth above.

(2) Said bond shall be in the form approved by the Department of Agriculture and Consumer Services and shall be conditioned as provided in s. 601.66(9), and also to fully comply with the terms and conditions of all contracts, verbal or written, made by the citrus fruit dealer with producers or with other citrus fruit dealers, relative to the purchasing, handling, sale, and accounting of purchases and sales of citrus fruit, and upon the dealer accounting for the proceeds from, and paying for, any citrus fruit purchased or contracted for, in accordance with the terms of the contracts with producers, and upon the dealer accounting for any advance payments or deposits made, and delivering all citrus fruit contracted for, in accordance with the terms of the contracts with other citrus fruit dealers. The commission may prescribe by rule that such a producer contract contain information that it considers necessary to protect the producer from deceptive practices. For purposes of this chapter, every such contract shall be conclusively deemed to have been made and entered into during the shipping season in which the delivery of fruit into the primary channel of trade is made.

(3) Said bond shall be to the Department of Agriculture *and Consumer Services*, for the use and benefit of every producer and of every citrus fruit dealer with whom the dealer deals in the purchase, handling, sale, and accounting of purchases and sales of citrus fruit. The aggregate accumulative liability under any bond shall not exceed the amount named therein. Said bond shall provide that the surety company thereon shall not be liable to any citrus fruit dealer claiming to be injured or damaged by the said dealer if the aggregate of the amounts found to be due to producers pursuant to the provisions of this chapter equals or exceeds the amount of the bond, unless such citrus fruit dealer is also a producer and is acting in the capacity of a producer and not in the capacity of a citrus fruit dealer in the transaction wherein she or he claims to have been injured or damaged by applicant; but if the aggregate of such amounts is less than the amount of the bond, then the surety may be held liable to such citrus fruit dealers, but not in excess of the sum by which the amount of the bond exceeds the aggregate of the amounts found to be due to producers pursuant to the provisions of this chapter.

(4) The *Florida Citrus Authority* ~~Department of Citrus~~ or the Department of Agriculture *and Consumer Services*, or any officer or employee designated by the *Florida Citrus Authority* ~~Department of Citrus~~ or the Department of Agriculture *and Consumer Services*, shall have the right to inspect such accounts and records of any citrus fruit dealer as may be deemed necessary to determine whether a bond which has been delivered to the Department of Agriculture *and Consumer Services* is in the amount required by this section or whether a previously licensed nonbonded dealer should be required to furnish bond. If any such citrus fruit dealer refuses to permit such inspection, the Department of Agriculture *and Consumer Services* may publish the facts and circumstances and by order suspend the license of the offender until permission to make such inspection is given. Upon a finding by the Department of Agriculture *and Consumer Services* that any citrus fruit dealer has dealt or probably will deal with more fruit during the season than shown by the application, the Department of Agriculture *and Consumer Services* may order such bond increased to such an amount as will meet the requirements as set forth in the bond schedule of subsection (1). Upon failure to file such increased bond within the time fixed by the Department of Agriculture *and Consumer Services*, the Department of Agriculture *and Consumer Services* may publish the facts and circumstances and by order suspend the license of such citrus fruit dealer until the said bond is increased as ordered.

(5)(a) The following citrus fruit, subject to such rules as may be prescribed by the *Florida Citrus Authority* ~~Department of Citrus~~, shall not be considered as fruit with which the applicant intends to deal for the purpose of determining the amount of the bond required under subsection (1);

1. Citrus fruit which the applicant produces.

2. Citrus fruit which is handled for its members by a cooperative marketing association organized and existing under the provisions of either chapter 618 or chapter 619.

3. Fresh citrus fruit handled by the applicant, which has been prepared and packaged by a registered packinghouse other than the applicant and has been inspected and certified for shipment.

4. Citrus fruit handled by the applicant from citrus groves for which applicant provides complete grove management services under direct contract with the owner or producer.

5. Citrus fruit handled by a corporate or partnership applicant that is from citrus groves owned by officers or stockholders of the corporation or from citrus groves owned by the partnership, the parent corporation, or a wholly owned subsidiary corporation or its corporate officers or stockholders, or any partner of a partnership; provided that appropriate waivers of right to any claim against the bond required to be posted by this section be attached to and made a part of the application for license.

6. Processed citrus fruit handled by the applicant which has been processed and packaged by a registered citrus processing plant other than the applicant and has been inspected and certified for shipment.

(b) If the applicant does not intend to deal with any citrus fruit other than that which comes within the foregoing classifications, the Department of Agriculture and Consumer Services shall issue a license

without the posting of a bond. Such a license shall bear a descriptive statement to the effect that the licensee is not a bonded citrus fruit dealer.

(c) A claim against any citrus fruit dealer's bond required to be posted by this section shall not be accepted with respect to any damages in connection with fruit handled under the provisions of subparagraphs 1.-6. of paragraph (a) if such claim is filed against the bond of the dealer who was granted bond exempt status for said fruit.

(6) If any of the provisions of this act shall be held to be unconstitutional or invalid for any reason by any court of competent jurisdiction or if such court shall find or declare that no applicant shall be required to furnish the bond required by this act, then and in that event this entire act shall be ineffective for any and all purposes and the laws in effect on July 31, 1965, which are amended by this act, shall not be deemed to be amended or repealed by this act but shall instead remain in full force and effect it being the intention of the Legislature that in such event this entire act shall be ineffective for any and all purposes and the laws in effect on July 31, 1965, which are amended or repealed by this act shall instead not be deemed to be amended or repealed by this act but shall remain in full force and effect.

Section 108. Section 601.611, Florida Statutes, is reenacted to read:

601.611 Applicable law in event ch. 61-389 held invalid.—If any of the provisions of s. 601.61 be held unconstitutional or invalid for any reason by any court of competent jurisdiction, or if any such court shall find or declare that no applicant shall be required to furnish the bond required by this act, then and in that event this entire act, including s. 5 thereof, shall be ineffective for any and all purposes, and the Laws of Florida in effect on August 1, 1961, which are amended or repealed by this act shall not be deemed to be amended or repealed by this act but shall instead remain in full force and effect, it being the intention of the Legislature that in that event this entire act shall be ineffective for any and all purposes and the Laws of Florida in effect on August 1, 1961, including chapter 61-45, which are amended or repealed by this act shall not be deemed to be amended or repealed by this act but shall instead remain in full force and effect.

Section 109. Section 601.64, Florida Statutes, is reenacted and amended to read:

601.64 Citrus fruit dealers; unlawful acts.—It is unlawful in, or in connection with, any transaction relative to the purchase, handling, sale, and accounting of sales of citrus fruit:

(1) For any citrus fruit dealer to make or exact any fraudulent charge to or from any person;

(2) For any citrus fruit dealer to reject or fail to deliver in accordance with the terms of the contract without reasonable cause any citrus fruit bought, sold, or contracted to be bought or sold by such citrus fruit dealer;

(3) For any citrus fruit dealer to discard, dump, or destroy without reasonable cause any citrus fruit received by such citrus fruit dealer;

(4) For any citrus fruit dealer to make, for a fraudulent purpose, any false or misleading statement concerning the condition, quality, quantity, or disposition of, or the condition of the market for, any citrus fruit which is received by such citrus fruit dealer or bought or sold or contracted to be bought or sold by such citrus fruit dealer; or the purchase or sale of which is negotiated by such citrus fruit dealer; or to fail or refuse truly and correctly to account and make full payment promptly in respect of any such transaction in any such citrus fruit to the person with whom such transaction is had, or to fail or refuse on such account to make full payment of such amounts as may be due thereon, or to fail without reasonable cause to perform any specification or duty express or implied arising out of any undertaking in connection with any such transaction;

(5) For any citrus fruit dealer to knowingly buy, sell, receive, process, or handle stolen citrus fruit;

(6) For any citrus fruit dealer to violate, or aid or abet in the violation of, any law of Florida governing or applicable to citrus fruit dealers, including any of the provisions of this chapter not herein specifically set forth;

(7) For any citrus fruit dealer to violate or aid or abet in the violation of any rule or regulation duly promulgated by the *Florida Citrus Authority* ~~Department of Citrus~~.

Section 110. Section 601.641, Florida Statutes, is reenacted to read:

601.641 Fraudulent representations, penalties.—

(1) It shall be unlawful for any person, firm, association, or corporation to claim or represent to be a licensed citrus fruit dealer, licensed and bonded citrus dealer, or agent of a licensed citrus fruit dealer unless such person, firm, association, or corporation is licensed, licensed and bonded, or a registered agent of a licensed citrus fruit dealer under the Laws of Florida.

(2) It shall be unlawful for any person, firm, association, or corporation to advertise or in any way represent falsely as to her or his status as a seller of citrus fruit, to make any false claim as to the status of such seller of citrus fruit, or to make any false claim as to the condition, grade, quality, quantity, grove origin, or producer's name and address of any citrus fruit sold by any such person, firm, association, or corporation.

(3) It shall be unlawful for any person, firm, association, or corporation licensed under this chapter to advertise or to use on her or his letterhead, or on any advertising material, or in any way pretend to be a bonded shipper unless said person, firm, association, or corporation has filed and had approved a performance bond in addition to the bond required under this chapter.

(4) This section is supplemental, making provisions in addition to any other provisions of law and shall be construed liberally.

(5) Any person, firm, association, or corporation violating any of the provisions of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Such criminal penalties shall be in addition to any other penalties provided by law. If the violator be a licensed citrus fruit dealer, then such license may be revoked or suspended in the manner provided by s. 601.67.

Section 111. Section 601.65, Florida Statutes, is reenacted and amended to read:

601.65 Liability of citrus fruit dealers.—If any licensed citrus fruit dealer violates any provision of this chapter, such dealer shall be liable to the person allegedly injured thereby for the full amount of damages sustained in consequence of such violation. Such liability may be enforced either by proceeding in an administrative action to and before the Department of Agriculture *and Consumer Services* and pursuing such action to its ultimate termination if desired or by filing of a judicial suit at law in a court of competent jurisdiction; however, in such court suit the bond of such citrus fruit dealer theretofore posted with the Department of Agriculture *and Consumer Services* pursuant to s. 601.61 shall not be amenable or subject to any judgment or other legal process issuing out of or from such court in connection with such law suit, whether cash bond or surety company bond, but such bonds shall be amenable to and enforceable only by and through administrative proceedings before the Department of Agriculture *and Consumer Services*, it being the intent and purpose of the Legislature that such citrus dealer's bond so posted with the Department of Agriculture *and Consumer Services* shall be applicable and liable only for the payment of claims duly adjudicated by order of the Department of Agriculture *and Consumer Services* and the determination of such adjudicated claim if and in the event such order is appealed by any aggrieved party to the administrative proceeding.

Section 112. Section 601.66, Florida Statutes, is reenacted and amended to read:

601.66 Complaints of violations by citrus fruit dealers; procedure; bond distribution; court action on bond.—

(1) Any person may complain of any violation of any of the provisions of this chapter by any citrus fruit dealer during any shipping season, by filing of a written complaint with the Department of Agriculture and Consumer Services at any time prior to May 1 of the year immediately following the end of such shipping season. Said complaint shall briefly state the facts, and the Department of Agriculture and Consumer Services shall thereupon, if the facts alleged prima facie warrant such action, forward true copies of said complaint to the dealer in question and also to the surety company on the dealer's bond. The dealer at such time shall be called upon, within a reasonable time to be prescribed by the Department of Agriculture and Consumer Services, either to satisfy the complaint or to answer the complaint in writing, either admitting or denying the liability.

(2) If the dealer admits the violation but fails to satisfy the complaint within the time fixed by the Department of Agriculture *and Consumer Services*, the Department of Agriculture *and Consumer Services* shall thereupon order payment by the dealer of the damages sustained.

(3) If the dealer, in her or his answer to the original complaint, denies the violation alleged, the Department of Agriculture *and Consumer Services* shall thereupon determine whether the facts and circumstances set forth in the complaint have been established by competent substantial evidence.

(4) If the Department of Agriculture *and Consumer Services* determines that the complaint has not been so established as aforesaid, the order shall, among other things, dismiss the proceeding.

(5) If the Department of Agriculture *and Consumer Services* determines that the allegations of the complaint have been established as aforesaid, it shall make its findings of fact accordingly and thereupon adjudicate the amount of indebtedness or damages due to be paid by the dealer to the complainant. The administrative order shall fix a reasonable time within which said indebtedness shall be paid by the dealer.

(6) Upon failure by a dealer to comply with an order of the Department of Agriculture and Consumer Services directing payment, the Department of Agriculture and Consumer Services shall call upon the surety company to pay over to the Department of Agriculture and Consumer Services, out of the bond theretofore posted by the surety for such dealer, the amount of damages sustained but not exceeding the amount of the bond. The proceeds to the Department of Agriculture and Consumer Services by the surety company shall, in the discretion of the Department of Agriculture and Consumer Services, be either paid to the original complainant or held by the Department of Agriculture and Consumer Services for later disbursement, depending upon the time during the shipping season when the complaint was made, when liability was admitted by the dealer, when the proceeds were so paid by the surety company to the Department of Agriculture and Consumer Services, the amount of other claims then pending against the same dealer, the amount of other claims already adjudicated against the dealer, and such other pertinent facts as the Department of Agriculture and Consumer Services in its discretion may consider material. The Department of Agriculture and Consumer Services, if it decides to pay the proceeds to the original complainant, has authority to order an increase in the original bond of the dealer to such higher sum as to the Department of Agriculture and Consumer Services would be justified under all the circumstances so as to protect other possible claimants and to exercise all powers otherwise confided to it under this chapter to enforce the posting of such increased bond. The Department of Agriculture and Consumer Services also, in its discretion as the facts and circumstances might appear to it, may hold the amount of such proceeds until such later time, up to the time when all claims have been filed during the allotted period after the closing of the shipping season and such claims adjudicated, and may then disburse the total proceeds in its possession paid over to it by the surety company on the dealer's bond as such claims were adjudicated to the various claimants, paying first to the producers the amount of their claims in full, if such proceeds are sufficient for such purpose, and if not, then in pro rata shares to such producer claimants; and if there then exist additional proceeds in the hands of the Department of Agriculture and Consumer Services, after all claims of producers have been paid in full, the balance of such proceeds shall be paid to claimants who are citrus fruit dealers, either in whole or in pro rata portion, as the aggregate of their claims may bear to the amount of such additional proceeds.

(7) Upon failure of a surety company to comply with a demand for payment of the proceeds of a citrus fruit dealer's bond pursuant to administrative orders entered by the Department of Agriculture *and Consumer Services* fixing amounts due claimants, the department shall within a reasonable time file in the Circuit Court in and for Polk County, an original petition or complaint setting forth the administrative proceedings before the Department of Agriculture *and Consumer Services* and ask for final order of the court directing the surety company to pay the proceeds of the said bond to the Department of Agriculture *and Consumer Services* for distribution to the claimants.

(8) In any court proceeding filed under subsection (7), the findings of facts and orders of the Department of Agriculture *and Consumer Services* shall be prima facie evidence of the facts therein stated, and if in such suit the Department of Agriculture *and Consumer Services* is successful and the court affirms the department's demand for payment from the surety company, the Department of Agriculture *and Consumer Services* shall be allowed all court costs incurred therein and also a reasonable attorney's fee to be fixed and collected as a part of the costs of the suit.

(9) The bond required to be posted by citrus fruit dealers under s. 601.61 shall be subject, and so conditioned therein, only to payment of claims duly adjudicated by the Department of Agriculture *and Consumer Services*. All proceeds from such bonds shall be paid over by the surety company directly to the Department of Agriculture *and Consumer Services*, to be disbursed by it to successful claimants in whose favor the Department of Agriculture *and Consumer Services* has entered administrative order or orders. Such funds shall be considered trust funds in the hands of the Department of Agriculture *and Consumer Services* for the exclusive purpose of satisfying orders of indebtedness duly adjudicated. Cash bonds which may be posted by citrus fruit dealers in lieu of surety company bonds shall occupy the same legal status as funds paid over by the surety company to the Department of Agriculture *and Consumer Services* for payment of claims.

Section 113. Section 601.67, Florida Statutes, is reenacted and amended to read:

601.67 Disciplinary action by Department of Agriculture and Consumer Services against citrus fruit dealers.—

(1) The Department of Agriculture and Consumer Services may impose a fine not exceeding $50,000 per violation against any licensed citrus fruit dealer for violation of any provision of this chapter and, in lieu of, or in addition to, such fine, may revoke or suspend the license of any such dealer when it has been satisfactorily shown that such dealer, in her or his activities as a citrus fruit dealer, has:

(a) Obtained a license by means of fraud, misrepresentation, or concealment;

(b) Violated or aided or abetted in the violation of any law of this state governing or applicable to citrus fruit dealers or any lawful rules of the *Florida Citrus Authority* ~~Department of Citrus~~;

(c) Been guilty of a crime against the laws of this or any other state or government involving moral turpitude or dishonest dealing, or has become legally incompetent to contract or be contracted with;

(d) Made, printed, published, distributed, or caused, authorized, or knowingly permitted the making, printing, publication, or distribution of false statements, descriptions, or promises of such a character as to reasonably induce any person to act to her or his damage or injury, if such citrus fruit dealer then knew, or, by the exercise of reasonable care and inquiry, could have known of the falsity of such statements, descriptions, or promises;

(e) Knowingly committed or been a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relying upon the word, representation, or conduct of the citrus fruit dealer has acted to her or his injury or damage;

(f) Committed any act or conduct of the same or different character of that hereinabove enumerated which constitutes fraudulent or dishonest dealing; or

(g) Violated any of the provisions of ss. 506.19-506.28, both sections inclusive.

(2) The department may impose a fine not exceeding $100,000 per violation against any person who operates as a citrus fruit dealer without a current citrus fruit dealer license issued by the department pursuant to s. 601.60. In addition, the department may order such person to cease and desist operating as a citrus fruit dealer without a license. An administrative order entered by the department under this subsection may be enforced pursuant to s. 601.73.

(3) The department shall impose a fine of not less than $10,000 nor more than $100,000 per violation against any licensed citrus fruit dealer and shall suspend, for 60 days during the first available period between September 1 and May 31, the license of any citrus fruit dealer who:

(a) Falsely labels or otherwise misrepresents that a fresh citrus fruit was grown in a specific production area specified in s. 601.091; or

(b) Knowingly, falsely labels or otherwise misrepresents that a processed citrus fruit product was prepared solely with citrus fruit grown in a specific production area specified in s. 601.091.

(4) Any fine imposed pursuant to subsection (1), subsection (2), or subsection (3), when paid, shall be deposited by the Department of Agriculture and Consumer Services into its General Inspection Trust Fund.

(5) Whenever any administrative order has been made and entered by the Department of Agriculture and Consumer Services which imposes a fine pursuant to this section, such order shall specify a time limit for payment of the fine, not exceeding 15 days. The failure of the dealer involved to pay the fine within that time shall result in the immediate suspension of such citrus fruit dealer's current license, or any subsequently issued license, until such time as the order has been fully satisfied. Any order suspending a citrus fruit dealer's license shall include a provision that such suspension shall be for a specified period of time not to exceed 60 days, and such period of suspension may commence at any designated date within the current license period or subsequent license period. Whenever an order has been entered which suspends a citrus fruit dealer's license for a definite period of time and that license, by law, expires during the period of suspension, the suspension order shall continue automatically and shall be effective against any subsequent citrus fruit dealer's license issued to such dealer until such time as the entire period of suspension has elapsed. Whenever any such administrative order of the Department of Agriculture and Consumer Services is sought to be reviewed by the offending dealer involved in a court of competent jurisdiction, if such court proceedings should finally terminate in such administrative order being upheld or not quashed, such order shall thereupon, upon the filing with the Department of Agriculture and Consumer Services of a certified copy of the mandate or other order of the last court having to do with the matter in the judicial process, become immediately effective and shall then be carried out and enforced notwithstanding such time will be during a new and subsequent shipping season from that during which the administrative order was first originally entered by the Department of Agriculture and Consumer Services.

Section 114. Section 601.671, Florida Statutes, is reenacted and amended to read:

601.671 Appropriation of fines collected.—All fines imposed and collected by the Department of Agriculture *and Consumer Services* under the provisions of this chapter are hereby appropriated in the manner provided by s. 601.28(3)(b).

Section 115. Section 601.68, Florida Statutes, is reenacted and amended to read:

601.68 Investigation of violations.—The Department of Agriculture *and Consumer Services* may instigate and make investigation of any citrus fruit dealer who it has reason to believe has violated any law of this state governing and applicable to citrus fruit dealers, and, whenever the Department of Agriculture *and Consumer Services* determines that any citrus fruit dealer has violated any law of the state governing and applicable to citrus fruit dealers, it may publish the facts and circumstances of such violation and suspend the license of such offender for a specific period or revoke the same or make such other appropriate order as it may deem just and proper, and any such order shall specify the effective date thereof and any order other than one suspending or revoking a license shall automatically suspend such license until said order is complied with. Any administrative order of the Department of Agriculture *and Consumer Services* issued under the provisions of ss. 601.66-601.68 or s. 601.70 shall be deemed to have been issued in the county wherein the licensee has her or his main office, as disclosed in the licensee's application for citrus dealer's license.

Section 116. Section 601.69, Florida Statutes, is reenacted and amended to read:

601.69 Records to be kept by citrus fruit dealers.—Every citrus fruit dealer shall make and keep a correct record showing in detail the following with reference to the purchase, handling, sale, and accounting of sale of citrus fruit handled by her or him, namely:

(1) The name and address of the producers or other persons from whom the citrus fruit was procured, and, if same was procured from some person other than a licensed citrus fruit dealer, the name and address of the producer of said fruit;

(2) The date citrus fruit is received, the amount thereof, and the purchase price paid therefor if purchased for the purpose of resale;

(3) The condition of such citrus fruit upon receipt by the citrus fruit dealer;

(4) If the citrus fruit is handled on consignment for the account of the producer, the date of sale and the selling price;

(5) An itemized statement of the charges to be paid by the producer in connection with any sale;

(6) A detailed statement of all claims made by producers against the citrus fruit dealer, a copy of each when received to be certified and filed with the Department of Agriculture *and Consumer Services*;

(7) A copy of the record and account of sale of citrus fruit handled on consignment or commission shall be delivered to the producer upon the consummation of the sale, together with all moneys received by the citrus fruit dealer in payment for such transaction made upon account of the producer, less the agreed commission and other charges which must be separately itemized, and said payment and accounting must be made by said citrus fruit dealer to the producer within 15 days after said citrus fruit dealer receives the money in payment of said citrus fruit unless otherwise specified in contract between citrus fruit dealers and producer;

(8) A detailed statement and record of the resale or commercial disposition of citrus fruit so purchased by the dealer for purpose of resale or other commercial disposition, showing the number of boxes resold, the moneys received by such dealer upon such resale of the fruit, the person or dealer and address thereof to whom sold, the date of such resale, and how delivered to such purchaser;

(9) Any other record or account required to be kept and maintained by such dealer by rule or regulation of the *Florida Citrus Authority* ~~Department of Citrus~~ duly promulgated.

Section 117. Section 601.70, Florida Statutes, is reenacted to read:

601.70 Inspection of records by Department of Agriculture and Consumer Services.—The Department of Agriculture and Consumer

Services, or its duly authorized agents, shall have the right to inspect all accounts, records, and memoranda of any citrus fruit dealer required to be kept pursuant to the provisions of this chapter. If any such citrus fruit dealer refuses to permit such inspection, the department may publish the facts and circumstances and by order suspend the license of the offender until permission to make such inspection is given.

Section 118. Section 601.701, Florida Statutes, is reenacted and amended to read:

601.701 Penalty for failure to keep records.—

(1) It shall be unlawful to fail to keep any records required to be kept under the provisions of the Florida Citrus Code of 1949, or any amendments thereto, or required to be kept by any other law or by any authorized regulation of the Department of Agriculture *and Consumer Services* or the *Florida Citrus Authority* ~~Department of Citrus~~, or to falsify or cause the falsification of any such records or to keep false records.

(2) The violation of any of the provisions of this act shall constitute a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 119. Section 601.72, Florida Statutes, is reenacted to read:

601.72 Penalties for violations.—Any person who violates or aids or abets in the violation of any provision of this chapter shall for each offense be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083; provided further that a person shall be guilty hereunder upon conviction for nonpayment of a debt arising solely out of the purchase or sale of citrus fruits only when criminal fraud is proved. Civil suits against a citrus fruit dealer only, without resort to such dealer's bond as provided in s. 601.65, and also criminal prosecutions arising by violation of any of the provisions of this chapter as herein provided, may be instituted or prosecuted in the county where the said citrus fruit was received by the dealer or in the county wherein the principal place of business of such dealer is located within the state, or within the county in which the alleged violation occurred; and if such violation occurs in more than one county, then within the county wherein such violation or any part thereof occurred.

Section 120. Section 601.73, Florida Statutes, is reenacted and amended to read:

601.73 Additional methods of enforcement.—The several circuit courts of the state, sitting in chancery, are vested with jurisdiction specifically to enforce, and to enjoin and restrain any citrus fruit dealer from violating the provisions of this law, or any rule, regulation, or order made by the Department of Agriculture *and Consumer Services*, in any proceeding brought by the Department of Agriculture *and Consumer Services* in any of said circuit courts; and in any such proceeding it shall not be necessary for the Department of Agriculture *and Consumer Services* to allege or prove that an adequate remedy at law does not exist.

Section 121. Section 601.731, Florida Statutes, is reenacted and amended to read:

601.731 Transporting citrus on highways; name and dealer designation on vehicles; load identification; penalty.—

(1)(a) It is unlawful to operate any truck, tractor, trailer, or other motor vehicle hauling citrus fruit in bulk or in unclosed containers for commercial purposes on the highways of this state unless such truck, tractor, trailer, or other motor vehicle is:

1. Designated by a number assigned or permitted for use in the way and manner and to the extent prescribed by regulation of the *Florida Citrus Authority* ~~Department of Citrus~~.

2. Identified by lettering plainly showing the name of the person owning same, or the name of any lessee or other person operating same. The lettering shall not be less than 3 inches in height on both sides of the vehicle or on the front end and the rear end of the vehicle, except that lettering on flatbed semitrailers shall not be less than 1½ inches in height on the rear end of the trailer.

(b) If the truck, tractor, trailer, or other motor vehicle is owned by a licensed fruit dealer under this chapter, there shall also appear, except on the rear end of a flatbed semitrailer or similar truck trailer, the words "Licensed Citrus Fruit Dealer" by lettering of not less than 3 inches minimum in height under the name of the owner of such vehicle. When both a tractor and trailer or when two units are used in the operation of hauling, both of such units shall be so marked.

(c) The designations aforesaid shall be painted or affixed by decal upon the vehicle or units so as to be of a permanent character, except that where vehicles are leased for a period of not more than 30 days, it shall be sufficient if the designations provided in paragraphs (a) and (b) are clearly legible and affixed by temporary means.

(d) A motor vehicle which is not so marked that is so hauling such citrus fruit on the highways of this state shall prima facie be considered to be hauling commercial fruit with intent to violate this section. The provisions of this subsection do not apply to any such fruit being hauled from the farm or grove by the producer of such fruit in her or his own vehicle to market or place of first commercial handling unless such producer is also a licensed citrus fruit dealer.

(2) Any person driving any truck, tractor, trailer, or other motor vehicle hauling citrus fruit in bulk or in unclosed containers for commercial purposes on the highways of the state shall have on her or his person when driving such vehicle a certificate or other paper showing the approximate amount of fruit being hauled; the name of the owner and the grove or other origin of such fruit; the number painted or affixed by decal, as well as the number of the motor vehicle license tag, on the vehicle in which such fruit is being hauled; and such other information and data as may be prescribed by regulation of the *Florida Citrus Authority* ~~Department of Citrus~~, and it is unlawful to drive any such vehicle on the highways of this state without having such certificate or other paper. The failure of any such person to have such certificate or other paper on her or his person when driving, as aforesaid, is prima facie evidence of intent to violate and of the violation of this act.

(3)(a) A person who violates or fails to comply with any of the provisions of subsection (1) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person who violates or fails to comply with any of the provisions of subsection (2) is, upon the first conviction, guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and upon any subsequent conviction, guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

Section 122. Section 601.74, Florida Statutes, is reenacted to read:

601.74 Adoption of rules; fees for licensing and analysis of processing materials.—The Department of Agriculture and Consumer Services may adopt rules and set fees with respect to the licensing and analysis of materials and composition used on or in the packing of citrus fruits. Such rules may include fees for permitting dyes and coloring matter. Fees shall be not less than the amount of $30 nor more than $100 for each manufacturer making application to the department. All such license fees collected hereunder shall be paid monthly by the Department of Agriculture and Consumer Services into the State Treasury to the credit of the General Inspection Trust Fund and shall be appropriated and made available for defraying the expenses incurred in the administration of this law.

Section 123. Section 601.75, Florida Statutes, is reenacted to read:

601.75 Dyes and coloring matter for citrus fruit to be certified prior to use.—The Department of Agriculture and Consumer Services may adopt rules with respect to the permitting and certification of dyes and coloring matter for citrus fruit prior to use on any citrus fruit.

Section 124. Section 601.76, Florida Statutes, is reenacted to read:

601.76 Manufacturer to furnish formula and other information.—The Department of Agriculture and Consumer Services may adopt rules with respect to requirements for information which must be furnished by manufacturers of coloring matter for use on citrus fruit. Such

information may include product formulas. Any formula required to be filed with the Department of Agriculture and Consumer Services shall be deemed a trade secret as defined in s. 812.081, is confidential and exempt from the provisions of s. 119.07(1), and shall only be divulged to the Department of Agriculture and Consumer Services or to its duly authorized representatives or upon orders of a court of competent jurisdiction when necessary in the enforcement of this law. A person who receives such a formula from the department under this section shall maintain the confidentiality of the formula.

Section 125. Section 601.77, Florida Statutes, is reenacted to read:

601.77 Subsequent analysis of coloring matter; inspection of packinghouses for application.—The Department of Agriculture and Consumer Services may, by rule, provide for subsequent analysis of coloring matter, for inspection of packinghouses or other places where coloring matter is applied to citrus fruit, and for grounds for revocation of a license to use coloring matter on fruit.

Section 126. Section 601.78, Florida Statutes, is reenacted to read:

601.78 Manufacturer to post bond.—The Department of Agriculture and Consumer Services may, by rule, require cash or surety bonds to be posted by manufacturers of coloring matter used on citrus fruit. The Department of Agriculture and Consumer Services shall adopt rules prescribing the amount and form of such bonds and the grounds and procedures for forfeiture of same. The amount of the bond shall not exceed $5,000.

Section 127. Section 601.79, Florida Statutes, is reenacted to read:

601.79 To color grapefruit and tangerines prohibited.—It is unlawful for any person to use on grapefruit or tangerines or apply thereto any coloring matter.

Section 128. Section 601.80, Florida Statutes, is reenacted to read:

601.80 Unlawful to use uncertified coloring matter.—It is unlawful for any person to use on oranges or citrus hybrids any coloring matter which has not first received the approval of the Department of Agriculture and Consumer Services as provided by rule adopted pursuant to s. 601.76.

Section 129. Section 601.85, Florida Statutes, is reenacted and amended to read;

601.85 Standard shipping box for fresh fruit.—The specifications for the standard legal shipping box, crate, or container to be used in shipping fresh citrus fruits shall be as established by the *Florida Citrus Authority* ~~Department of Citrus~~; but provided that the unit of a standard-packed box, commonly called 1⅗ bushels, shall contain an inside cubical measurement of 3,456 cubic inches.

Section 130. Section 601.86, Florida Statutes, is reenacted to read:

601.86 Standard field boxes for fresh citrus fruit.—All field boxes used in the purchase, sale, or handling of citrus fruit from or for the grower by a citrus fruit dealer in the state shall be of the uniform standard size of 31½ inches long, 13 inches high, and 12 inches wide, inside measurements, and shall be divided into two compartments by a center partition of at least three-fourths inch thickness; and each of these compartments thus created shall have a cubical capacity of not to exceed 2,400 cubic inches.

Section 131. Section 601.87, Florida Statutes, is reenacted to read:

601.87 Use of cleats on boxes.—The height of the end heads and the center partition of field boxes shall in no case be increased more than 1¼ inches by the addition of cleats or any similar addition to the height so that the total height of said boxes from the inside bottom to the top of said cleats shall not exceed 14¼ inches. It is unlawful to place cleats or any other device or thing on the bottom or top, other than herein provided, of any standard citrus field box whereby the space between the field boxes when stacked will be greater than the space that exists between such standard field boxes as herein defined.

Section 132. Section 601.88, Florida Statutes, is reenacted to read:

601.88 Oversized boxes to be stamped.—

(1) It is unlawful to use any field box that exceeds the total capacity of 4,900 cubic inches in the purchase, sale, or handling of oranges, grapefruit, or tangerines by a citrus fruit dealer from or for a grower, unless all field boxes exceeding this dimension shall have plainly stamped on both ends of the box in letters of the dimension of 1 inch in height and width the word “oversize.”

(2) It is unlawful to use any “tractor box” or other bulk harvesting equipment or special type field box that exceeds the total capacity of 4,900 cubic inches in the purchase, sale, or handling of oranges, grapefruit, or tangerines by a citrus fruit dealer from or for a grower, unless such tractor box or other bulk harvesting equipment or special type field box exceeding this dimension shall have plainly stamped on both ends of the tractor box or other bulk harvesting equipment or special type field box in letters of the dimension of 1 inch in height and width the actual content expressed in terms of standard field box equivalent as defined in s. 601.86.

Section 133. Section 601.89, Florida Statutes, is reenacted to read:

601.89 Citrus fruit; when damaged by freezing.—

(1) Citrus fruit shall be deemed “seriously” damaged by freezing when such freezing causes:

(a) Marked dryness to extend into the segments of oranges and grapefruit more than ½ inch at the stem end; or into segments of mandarin or hybrid varieties more than ¼ inch at the stem end; or more than an equivalent amount by volume of dryness to occur in any other portions of the fruit.

(b) Internal freeze-related injury, as defined in subsection (3), when such condition or combination of conditions is determined to affect the fruit to a degree equal in seriousness to that described in paragraph (a).

(2) Citrus fruit shall be deemed “damaged” by freezing when such freezing causes:

(a) Marked dryness to extend into the segments of oranges and grapefruit more than ¼ inch but less than ½ inch at the stem end; or into segments of mandarin or hybrid varieties more than ⅛ inch but less than ¼ inch at the stem end; or more than an equivalent amount by volume of dryness to occur in any portions of the fruit.

(b) Internal freeze-related injury, as defined by subsection (3), when such condition or combination of conditions is determined to affect the fruit to a degree equal in seriousness to that described in paragraph (a).

(3) Internal freeze-related injury to citrus fruit, caused by freezing, shall consist of any of the following:

(a) Wet cores or wet segment walls;

(b) Water soaking;

(c) Juice cell breakdown;

(d) Mushy condition;

(e) Honeycomb or open spaces in pulp; or

(f) Other evidence of internal breakdown, decay, or moldy condition.

Section 134. Section 601.90, Florida Statutes, is reenacted to read:

601.90 Freeze-damaged citrus fruit; power of commission.—

(1) Whenever freezing temperatures of sufficient degree to cause serious damage to citrus fruit occur in all major citrus-producing areas of the state, the commission, upon call of the chair and with such notice as may be appropriate under the circumstances, shall meet within 96 hours of the last occurrence of such freezing temperatures to determine whether or not such freezing temperatures have caused damage to citrus fruit as defined in s. 601.03 and, if so, the degree of such damage.

(2) If the commission, at such meeting, determines that serious damage, as defined in s. 601.89(1), has occurred to such citrus fruit, it may, upon majority vote, enter an emergency quality assurance order providing for one or more of the following:

(a) Prohibiting the preparation for market, sale, offering for sale, or shipment of citrus fruit for a period not to exceed 10 days after commencement of the order period.

(b) Prohibiting the sale, offering for sale, or shipment of any citrus fruit showing "damage," as defined by s. 601.89(2), for a period not to exceed 14 days after commencement of the order period.

(c) Prohibiting the preparation for market, sale, offering for sale, or shipment of citrus fruit for a period not to exceed 10 days after commencement of the order period, and further prohibiting the sale, offering for sale, or shipment of citrus fruit showing "damage," as defined by s. 601.89(2), for a subsequent period not to exceed 14 additional days.

(d) Prohibiting the sale, offering for sale, or shipment, in offshore export trade channels, of citrus fruit showing any degree of internal freeze-related injury, as defined by s. 601.89(3), for a period not to exceed 30 days from commencement of the order period.

(3) Any emergency order entered pursuant to this section shall become effective upon adoption by the commission, the provisions of chapter 120 to the contrary notwithstanding, and shall have the full force and effect of law. The order period shall commence at a time established by the commission in its order, but not sooner than 36 hours following adoption of the order.

(4) Emergency quality assurance orders shall not be applicable to any citrus fruit sold or transported to a citrus processing plant for processing purposes or to any citrus fruit inspected, packed, and certified for shipment prior to commencement of the order period; however, any such citrus fruit not shipped within 48 hours of commencement of the order period shall be reinspected, on a random basis, and recertified as damage-free.

(5) Any order may provide for reasonably extended packinghouse inspection hours prior to commencement of the order period.

Section 135. Section 601.901, Florida Statutes, is reenacted and amended to read:

601.901 Use of freeze-damaged fruit in frozen concentrated citrus products.—

(1) At any time subsequent to a commission determination, pursuant to s. 601.90, that serious damage has resulted to citrus fruit from freezing temperatures, the commission may, at a regular or special meeting, establish by order the maximum degree of freeze damage or freeze-related injury to be permitted in citrus fruit used in preparation of any frozen concentrated products, including concentrate for manufacturing purposes, for the purpose of protecting the quality of such processed products.

(2) Notwithstanding the provisions of chapter 120, any order adopted by the commission pursuant to this section shall become effective at a time fixed by the commission, but not less than 24 hours from the time of adoption, and shall expire at a time fixed by the commission, but in no instance later than the end of the current shipping season.

(3) This section shall not repeal any other authority now or hereafter delegated to the *Florida Citrus Authority* ~~Department of Citrus~~, but shall be deemed as additional and supplemental authority vested in the *Florida Citrus Authority* ~~Department of Citrus~~, and should any part of this section be held to be unconstitutional or unenforceable by any court of competent jurisdiction, the decision of such court shall not affect the remaining portions of this section. It is the intention of the Legislature that this section would have been adopted had such unconstitutional or such unenforceable provision not been included herein.

Section 136. Section 601.91, Florida Statutes, is reenacted and amended to read:

601.91 Unlawful to sell, transport, prepare, receive, or deliver freeze-damaged citrus.—

(1) It is unlawful at any time for any person to sell or offer for sale, to transport, or to prepare, receive, or deliver for transportation or market, except for canning, concentrating, or byproduct purposes within the state, any citrus fruit seriously damaged by freezing, as defined in s. 601.89. Not more than 15 percent by count of the citrus fruit in any one container or bulk lot may be seriously damaged by freezing injury; but not more than one-third of this tolerance shall be allowed for citrus fruit now or hereafter deemed adulterated by federal law or regulation.

(2) No lot of citrus fruit seriously damaged by freezing may be mixed with other lots of citrus fruit which are free from damage by freezing resulting in concealment of inferior fruit and thereby reducing the percentage of defective fruit in the seriously damaged lot to within the tolerance permitted for error in grading only.

(3) The manner and method of drawing samples and conducting tests under this section shall be prescribed by rules and regulations of the *Florida Citrus Authority* ~~Department of Citrus~~. The inspection in the state of all citrus fruits seriously damaged by freezing and the enforcement of this section and of rules, regulations, and orders made by the *Florida Citrus Authority* ~~Department of Citrus~~ pursuant to and under authority of this section shall be under the direction, supervision, and control of the Department of Agriculture *and Consumer Services* and its duly authorized agents and inspectors who are qualified under existing laws to inspect for grade and maturity; and all citrus fruits that may be found to be seriously damaged by freezing, as defined by s. 601.89, upon inspection and testing shall be seized and may be confiscated and destroyed under the supervision of the citrus fruit inspector at the expense of the owner unless previous disposition is made by the owner or other person who offered the same for inspection, all the provisions of this section being subject to such reasonable rules and regulations as may be promulgated by the *Florida Citrus Authority* ~~Department of Citrus~~.

Section 137. Section 601.92, Florida Statutes, is reenacted to read:

601.92 Use of arsenic in connection with citrus.—Persons owning, managing, or tending and cultivating citrus groves or trees shall not use arsenic or any of its derivatives, or any combination, compound, or preparation containing arsenic as a fertilizer or spray on bearing citrus trees, except grapefruit trees.

Section 138. Section 601.93, Florida Statutes, is reenacted to read:

601.93 Sale of citrus containing arsenic.—No person shall sell or offer for sale, transport, prepare, secure, or deliver for transportation or market any fruit of any variety except grapefruit which contains any arsenic or any compound or derivative of arsenic.

Section 139. Section 601.94, Florida Statutes, is reenacted and amended to read:

601.94 Fruit containing arsenic; powers of inspection.—Citrus fruit inspectors are authorized:

(1) To inspect citrus fruit, except grapefruit, for arsenic content at any packinghouse, canning plant, concentrating plant, or other place where citrus fruit, except grapefruit, is being received or prepared for sale or transportation, and

(2) To enforce the provisions of these arsenic laws under the direction and supervision of the Department of Agriculture *and Consumer Services* in accordance with the law and rules and regulations prescribed by the said Department of Agriculture *and Consumer Services*.

Section 140. Section 601.95, Florida Statutes, is reenacted to read:

601.95 Seizure of citrus fruit containing arsenic.—Whenever any citrus fruit inspector shall find citrus fruit, except grapefruit, at any packinghouse, canning plant, concentrating plant, or other place that the same is being received or prepared for sale or transportation which citrus fruit shall, when tested, show an abnormal and excessively high

ratio of total soluble solids of the juice thereof to the anhydrous citric acid thereof indicating the presence of arsenic therein, said inspector shall at once seize and take possession of said citrus fruit, except grapefruit, pending the procuring of the chemical analysis provided for in this chapter notifying the manager or other person in charge of said packinghouse, canning plant, concentrating plant, or other place where the said fruit is being received of such seizure. It is unlawful for the manager of said packinghouse, canning plant, concentrating plant, or other place where the fruit is being received, or the owner of said citrus fruit, or any person whomsoever to sell, transport, or in any way move or dispose of any of said fruit from the time of seizure thereof until after the making of said chemical analysis and the receipt of the chemist's report thereon; provided that no citrus fruit so seized may be held by any inspector more than 96 hours after the time of seizure thereof unless the same shall be shown by the chemist's analysis to contain arsenic.

Section 141. Section 601.96, Florida Statutes, is reenacted and amended to read:

601.96 Seized fruit; taking samples for analysis.—Upon the making of seizure of any citrus fruit as provided in s. 601.95, the inspector making said seizure shall immediately draw samples therefrom, as shall be provided for by regulations to be issued by the Department of Agriculture *and Consumer Services*, drawing said samples either from the packinghouse, canning plant, or concentrating plant bins, or elsewhere in the packinghouse, canning plant, or concentrating plant, or from field boxes or vehicles delivering said citrus fruit to said packinghouse. Such samples so drawn by said inspector shall be transported with all possible haste to such chemist as may be designated by the Department of Agriculture *and Consumer Services* for the making by such chemist of a chemical analysis thereof to determine whether or not the said citrus fruit contains arsenic. Said chemist shall make said analysis with all the proper haste and report by the quickest means available the result of said analysis as soon as the same is completed to the inspector making the seizure. If the said analysis shall show that the said citrus fruit contains no arsenic, the inspector shall release the fruit from seizure as soon as she or he receives the report of the chemist thereon.

Section 142. Section 601.97, Florida Statutes, is reenacted and amended to read:

601.97 Destruction of certain fruit containing arsenic.—All citrus fruit, except grapefruit, prepared for sale or transportation, or which is being prepared for such purpose, or which has been or is being delivered for sale or transportation that may be shown by the chemical analysis provided for in s. 601.96 to contain arsenic, or any compound or derivative of arsenic, shall be destroyed by the inspector making seizure of the same, or by any citrus fruit inspector, or by the sheriff of the county where found, as may be provided by regulations prescribed by the Department of Agriculture *and Consumer Services*. Regulations for the application and enforcement of ss. 601.92-601.97, inclusive, shall be promulgated by the Department of Agriculture *and Consumer Services*.

Section 143. Section 601.98, Florida Statutes, is reenacted to read:

601.98 Shipment, sale, or offer of imported citrus fruit or citrus products.—

(1) It is unlawful for any person to quote, offer for sale, sell, ship, or invoice in or from Florida any citrus fruit or the canned or concentrated products thereof grown and canned or concentrated in any other state or country other than Florida in such manner as to indicate in any form whatsoever that the citrus fruit or the canned or concentrated products thereof were produced and canned in Florida.

(2) Every such person in Florida shall specifically advise and notify the buyer of any citrus fruit or the canned or concentrated product thereof produced and canned or concentrated in any state or country other than Florida which is being sold, quoted, offered for sale, or shipped to such buyer that the citrus fruit or the canned or concentrated products thereof were not produced in Florida; and the failure to so notify and advise such buyer will be construed as a violation of this section.

Section 144. Section 601.981, Florida Statutes, is reenacted and amended to read:

601.981 Permits for export to foreign countries.—During each shipping season the *Florida Citrus Authority* ~~Department of Citrus~~ is authorized and empowered to issue permits permitting citrus fruit grown in Florida, whether color-added or otherwise, to be exported to all foreign countries, other than Canada and Mexico, when the total soluble solids of the juice thereof and the minimum ratio of the total soluble solids of the juice thereof to the anhydrous citric acid and the juice content thereof is within a tolerance not exceeding 10 percent of the standards established by law, provided such citrus fruit is loaded on chartered vessels at a Florida port. The *Florida Citrus Authority* ~~Department of Citrus~~ shall promulgate such rules and regulations as it may deem necessary or required to control such permits.

Section 145. Section 601.99, Florida Statutes, is reenacted to read:

601.99 Unlawful to misbrand wrappers or packages containing citrus fruit.—It is unlawful for any person to misbrand any package or any wrapper containing citrus fruits or any container of the canned or concentrated products thereof, and all citrus fruits and the canned or concentrated products thereof shall be deemed misbranded if the package or the wrapper or the container thereof shall bear any statement, design, or device regarding the fruit therein contained which is false or misleading either as to the name, size, quality, or brand of such fruit or the canned or concentrated products thereof or as to the locality in which it was grown.

Section 146. Section 601.9901, Florida Statutes, is reenacted and amended to read:

601.9901 Certificates of inspection; form.—All certificates of inspection prescribed by this chapter shall be of such number, form, size, and character as the *Florida Citrus Authority* ~~Department of Citrus~~ may by rule and regulation prescribe and shall be used in such manner as to identify the fruit or the canned or concentrated products thereof to which they relate.

Section 147. Section 601.9902, Florida Statutes, is reenacted and amended to read:

601.9902 Payment of salaries and expenses; *Florida Citrus Authority* ~~Department of Citrus~~.—All salaries, costs, and expenses incurred by the *Florida Citrus Authority* ~~Department of Citrus~~ in the administration and the enforcement of this chapter and in the performance of its duties and the exercise of its powers under the laws of this state shall be proratably paid from the moneys derived from the citrus advertising taxes imposed on the various types of citrus fruit in such proportion as the *Florida Citrus Authority* ~~Department of Citrus~~ may find each respective type is affected by such expenditures.

Section 148. Section 601.9903, Florida Statutes, is reenacted and amended to read:

601.9903 Annual report of *Florida Citrus Authority* ~~Department of Citrus~~.—The *Florida Citrus Authority* ~~Department of Citrus~~ shall make an annual report to the Governor upon the work of the *Florida Citrus Authority* ~~Department of Citrus~~. It shall also make such special reports upon any phase of the work of the *Florida Citrus Authority* ~~Department of Citrus~~ as may be called for by the Governor or the Legislature or either house thereof.

Section 149. Section 601.9904, Florida Statutes, is reenacted and amended to read:

601.9904 Rules and regulations; frozen citrus juices.—The *Florida Citrus Authority* ~~Department of Citrus~~ is hereby authorized and required to promulgate and enforce rules and regulations concerning the contents, preparation, concentrating, other processing, and keeping or storing of frozen concentrated fresh citrus juices, and such rules and regulations may cover but are not limited to the sanitary conditions under which such product is prepared, the type of equipment and machinery used therein, and the manner and method of storage within this state and the manner and method of shipment.

Section 150. Section 601.9905, Florida Statutes, is reenacted and amended to read:

601.9905 Canned orange juice; standards; labeling.—No canned orange juice shall be sold or offered for sale or shipped or offered for shipment which:

(1) Is prepared from raw juice containing before the addition of any additive less than 8.5 percent total soluble solids;

(2) When canned, contains less than 10 percent total soluble solids;

(3) Has a ratio of total soluble solids to anhydrous citric acid of less than 9 to 1;

(4) Contains less than 0.55 percent or more than 1.60 percent anhydrous citric acid;

(5) Contains more than 0.050 percent recoverable oil; or

(6) Does not meet requirements to be established by the *Florida Citrus Authority* ~~Department of Citrus~~ regarding color, absence of defects, taste, and flavor; unless the immediate container thereof shall be labeled in accordance with regulations of the *Florida Citrus Authority* ~~Department of Citrus~~ and there shall appear on such label the word "substandard" in bold type not less than ¼ inch high printed or stamped diagonally thereon.

Section 151. Section 601.9906, Florida Statutes, is reenacted to read:

601.9906 Processed grapefruit juice products; standards.—

(1) The grapefruit juice products to which this section applies shall include canned grapefruit juice, chilled grapefruit juice, frozen concentrated grapefruit juice, concentrated grapefruit juice for manufacturing, and such other grapefruit juice products as the commission may by rule prescribe which may be consumed as juice or used to produce other grapefruit juice products which may be consumed as juice.

(2) This section shall not apply to any grapefruit juice products to which have been added readily detectable quantities of one or more readily detectable ingredients, which the commission shall by rule specify, which ingredients are impermissible in the grapefruit juice products described in subsection (1) but are appropriate for use in one or more other products which are not consumed as juice, such as diluted fruit juice beverages or beverage bases used to produce diluted fruit juice beverages.

(3) No grapefruit juice products shall be sold or offered for sale or shipped or offered for shipment which have a minimum ratio of total soluble solids to anhydrous citric acid of less than seven and one-half to one, or such higher ratio as the commission may by rule prescribe.

(4) The commission shall by rule prescribe quality standards for grapefruit juice products. Such standards shall be designed to further the acceptance and consumption of the grapefruit juice products so regulated.

Section 152. Section 601.9907, Florida Statutes, is reenacted and amended to read:

601.9907 Canned blended juice; standards; labeling.—No canned blend of orange and grapefruit juice shall be sold or offered for sale or shipped or offered for shipment which:

(1) Is prepared from mixed raw juice of oranges and grapefruit containing before the addition of any additive less than 8 percent total soluble solids;

(2) When canned, contains less than 9.5 percent total soluble solids;

(3) Has a ratio of total soluble solids to anhydrous citric acid of less than 8 to 1;

(4) Contains less than 0.65 percent or more than 1.80 percent anhydrous citric acid;

(5) Contains more than 0.040 percent recoverable oil; or

(6) Contains when mixed and before canning more or less than the percentage of orange juice determined by rule or regulation of the *Florida Citrus Authority* ~~Department of Citrus~~ required to be contained therein and does not meet requirements to be established by the *Florida Citrus Authority* ~~Department of Citrus~~ regarding color, absence of defects, taste and flavor; unless the immediate container thereof shall be labeled in accordance with regulations of the *Florida Citrus Authority* ~~Department of Citrus~~, and there shall appear on such label the word "substandard" in bold type not less than ¼ inch high printed or stamped diagonally thereon.

Section 153. Section 601.9908, Florida Statutes, is reenacted and amended to read:

601.9908 Canned tangerine juice; standards; labeling.—No canned tangerine juice shall be sold or offered for sale or shipped or offered for shipment which:

(1) Is prepared from raw juice containing before the addition of any additive less than 9 percent total soluble solids;

(2) When canned, contains less than 10 percent total soluble solids; or

(3) Has a ratio of total soluble solids to anhydrous citric acid of less than 9 to 1;

(4) Contains less than 0.55 percent or more than 1.60 percent anhydrous citric acid;

(5) Contains more than 0.050 percent recoverable oil; or

(6) Does not meet requirements to be established by the *Florida Citrus Authority* ~~Department of Citrus~~ regarding color, absence of defects, taste, and flavor; unless the immediate container thereof shall be labeled in accordance with regulations of the *Florida Citrus Authority* ~~Department of Citrus~~ and there shall appear on such label the word "substandard" in bold type not less than 1/4 inch high printed or stamped diagonally thereon.

Section 154. Section 601.9909, Florida Statutes, is reenacted and amended to read:

601.9909 Frozen concentrated orange juice; requirements; labeling.—Subject to the provisions of ss. 601.9913 and 601.9914, no frozen concentrated orange juice shall be sold, offered for sale, shipped, or offered for shipment which:

(1) Is concentrated to less than 41.8 or more than 47 degrees Brix. The Brix reading, if determined refractometrically, shall include corrections for citric acid.

(2) Has a lower ratio of total soluble solids to anhydrous citric acid of less than 12 to 1 or a higher ratio of total soluble solids to anhydrous citric acid than 19.5 to 1.

(3) Contains more than 0.120 milliliters of recoverable oil per 100 grams of concentrate.

(4) Contains any additives of any kind.

(5) Does not taste essentially the same as freshly expressed orange juice of similar quality and is not completely free of all fermented, cooked, terpeny, or other off-flavors; or does not meet all requirements of the rules of the *Florida Citrus Authority* ~~Department of Citrus~~ regarding color, absence of defects, taste, and flavor; unless the immediate container thereof shall be labeled in accordance with rules of the *Florida Citrus Authority* ~~Department of Citrus~~, and there shall appear on such label the word "substandard" in bold type not less than 1/4 inch high printed or stamped diagonally thereon.

Section 155. Section 601.9910, Florida Statutes, is reenacted and amended to read:

601.9910 Legislative findings of fact; strict enforcement of maturity standard in public interest.—

(1) FINDINGS.—

(a) The Legislature finds and determines and so declares that, for many years past, the shipment of raw, immature citrus fruit, generally designated as "green fruit," from the state to consuming markets has caused the loss of millions of dollars to the citrus growers of Florida; also has resulted in the lowering of the standard of living of many of its citizens; adversely affected the economic conditions of the entire state; reduced the receipts in the collection of ad valorem taxes, thereby reducing revenue needed by counties and cities; caused financial loss to the growers and shippers and processors who did not engage in the shipment of green fruit; and that such practice each year hurts the good name and reputation of all Florida citrus.

(b) The Legislature, after extensive hearings conducted annually, and after many hearings attended by its citrus committees at various citrus industry meetings throughout the citrus area; and after having had the advice and counsel of the best qualified and most expert technical advisers in the Florida citrus industry, and after having had the benefit of the advice of some of the most expert and best informed growers, shippers, and processors, and after having made a careful study of the reaction of all citrus fruits by reason of changes in climatic conditions, and having found that regardless of the color of an orange or the color of a grapefruit or regardless of the juice content of such fruit, finds such fruit may be immature and unfit for human consumption. It is also recognized by experts that there are certain factors entering into the maturity of fruit which are not now measurable by chemical tests. There is a change brought about by time and nature in the blending of solids and acids into juice which characterizes maturity but not in a manner susceptible to chemical determination. Because of this, it is scientifically sound that the minimum requirements for solids and the ratio of solids to anhydrous citric acid in determining maturity be relaxed as the season progresses and the raw, immature flavor characteristic of fruit early in the season has disappeared through the workings of time and nature. Therefore, the Legislature hereby finds and determines and so declares that, until nature has completed its process of removing the raw, immature flavor, such citrus fruit will still be immature and unfit for human consumption and, when marketed, will result in dissatisfied consumers who will cease purchasing Florida citrus for some time and will classify that fruit which they had purchased as "Florida green fruit."

(c) The Legislature finds and determines and so declares that there is no better method of determining when such raw and immature flavor leaves Florida citrus than by the standards set forth in this chapter; and that experience has demonstrated over a period of many years, by the best available records and under various climatic conditions and various seasonal changes, that generally speaking prior to November 1 of each season oranges which do not have a total soluble solids of 9 percent with a minimum ratio of total soluble solids, as set forth in s. 601.20, still have a raw, immature flavor; and that, beginning on or about November 1 of each season, such raw, immature fruit flavor gradually disappears from the orange and by November 15 the same orange may have a still lower soluble solids percentage and not be immature; and after November 15 can still have a further lower soluble solids percentage without being immature; and by December 1 nature has completed its process of removing the raw, immature flavor which might have existed prior to that time, provided such fruit meets the other minimum maturity requirements set forth in this chapter. On December 1 oranges meeting the requirements of s. 601.19(4), while not being sufficiently mature to ship in fresh form, may be safely used in some processed products without the finished product having a raw, immature flavor. On December 1 grapefruit meeting the requirements of s. 601.16(4), while not being sufficiently mature to ship in fresh form, may be safely used in some processed products without the finished product having a raw, immature flavor.

(d) The Legislature finds and determines and so declares that the enforcement of the maturity standards, as set forth in this chapter, will not result in preventing any grower from marketing her or his fruit at some time during the marketing season, whenever nature has removed the raw, immature flavor; and, if there is a delay in such marketing, it will result in higher prices for the entire season, bringing additional millions of dollars to the growers of Florida and resulting in benefit to all growers, including the grower or growers who were delayed a short time in the shipment of their fruit.

(2) DECLARATION.—Therefore, the Legislature declares that the strict enforcement of the maturity standards, as set forth in this chapter, is definitely in the public's interest and for the public's welfare, and that no citrus should be shipped from Florida and sold in the consuming markets which has a raw, immature flavor, and which could be classed by the consuming public as "Florida green fruit."

(3) REGULATIONS REGARDING MATURITY STANDARDS FOR HYBRIDS.—The Legislature finds and determines that classifications of and maturity standards for citrus hybrids should be established by regulations promulgated by the *Florida Citrus Authority* ~~Department of Citrus~~ pursuant to this chapter.

Section 156. Section 601.9911, Florida Statutes, is reenacted and amended to read:

601.9911 Fruit may be sold or transported direct from producer.—Any citrus producer may transport her or his own citrus fruit or any citrus fruit may be sold or purchased and transported in interstate or intrastate commerce in truckload lots direct from a producer and any such fruit so sold, purchased, or transported need not be processed, handled by any packinghouse, washed, polished, graded, stamped, labeled, branded, placed in containers, or otherwise prepared for market as may be provided herein. Such fruit shall be certified at the time of inspection as tree run grade of fruit, but shall otherwise remain subject to the maturity standards and all other conditions, restrictions, emergency quality assurance orders, and other requirements of this chapter and shall be inspected for such compliance as all other fruit is inspected at such convenient locations as may be determined by the Department of Agriculture *and Consumer Services*. Any such fruit violating any of the provisions of this chapter, or any rule or regulation of the *Florida Citrus Authority* ~~Department of Citrus~~ made pursuant to this chapter, but not inconsistent with this section, may be seized, condemned, and destroyed as provided herein. At the time of such inspection, all fees, assessments, and excise taxes provided in this chapter shall be paid and collected at the same rate as paid by all other fresh fruit growers or shippers.

Section 157. Section 601.9912, Florida Statutes, is reenacted and amended to read:

601.9912 Penalties.—Any person violating any provisions of this chapter or of the rules or regulations of the *Florida Citrus Authority* ~~Department of Citrus~~ or the Department of Agriculture *and Consumer Services* shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 158. Section 601.9913, Florida Statutes, is reenacted and amended to read:

601.9913 High-density frozen concentrated orange juice; standards; labeling.—

(1) "High-density frozen concentrated orange juice" is frozen concentrated orange juice which has been concentrated to a density greater than 47 degrees Brix.

(2) All high-density frozen concentrated orange juice sold or shipped, or offered for sale or shipment, in retail or institutional size containers shall comply with all requirements applicable to frozen concentrated orange juice in retail or institutional size containers, except as to the density of the concentrated food. The percent by weight of orange juice soluble solids contained in the reconstituted food made from high-density frozen concentrated orange juice when the label directions for dilution are followed shall be the same as is prescribed by the *Florida Citrus Authority* ~~Department of Citrus~~ for frozen concentrated orange juice in retail or institutional size containers.

(3) The name of high-density frozen concentrated orange juice, when sold in retail or institutional size containers, is "frozen concentrated orange juice, ... plus 1," the blank being filled in with the whole

number showing the dilution ratio in conspicuous type consistent with the size of the container and in conjunction with the product name. Where the label bears directions for making one quart or multiples of a quart, the blank may be filled in with a number that includes a fraction. The term "dilution ratio" means the number of volumes of water per volume of high-density frozen concentrated orange juice prescribed by the label for reconstituting the food. The nomenclature requirements of this subsection shall not apply to containers for postmix dispenser use, or to retail containers designed solely for use in foreign countries, provided the labeling thereof contains mixing instructions adequate to inform the institution or the consumer of the correct dilution ratio.

(4) The name of high-density frozen concentrated orange juice, when sold in bulk size containers, is the name provided in subsection (3), or "frozen concentrated orange juice, ... Brix," the blank being filled in with the number which expresses the percent by weight of orange juice soluble solids contained in the food, in conspicuous size and in conjunction with the product name.

(5) The compositional requirements applicable to high-density frozen concentrated orange juice sold in bulk size containers shall be prescribed by the *Florida Citrus Authority* ~~Department of Citrus~~ by rule.

(6) The definition of retail, institutional, and bulk size containers for high-density frozen concentrated orange juice shall be prescribed by the department by rule.

(7) All high-density frozen concentrated orange juice sold or shipped or offered for sale or shipment shall be inspected as provided by law or rule for the inspection of frozen concentrated orange juice, and all fees and taxes shall be paid in the manner and as provided by law or rule.

Section 159. Section 601.9914, Florida Statutes, is reenacted to read:

601.9914 Commission authorized to modify standards by rule.—

(1) The commission may modify by rule, within the limitations herein specified, the requirements of ss. 601.9905-601.9909 if the commission first, upon the affirmative vote of nine members, determines that the adoption of such rule is likely to further increase the acceptance and consumption by a substantial segment of the consuming public of the citrus product or products regulated by such proposed rule and that such increase in acceptance and consumption will be of substantial benefit to handlers and producers of citrus fruit.

(2) The requirements of ss. 601.9905-601.9909 may be modified by rule within the following limitations:

(a) The existing requirements with respect to minimum or maximum Brix or the existing requirements with respect to minimum percent of total soluble solids may be raised;

(b) The existing requirements with respect to minimum ratio of total soluble solids to anhydrous citric acid may be raised, and the requirements with respect to maximum ratio of total soluble solids to anhydrous citric acid may be raised or lowered;

(c) The existing requirements with respect to the minimum or maximum amount of percentage of recoverable oil may be raised or lowered; and

(d) The existing requirements with respect to the minimum or maximum percentage of anhydrous citric acid may be raised or lowered.

Section 160. Section 601.9916, Florida Statutes, is reenacted and amended to read:

601.9916 Addition of optional nutritive sweetening ingredients to concentrated orange juice; rules.—

(1) The *Florida Citrus Authority* ~~Department of Citrus~~, upon the affirmative vote of not less than nine members of the commission, is authorized to issue permits for the processing, shipping, and sale of frozen concentrated orange juice or concentrated orange juice for manufacturing to which has been added any of the following optional nutritive sweetening ingredients: sugar, sugar syrup, and invert sugar syrup.

(2) Each processor to whom a permit is issued pursuant to this section shall comply with rules established by the *Florida Citrus Authority* ~~Department of Citrus~~ which rules shall provide that:

(a) Such product shall be inspected immediately prior to the addition of the optional sweetening ingredient and shall be reinspected promptly after the addition of the optional sweetening ingredient.

(b) If such product is to be stored, sold, or shipped in retail or institutional size containers of less than 1 gallon, it shall, when reconstituted according to label directions, contain not less than 12.8 percent by weight of orange juice soluble solids, exclusive of the weight of any added optional nutritive sweetening ingredient, and shall, each time it is inspected, fully conform to the rules and standards of the *Florida Citrus Authority* ~~Department of Citrus~~ applicable to frozen concentrated orange juice in retail or institutional size containers.

(c) If such product is to be stored, sold, or shipped in bulk containers of 1 gallon or larger, it shall contain not less than 47 percent by weight of orange juice soluble solids, exclusive of the solids of any added optional sweetening ingredient, and shall, when reconstituted according to label directions, contain not less than 11.8 percent by weight of orange juice soluble solids, exclusive of any added optional nutritive sweetening ingredient, and shall, each time it is inspected, fully conform to the rules and standards of the *Florida Citrus Authority* ~~Department of Citrus~~ applicable to concentrated orange juice for manufacturing.

(d) If any such product has been filled into bulk containers of 1 gallon or larger, it shall not thereafter be filled into retail or institutional size containers unless it fully conforms to the requirements of paragraph (b).

(e) The product shall conform to such labeling requirements as the *Florida Citrus Authority* ~~Department of Citrus~~ shall by rule prescribe.

(3) The privilege of processing any such product under a permit issued hereunder shall expire at the end of the shipping season for which such processing was authorized by such permit but may be renewed annually upon the affirmative vote of not less than nine members of the commission.

(4) In addition to the disciplinary action that may be taken by the Department of Agriculture *and Consumer Services* against a citrus fruit dealer for violations of this chapter, the commission may temporarily suspend and may revoke any permit issued hereunder for any violation of the provisions of this section or of the rules promulgated hereunder.

Section 161. Section 601.9918, Florida Statutes, is reenacted and amended to read:

601.9918 Rules related to issuance and use of symbols.—In rules related to the issuance and voluntary use of symbols, certification marks, service marks, or trademarks, the commission may make general references to national or state requirements that the license applicant would be compelled to meet regardless of the *Florida Citrus Authority's* ~~department's~~ issuance of the license applied for.

Section 162. Paragraph (d) of subsection (2) of section 288.012, Florida Statutes, is 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.

(2) 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:

(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 Enterprise Florida, Inc., the Florida Commission on Tourism, the Florida Ports Council, the Department of State, the *Florida Citrus Authority* ~~Department of Citrus~~, and the Department of Agriculture and Consumer Services, trade industry, commodity, and opportunity information. This information shall be provided to such offices and entities either free of charge or on a fee basis with fees set only to recover the costs of providing the information.

Section 163. Section 288.38, Florida Statutes, is amended to read:

288.38 Applicability of state laws and rules concerning citrus fruit and products.—Any application for establishment of a foreign trade zone made pursuant hereto shall include a provision that all laws of this state and rules of the Florida ~~Department of~~ Citrus *Authority* applicable to citrus fruit and processed citrus products shall equally apply within any foreign trade zone so established.

Section 164. Paragraph (aa) of subsection (4) of section 215.20, Florida Statutes, 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:

(aa) The *operating accounts of the Florida Citrus Authority* ~~Florida Citrus Advertising Trust Fund~~ created by s. 601.15*(6)*~~(7)~~, including transfers from any subsidiary accounts thereof, unless a different percentage is authorized in that section.

Section 165. Subsection (3) of section 600.041, Florida Statutes, is amended to read:

600.041 Definitions.—As used in this act, the following terms have the following meanings:

(3) "Citrus fruit" or "fruit" means and includes grapefruit, oranges, tangerines, Temples, tangelos, and murcott honey oranges grown in Florida as defined in and by s. 601.03, and when regulated by the Florida Citrus *Authority* ~~Commission of the Department of Citrus~~, all other citrus fruit grown in Florida, including lemons, sour oranges, limes, and citrus hybrids.

Section 166. *Citrus advertising trust funds are appropriated for use, at the discretion of the Florida Citrus Authority, to settle civil actions pending against the Department of Citrus on the effective date of this act.*

Section 167. *The Florida Citrus Authority shall collect dues, contributions, or any other financial payment upon request by and on behalf of any not-for-profit corporation and its related not-for-profit corporations located in this state which receives payments or dues from members. Such not-for-profit corporation must be engaged solely in market news and grower education for citrus growers in this state and must have at least 7,500 members and must have at least 7,500 growers engaged in growing citrus in this state.*

And the title is amended as follows:

On page 4, line 18,

after the semicolon insert: protection; repealing s. 20.29, F.S.; abolishing the Department of Citrus; reenacting and amending s. 601.01, F. S.; titling ch. 601, F.S., as "the Florida Citrus Code"; creating the Florida Citrus Authority as an independent special district under the supervision of the Florida Citrus Commission; providing powers of the authority; providing for the transfer of all assets, personnel records, documents, records, patents, trademarks, copyrights, real property, intangible property, furniture, office equipment, supplies, operating account balances, and unexpended balances of legislative appropriations of the Department of Citrus to the Florida Citrus Authority; providing that all liabilities of the Department of Citrus shall become the responsibility of the Florida Citrus Authority; providing for the continuation of specified services from executive agencies; providing that administrative rules of the Department of Citrus shall become the administrative rules of the Florida Citrus Authority; reenacting and amending s. 601.02, F.S.; providing purposes of the Florida Citrus Authority; providing that the Florida Citrus Authority shall collect and maintain the funds collected pursuant to the Florida Citrus Code and ch. 189, F.S.; providing for nonapplicability of specified provisions of ch. 189, F.S.; providing that moneys collected by the authority shall not become general revenue of the state nor be subject to legislative appropriations; providing restrictions on the use of such funds; reenacting and amending s. 601.03, F.S.; providing definitions; reenacting and amending s. 601.04, F.S., relating to the Florida Citrus Commission, to conform; repealing s. 601.05, F.S., relating to the powers of the Department of Citrus; reenacting and amending s. 601.06, F.S.; providing that all laws applicable to state agencies and public officers and employees regarding per diem and reimbursement shall be applicable to the Florida Citrus Authority and the Florida Citrus Commission; reenacting and amending s. 601.07, F.S., relating to location of executive offices, to conform; reenacting and amending s. 601.08, F.S., relating to authenticated copies of commission records as evidence, to conform; reenacting s. 601.09, F.S.; establishing citrus subdistricts of the authority; reenacting s. 601.091, F.S., relating to the designation and boundaries of the Florida SunRidge, Indian River, and Gulf production areas; reenacting and amending s. 601.10, F.S.; providing powers of the Florida Citrus Authority; reenacting and amending s. 601.101, F.S., relating to ownership of rights under patent and trademark laws developed or acquired pursuant to the authorities of the Florida Citrus Code, to conform; reenacting and amending s. 601.11, F.S., relating to the power of the Florida Citrus Authority to establish standards, to conform; reenacting and amending s. 601.111, F.S., relating to the authority of the Florida Citrus Authority to lower maturity standards, to conform; reenacting and amending s. 601.13, F.S., relating to the administration of citrus research and appropriations for such research, to conform; reenacting and amending s. 601.15, F.S., relating to the excise tax on citrus fruit, to conform; eliminating provisions relating to the planning and conduct of specified advertising campaigns, publicity, and sales promotions; providing for the delivery of all excise taxes directly to the Florida Citrus Authority for payment into operating accounts; providing for deposit of all excise taxes levied and collected under the Florida Citrus Code in the operating accounts of the Florida Citrus Authority; revising distribution of excise taxes; providing for the payment of specified obligations, expenses, and costs in the method and manner established by the authority; providing venue for any action filed by or against the authority; eliminating duplicative provisions; reenacting and amending s. 601.152, F.S., relating to special marketing orders, to conform; providing for deposit of specified moneys in the operating accounts of the authority; providing venue for suits initiated by or filed against the authority; reenacting and amending s. 601.154, F.S., relating to the Citrus Stabilization Act of Florida, to conform; providing for placement, deposit, and transfer of specified funds into authority operating accounts; providing jurisdiction with respect to enforcement for specified violations; reenacting and amending s. 601.155, F.S., relating to the excise tax on initial processing, reprocessing, blending, or mixing of specified citrus products, the packaging or repackaging of specified processed citrus products into retail or institutional containers, or the storing or removal by certain persons of specified processed citrus products from their original container for purposes other than official inspection or direct consumption by the consumer and not for resale; authorizing the authority to set the tax at a specified rate annually; providing conforming amendments; providing for payment of such excise taxes directly to authority general operating accounts; authorizing the authority to enter into specified agreements to pay excise tax refunds; reenacting s. 601.16, F.S., relating to maturity standards for fresh and processed grapefruit; reenacting s. 601.17, F.S., relating to minimum ratios of grapefruit juice solids to acid; reenacting and amending s.

601.18, F.S., relating to minimum juice content for grapefruit, to conform; reenacting and amending s. 601.19, F.S., relating to maturity standards for oranges, to conform; reenacting and amending s. 601.20, F.S., relating to minimum ratios of orange juice solids to acid; reenacting s. 601.21, F.S., relating to maturity standards for tangerines; reenacting s. 601.22, F.S., relating to minimum ratios of tangerine juice solids to acid; reenacting and amending s. 601.24, F.S., relating to prescribing methods of testing and grading of citrus fruit and the canned and concentrated products thereof, to conform; reenacting and amending s. 601.25, F.S., relating to the determination of soluble solids and acid, to conform; reenacting and amending s. 601.27, F.S., relating to the inspection in the state of all citrus fruit and the canned and concentrated products thereof by citrus inspectors; providing technical amendments; reenacting and amending s. 601.28, F.S., relating to inspection fees for citrus fruit and processed citrus products, to conform and make technical changes; reenacting s. 601.281, F.S., relating to additional fees levied upon citrus fruit to cover costs of operating road guard stations attributable to the services performed by such stations with respect to citrus fruit, and the deposit of such fees; reenacting and amending s. 601.29, F.S., relating to the powers of the Department of Agriculture and Consumer Services, to conform; reenacting and amending s. 601.31, F.S., relating to the employment of citrus inspectors, to conform and make technical changes; eliminating a requirement of citrus inspectors; reenacting and amending s. 601.32, F.S., relating to compensation of citrus inspectors, to conform and make technical changes; reenacting and amending s. 601.33, F.S., relating to interference with citrus inspectors, to conform and make technical changes; reenacting s. 601.34, F.S., relating to duties of law enforcement officers with respect to violations of the citrus fruit laws of the state; reenacting and amending s. 601.35, F.S., relating to disputes as to quality, grade, or condition of citrus fruit or the canned or concentrated products thereof, to conform and make technical changes; reenacting s. 601.36, F.S., relating to inspection information required when two or more lots of fruit run simultaneously; reenacting s. 601.37, F.S., relating to unlawful acts of inspectors; reenacting and amending s. 601.38, F.S., relating to authority of citrus inspectors, to conform; reenacting and amending s. 601.39, F.S., relating to special inspectors; providing a technical change; reenacting and amending s. 601.40, F.S., relating to registration of citrus packinghouses and processing plants; providing technical changes; reenacting and amending s. 601.41, F.S., relating to unlawful operation of a citrus fruit packinghouse, canning plant, or concentrating plant, or unlawful packing or otherwise preparing for sale or transportation any citrus fruit at such packinghouse, canning plant, or concentrating plant; providing technical changes; reenacting and amending s. 601.42, F.S., relating to revocation of registration of a packinghouse, canning plant, or concentrating plant; providing technical changes; reenacting and amending s. 601.43, F.S., relating to immature and unfit citrus fruit, to conform; reenacting and amending s. 601.44, F.S., relating to the destruction of immature fruit, to conform; reenacting and amending s. 601.45, F.S., relating to the grading of fresh citrus fruit, to conform; reenacting and amending s. 601.46, F.S., relating to conditions precedent to the sale of citrus fruit, to conform; reenacting s. 601.461, F.S., relating to falsification of weights; providing a penalty; reenacting and amending s. 601.47, F.S., relating to conditions precedent to processing citrus; providing a technical change; reenacting s. 601.471, F.S., relating to a specified expanded definition of "canned or concentrated citrus fruit products"; reenacting and amending s. 601.48, F.S.; eliminating provisions relating to inspection of processed citrus products for grade and subsequent grading and designation thereof; providing conforming amendments; reenacting and amending s. 601.49, F.S., relating to conditions precedent to selling processed citrus products, to conform; making a technical change; reenacting and amending s. 601.50, F.S., relating to the permitted sale or shipment of citrus fruit or the canned or concentrated products thereof without the issuance of and filing of inspection certificate and without the grade being shown on the container thereof, for specified purposes, to conform; reenacting s. 601.501, F.S., relating to exemption from advertising taxes for shipments of citrus fruit for charitable purposes; reenacting and amending s. 601.51, F.S., relating to required certification for shipment of citrus fruit or products; providing conforming and technical changes; reenacting s. 601.52, F.S., which prohibits carriers from accepting fruit that does not bear evidence of payment of excise taxes; reenacting s. 601.53, F.S., which prohibits the unlawful processing of unwholesome citrus; reenacting and amending s. 601.54, F.S., relating to seizure of unwholesome fruit, to conform; providing technical changes; reenacting and amending s. 601.55, F.S., relating to required licensure of citrus fruit dealers, to conform; reenacting and amending s. 601.56, F.S., relating to application for dealers' licenses, to conform; reenacting and amending s. 601.57, F.S., relating to examination of applications and approval of dealers' licenses, to conform; reenacting s. 601.58, F.S., relating to approval or disapproval of a citrus fruit dealer's license application; reenacting and amending s. 601.59, F.S., relating to dealer's license fees and agent's registration fees; providing technical changes; reenacting and amending s. 601.60, F.S., relating to issuance of dealers' licenses, to conform; reenacting and amending s. 601.601, F.S., relating to registration of dealers' agents, to conform and provide technical changes; reenacting and amending s. 601.61, F.S., relating to bond requirements of citrus fruit dealers, to conform and provide technical changes; reenacting s. 601.611, F.S., which prescribes applicable law in the event that a specified act is held unconstitutional or invalid; reenacting and amending s. 601.64, F.S., relating to unlawful acts by citrus fruit dealers, to conform; reenacting s. 601.641, F.S., relating to fraudulent representations; providing penalties; reenacting and amending s. 601.65, F.S., relating to liability of citrus fruit dealers; providing technical changes; reenacting and amending s. 601.66, F.S., relating to complaints of violations by citrus fruit dealers, procedure, bond distribution, and court action on bond; providing technical changes; reenacting and amending s. 601.67, F.S., relating to disciplinary action by the Department of Agriculture and Consumer Services against citrus fruit dealers, to conform; reenacting and amending s. 601.671, F.S., relating to appropriation of fines collected; providing a technical change; reenacting and amending s. 601.68, F.S., relating to investigation of violations; providing technical changes; reenacting and amending s. 601.69, F.S., relating to records to be kept by citrus fruit dealers, to conform; reenacting s. 601.70, F.S., relating to inspection of records by the Department of Agriculture and Consumer Services; reenacting and amending s. 601.701, F.S., relating to penalty for failure to keep records, to conform; reenacting s. 601.72, F.S.; providing penalties; reenacting and amending s. 601.73, F.S., relating to additional methods of enforcement; providing technical changes; reenacting and amending s. 601.731, F.S., relating to transporting citrus on highways, name and dealer designation on vehicles, and load identification, to conform; providing penalties; reenacting s. 601.74, F.S., which authorizes the department to adopt rules and set fees with respect to the licensing and analysis of materials and composition used on or in the packing of citrus fruits; reenacting s. 601.75, F.S., relating to certification of dyes and coloring matter for citrus fruit prior to use; reenacting s. 601.76, F.S., relating to the department's authority to adopt rules requiring manufacturers to furnish formulas and information with respect to coloring matter for use on citrus fruit; reenacting s. 601.77, F.S., relating to subsequent analysis of coloring matter and inspection of packinghouses or other places where coloring matter is applied; reenacting s. 601.78, F.S., relating to requirements of manufacturers of coloring matter used on citrus fruit to post bond; reenacting s. 601.79, F.S., which prohibits the use or application of coloring matter to grapefruit and tangerines; reenacting s. 601.80, F.S., relating to unlawful use of uncertified coloring matter; reenacting and amending s. 601.85, F.S., which provides specifications for the standard legal shipping box, crate, or container used for shipping fresh citrus fruit, to conform; reenacting s. 601.86, F.S., which provides uniform standard size for field boxes for fresh citrus fruit; reenacting s. 601.87, F.S., relating to the use of cleats on boxes; reenacting s. 601.88, F.S., relating to required stamping of oversized boxes; reenacting s. 601.89, F.S., relating to criteria by which citrus fruit shall be deemed to be seriously damaged by freezing; reenacting s. 601.90, F.S., relating to the power of the Florida Citrus Commission with respect to serious damage to the state's citrus by freezing temperatures; reenacting and amending s. 601.901, F.S., which provides for the use of freeze-damaged fruit in frozen concentrated citrus products, to conform; reenacting and amending s. 601.91, F.S., relating to the unlawful sale, transport, preparation, receipt, or delivery of freeze-damaged citrus, to conform; reenacting s. 601.92, F.S., relating to the use of arsenic in connection with citrus; reenacting s. 601.93, F.S., relating to the prohibited sale of citrus containing arsenic; reenacting and amending s. 601.94, F.S.,

relating to powers of inspection with respect to fruit containing arsenic; providing technical changes; reenacting s. 601.95, F.S., relating to seizure of citrus fruit containing arsenic; reenacting and amending s. 601.96, F.S., relating to taking samples of seized fruit for analysis; providing technical changes; reenacting and amending s. 601.97, F.S., relating to destruction of certain fruit containing arsenic; providing technical changes; reenacting s. 601.98, F.S., relating to the shipment, sale, or offer of imported citrus fruit or citrus products; reenacting and amending s. 601.981, F.S., relating to the issuance of permits for export of citrus fruit to foreign countries, to conform; reenacting s. 601.99, F.S., relating to the unlawful misbranding of wrappers or packages containing citrus fruit; reenacting and amending s. 601.9901, F.S., relating to the form of certificates of inspection, to conform; reenacting and amending s. 601.9902, F.S., relating to payment of salaries and expenses, to conform; reenacting and amending s. 601.9903, F.S., relating to required annual and special reports, to conform; reenacting and amending s. 601.9904, F.S., relating to rules and regulations with respect to frozen citrus juices, to conform; reenacting and amending s. 601.9905, F.S., relating to standards and labeling for canned orange juice, to conform; reenacting s. 601.9906, F.S., relating to standards for processed grapefruit juice products; reenacting and amending s. 601.9907, F.S., relating to standards and labeling for canned blended juice, to conform; reenacting and amending s. 601.9908, F.S., relating to standards and labeling for canned tangerine juice, to conform; reenacting and amending s. 601.9909, F.S., relating to requirements for frozen concentrated orange juice and specified labeling thereof, to conform; reenacting and amending s. 601.9910, F.S., relating to strict enforcement of citrus fruit maturity standards as being in the public interest and legislative findings of fact with respect thereto, to conform; reenacting and amending s. 601.9911, F.S., relating to a citrus producer's authority to sell or transport his or her own citrus fruit, to conform; reenacting and amending s. 601.9912, F.S.; providing penalties; reenacting and amending s. 601.9913, F.S., relating to standards for high-density frozen concentrated orange juice and required labeling, to conform; reenacting s. 601.9914, F.S., relating to the authority of the Florida Citrus Commission to modify standards by rule; reenacting and amending s. 601.9916, F.S., relating to the addition of optional nutritive sweetening ingredients to concentrated orange juice and rules with respect thereto, to conform; reenacting and amending s. 601.9918, F.S., relating to rules related to the issuance and use of symbols, certification marks, service marks, or trademarks, to conform; amending s. 288.012, F.S.; requiring the Florida Trade Data Center to make specified information available to the Florida Citrus Authority; amending s. 288.38, F.S.; providing that any application for the establishment of a foreign trade zone shall include a provision that all laws of the state and rules of the Florida Citrus Authority applicable to citrus fruit and processed citrus products shall equally apply within any foreign trade zone so established; amending ss. 215.20 and 600.041, F.S.; correcting cross references; providing for the appropriation of specified funds to settle pending actions against the Department of Citrus; authorizing the Florida Citrus Authority to collect dues, contributions, or other financial payments from specified entities; providing effective dates.

WHEREAS, the Governor of the State of Florida has endorsed the concept of privatization of governmental agencies, and

WHEREAS, in recognition of this initiative, the Legislature determines that it is in the best interests of the Department of Citrus to discontinue operation as an agency of the executive branch of government, and

WHEREAS, effective July 1, 2001, the Department of Citrus, created under section 20.29, Florida Statutes, shall become a special taxing district of the State of Florida and shall be renamed the Florida Citrus Authority, and

WHEREAS, the main purposes of the Florida Citrus Authority are to promote, market, research, advertise, and regulate the citrus industry in the State of Florida, and

WHEREAS, the head of the Florida Citrus Authority shall be a twelve-member board, appointed by the Governor and confirmed by the Florida Senate, known as the Florida Citrus Commission, and

WHEREAS, it is the intent of the Legislature that the powers and duties of the Florida Citrus Authority derive from chapter 601, Florida Statutes, and, unless specifically exempted, the provisions of chapter 189, Florida Statutes, shall be applicable to the Florida Citrus Authority, and

WHEREAS, it is the further intent of the Legislature that all assessments and funds collected by Florida Citrus Authority not be considered general revenue of the State of Florida and not be subject to legislative appropriations, and

WHEREAS, the Legislature acknowledges that the eradication of canker and other pest infestation is a matter which impacts the public health, safety, and welfare of the entire State of Florida, and

WHEREAS, further, the Legislature acknowledges that citrus canker and/or pest infestation has not been caused by and is not caused by the Florida citrus industry, and

WHEREAS, additionally, the Legislature acknowledges that the Florida Citrus Authority has no authority to assess the citrus industry for eradication of canker and pest infestation, and

WHEREAS, it is therefore the specific intent of the Legislature that no funds collected by the Florida Citrus Authority shall be used for the purpose of eradication of canker or other pest infestation and that all funding for eradication of canker and other pest infestations shall be funded by the Federal Government or from the general revenue of the State of Florida, and

WHEREAS, it is the intent of the Legislature that all of the assets, personnel records, documents, records, patents, trademarks, copyrights, real property, intangible property, furniture, office equipment, supplies, operating account balances, and unexpended balances of legislative appropriations be transferred from the Department of Citrus to the Florida Citrus Authority and shall continue as outlined in chapter 601, Florida Statutes, and that all liabilities of the Department of Citrus shall become the responsibility of the Florida Citrus Authority, and

WHEREAS, the Legislature acknowledges that there are currently many services that the Department of Citrus receives by virtue of being an agency of the executive branch, which services include, but are not limited to, payroll, purchasing, computer access, accounting programs, and insurance and retirement benefits, and

WHEREAS, until such time that the Florida Citrus Authority has made the appropriate transition, the authority shall continue to receive the same services that the Department of Citrus received from the executive agencies, NOW, THEREFORE,

Rep. Spratt moved the adoption of the amendment.

Representative(s) Alexander offered the following:

(Amendment Bar Code: 261147)

Amendment 1 to Amendment 9 (with title amendment)—On page 199, lines 16-20,
remove from the amendment: all of said lines

and insert in lieu of:

~~(aa) The Florida Citrus Advertising Trust Fund created by s. 601.15(7), including transfers from any subsidiary accounts thereof, unless a different percentage is authorized in that section.~~

And the title is amended as follows:

On page 214 of the amendment, lines 14-15, of the amendment
remove: all of said lines

and insert in lieu thereof: trade zone so established; amending s. 215.20, F.S.; deleting reference to Citrus Advertising Trust Fund; amending s. 600.041, F.S.; correcting cross references;

Rep. Alexander moved the adoption of the amendment to the amendment. Subsequently, **Amendment 1 to Amendment 9** was withdrawn.

Representative(s) Alexander offered the following:

(Amendment Bar Code: 195679)

Amendment 2 to Amendment 9 (with title amendment)—On page 200, line 15, of the amendment

insert:

Section 168. *In editing manuscript for the next edition of the official Florida Statutes, the Division of Statutory Revision of the Office of Legislative Services shall change "department" to "authority" wherever the same appears in chapter 601, Florida Statutes.*

And the title is amended as follows:

On page 214, line 21, of the amendment

after the semicolon, insert: directing that changes in terminology in the Florida Statutes be made;

Rep. Alexander moved the adoption of the amendment to the amendment.

Reconsideration

On motion by Rep. Alexander, the House reconsidered the vote by which **Amendment 1 to Amendment 9** was withdrawn earlier today. The question recurred on the adoption of the amendment to the amendment, which was withdrawn.

THE SPEAKER IN THE CHAIR

The question recurred on the adoption of **Amendment 2 to Amendment 9,** which was adopted.

The question recurred on the adoption of **Amendment 9**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 1805—A bill to be entitled An act relating to public records; amending s. 316.066, F.S.; providing an exemption from public records requirements for personally identifying information and any insurance policy number contained in motor vehicle crash reports for 60 days following a motor vehicle crash; providing exceptions; providing for future review and repeal; providing criminal penalties for unlawful disclosure of confidential and exempt information; providing criminal penalties for unlawfully obtaining or attempting to obtain confidential and exempt information; providing a finding of public necessity; providing an effective date.

—was read the second time by title.

Representative(s) Waters, Brown, and Negron offered the following:

(Amendment Bar Code: 083751)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraph (c) of subsection (3) of section 316.066, Florida Statutes, is amended, and paragraphs (d) and (e) are added to that subsection, to read:

316.066 Written reports of crashes.—

(3)

(c) *Crash reports required by this section which reveal the identity, home or employment telephone number or home or employment address of, or other personal information concerning the parties involved in the crash and which are received or prepared by any agency that regularly receives or prepares information from or concerning the parties to motor vehicle crashes are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for a period of 60 days after the date the report is filed. However, such reports may be made immediately available to the parties involved in the crash, their legal representatives, their licensed insurance agents, their insurers or insurers to which they have applied for coverage, persons under contract with such insurers to provide claims or underwriting information, prosecutorial authorities, radio and television stations licensed by the Federal Communications Commission, newspapers qualified to publish legal notices under ss. 50.011 and 50.031, and free newspapers of general circulation, published once a week or more often, available and of interest to the public generally for the dissemination of news. For the purposes of this section, the following products or publications are not newspapers as referred to in this section: those intended primarily for members of a particular profession or occupational group; those with the primary purpose of distributing advertising; and those with the primary purpose of publishing names and other personally identifying information concerning parties to motor vehicle crashes. Any state or federal agency that is authorized to have access to such reports by any provision of law shall be granted such access in the furtherance of the agency's statutory duties notwithstanding the provisions of this paragraph. Any person attempting to access crash reports within 60 days after the date the report is filed must present legitimate credentials or identification that demonstrates his or her qualifications to access that information. This exemption is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 1, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.* ~~Crash reports made by law enforcement officers shall not be used for commercial solicitation purposes; however, the use of a crash 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."~~

(d) Any employee of a state or local agency in possession of information made confidential by this section who knowingly discloses such confidential information to a person not entitled to access such information under this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) Any person, knowing that he or she is not entitled to obtain information made confidential by this section, who obtains or attempts to obtain such information is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. *The Legislature finds that there is a public necessity that portions of crash reports which are mandated to be provided by law and which reveal personal information concerning parties to motor vehicle crashes be held confidential and exempt for 60 days after the date the report is filed to protect the privacy of persons that have been the subject of a motor vehicle crash. Further, the exemption is necessary to protect the public from unscrupulous individuals who promote the filing of fraudulent insurance claims by obtaining such information immediately after a crash and exploiting the individual at a time of emotional distress. The Second Interim Report of the Fifteenth Statewide Grand Jury on insurance fraud related to personal injury protection noted a "strong correlation between illegal solicitation and the commission of a variety of frauds." The grand jury found "the wholesale availability of these reports is a major contributing factor to this illegal activity and likely the single biggest factor contributing to the high level of illegal solicitation." Virtually anyone involved in a car accident in the state is fair game for "runners" who collect crash reports in bulk from law enforcement officials and then provide the information to solicit crash victims and defraud insurers. Continuing to make this information available, in the words of the grand jury, "can be emotionally, physically, and ultimately financially destructive." Motor vehicle insurance fraud is estimated to add as much as $246 to the average motor vehicle insurance policy premium. In the past 5 years, the Department of Insurance has received nearly 5,000 referrals of personal injury protection (PIP) insurance fraud and has made more than 500 arrests, resulting in an 80-percent conviction rate. Motor vehicle insurance fraud is fueled by early access to crash reports, which provides the opportunity for the filing of fraudulent insurance claims. Crash reports made by law enforcement officers should not be used for commercial solicitation purposes; however, the use of a crash report for purposes of publication in a newspaper or other news periodical or a radio or television broadcast may not be construed as a "commercial purpose." The Legislature also finds that*

crash reports should be made available to certain parties, such as those persons involved in the motor vehicle crash and their legal representatives, their insurers or insurers to which they have applied for coverage, their licensed insurance agents, persons under contract with such insurers to provide claims or underwriting information, and representatives of law enforcement and other regulatory agencies, and prosecutorial authorities within 60 days after the crash report is filed.

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

And the title is amended as follows:

On page 1,
remove from the title of the bill: The entire title

and insert in lieu thereof: A bill to be entitled An act relating to public records; amending s. 316.066, F.S.; providing an exemption from public-records requirements for motor vehicle crash reports that reveal specified information; providing that such reports may be made available to certain parties; providing for future review and repeal; providing penalties for the unlawful disclosure of confidential information and for unlawfully obtaining or attempting to obtain confidential information; providing findings of public necessity; providing an effective date.

Rep. Waters moved the adoption of the amendment.

On motion by Rep. Brummer, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Brummer offered the following:

(Amendment Bar Code: 884095)

Amendment 1 to Amendment 1—On page 2, line 29,
remove from the amendment: *1*

and insert in lieu thereof: *2*

Rep. Brummer moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

On motion by Rep. Byrd, the House returned to consideration of—

HB 1915—A bill to be entitled An act relating to agriculture and consumer services; amending s. 120.80, F.S.; providing that marketing orders under ch. 527, F.S., are not rules; amending s. 125.27, F.S.; authorizing the Department of Agriculture and Consumer Services to lease or loan equipment to governmental entities that have fire/rescue responsibilities; limiting liability for civil damages resulting from use or possession of such equipment; amending s. 201.15, F.S.; authorizing the department to adopt rules regarding the distribution of funds for best management practices; amending s. 316.228, F.S.; revising requirements for lamps on projecting loads; amending s. 320.08, F.S.; revising definition of a truck known as a "goat"; amending s. 403.714, F.S.; deleting requirement that the department coordinate development of uniform product specifications for compost used by state agencies; amending s. 487.041, F.S.; authorizing the department to require and review data relating to the claims of pesticide products used as preventive treatment for termites; authorizing the department to adopt rules; amending s. 500.09, F.S.; authorizing fees for certain reinspection of food establishments; amending s. 500.12, F.S.; increasing the maximum food establishment operating permit fee; providing use of such fee; amending ss. 502.012 and 502.014, F.S.; revising references relating to the pasteurized milk ordinance and milk sanitation; deleting requirement that a copy of a federal temporary marketing permit for milk and milk products be forwarded to the department; amending s. 502.053, F.S.; clarifying milk testing requirements; amending s. 502.091, F.S.; authorizing the department to forgo the grading of certain milk products in an emergency; providing for labeling; amending s. 503.041, F.S.; providing that attempting to transfer a frozen dessert plant license is grounds for license suspension or revocation; amending s. 570.07, F.S.; authorizing the department to repair or build structures; providing restrictions; authorizing the department to conduct investigations of violations of laws relating to consumer protection; amending s. 503.071, F.S.; providing for the embargo, detainment, or destruction of food or food processing equipment of a frozen dessert manufacturer; amending s. 570.244, F.S.; clarifying powers and duties of the department relating to the development of agribusinesses; amending s. 570.249, F.S.; clarifying aquacultural crops eligible for Agricultural Economic Development Program disaster loans; revising loan application requirements; directing the department to establish an agribusiness market development grant program; amending s. 570.38, F.S.; increasing membership of the Animal Industry Technical Council; amending s. 580.051, F.S.; revising label requirements for commercial feed; providing a penalty; amending s. 580.065, F.S.; revising feed laboratory standards and procedures; amending s. 580.091, F.S.; removing intent language regarding feed sampling and analysis; revising department procedures relating to approval of a quality-assurance/quality-control plan; amending s. 580.112, F.S.; prohibiting distribution of a feed or feedstuff that is prohibited by federal law or regulation; amending s. 581.211, F.S.; providing a penalty for violation of rules relating to plant industry; amending s. 585.002, F.S.; limiting local government regulation with respect to the humane care and treatment of livestock and poultry; amending s. 585.145, F.S.; providing for qualification of accredited veterinarians to provide official certificates of veterinary inspection; providing conditions for denial of authority to issue such certificates; amending s. 585.155, F.S.; revising vaccination requirements for calves; amending s. 616.242, F.S.; providing additional exemptions from amusement ride safety standards; amending s. 633.557, F.S.; revising exemptions from contractor requirements for certain farm buildings; amending s. 828.22, F.S.; creating the "Humane Slaughter Act"; revising provisions relating to humane slaughter and livestock euthanasia; amending s. 828.23, F.S.; revising definitions; amending s. 828.24, F.S.; revising provisions relating to prohibited acts; amending s. 828.25, F.S.; revising provisions relating to administration of the act by the department; creating s. 828.251, F.S.; directing the department to make current technical information available to slaughterers; creating s. 828.252, F.S.; providing for humane treatment of nonambulatory animals; amending s. 828.26, F.S.; revising penalties; amending ss. 427.804 and 559.921, F.S.; correcting cross references; repealing s. 570.544(10) and (11), F.S., relating to authority of the Division of Consumer Services of the department to conduct investigations of violations of laws relating to consumer protection; providing effective dates.

Representative(s) Spratt offered the following:

(Amendment Bar Code: 585719)

Amendment 10 (with title amendment)—Between page 14, line 31, and page 15, line 1,

insert:

Section 17. Section 570.080, Florida Statutes, is created to read:

570.080 Department of Agriculture and Consumer Services; agricultural water conservation.—The department shall establish an agricultural water conservation program which includes the following:

(1) A cost share program, coordinated where appropriate with the United States Department of Agriculture and other federal, state, regional, and local agencies, for irrigation system retrofit and application of mobile irrigation laboratory evaluations for water conservation as provided in this section and, where applicable, for water quality improvement pursuant to s. 403.067(7)(d).

(2) The development and implementation of voluntary interim measures or best management practices adopted by rule, which provide for increased efficiencies in the utilization and management of water for agricultural production. In the process of developing and adopting rules for interim measures or best management practices, the department shall consult with the Department of Environmental Protection and the water management districts. Such rules may also include a system to assure the implementation of the practices, including recordkeeping

requirements. As new information regarding efficient agricultural water use and management becomes available the department shall reevaluate, and revise as needed, the interim measures or best management practices. The interim measures or best management practices may include irrigation retrofit, implementation of mobile irrigation laboratory evaluations and recommendations, water resource augmentation, and integrated water management systems for drought management and flood control and should, to the maximum extent practicable, be designed to qualify for regulatory and other incentives as determined by the agency having applicable statutory authority.

(3) Provision of assistance to the water management districts in the development and implementation of a consistent, to the extent practicable, methodology for the efficient allocation of water for agricultural irrigation.

And the title is amended as follows:

On page 2, line 22, after "manufacturer;"

insert: creating s. 570.080, F.S.; providing for an agricultural water conservation program;

Rep. Spratt moved the adoption of the amendment, which was adopted.

Representative(s) Stansel offered the following:

(Amendment Bar Code: 741761)

Amendment 11 (with title amendment)—On page 4 of the bill, between lines 28 & 29,

insert:

Section 2. Paragraph (b) of subsection (2) of section 121.0515, Florida Statutes, is amended to read:

121.0515 Special risk membership.—

(2) CRITERIA.—A member, to be designated as a special risk member, must meet the following criteria:

(b) The member must be employed as a firefighter and be certified, or required to be certified, in compliance with s. 633.35 and be employed solely within the fire department of *a local government* ~~the~~employer or *an* agency of state government *with firefighting responsibilities*. In addition, the member's duties and responsibilities must include on-the-scene fighting of fires or direct supervision of firefighting units *or aerial firefighting surveillance performed by fixed-wing pilots employed by the Department of Agriculture and Consumer Services, Division of Forestry*, or the member must be the supervisor or command officer of a member or members who have such responsibilities; provided, however, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall not be included;

And the title is amended as follows:

On page 1, line 5 after "rules;"

insert: amending s. 121.0515, F.S.; adding to the Special Risk Class of membership certain aerial firefighting surveillance positions;

Rep. Stansel moved the adoption of the amendment, which was adopted.

Representative(s) Spratt offered the following:

(Amendment Bar Code: 240803)

Amendment 12—On page 5, lines 13 & 17,
remove from the bill: *damage*

and insert in lieu thereof: *damages*

Rep. Spratt moved the adoption of the amendment, which was adopted.

Representative(s) Spratt offered the following:

(Amendment Bar Code: 474847)

Amendment 13—On page 5 of the bill, line 15 after the word "*donate*"

insert: *fire/rescue*

Rep. Spratt moved the adoption of the amendment, which was adopted.

Representative(s) Byrd offered the following:

(Amendment Bar Code: 381351)

Amendment 14 (with title amendment)—On page 6 of the bill, between lines 25 & 26,

insert:

Section 4. Paragraph (c) of subsection (1) of section 232.246, Florida Statutes, is amended to read:

232.246 General requirements for high school graduation.—

(1) Graduation requires successful completion of either a minimum of 24 academic credits in grades 9 through 12 or an International Baccalaureate curriculum. The 24 credits shall be distributed as follows:

(c) Three credits in science, two of which must have a laboratory component. The State Board of Education may grant an annual waiver of the laboratory requirement to a school district that certifies that its laboratory facilities are inadequate, provided the district submits a capital outlay plan to provide adequate facilities and makes the funding of this plan a priority of the school board. *Effective July 1, 2001, Agriscience Foundations I, the core course in secondary Agriscience and Natural Resources programs, counts as one of the science credits.*

And the title is amended as follows:

On page 1, line 14 after the semicolon,

insert: amending s. 232.246, F.S.; allowing agriscience to count as a science course;

Rep. Spratt moved the adoption of the amendment, which was adopted.

Representative(s) Spratt offered the following:

(Amendment Bar Code: 702051)

Amendment 15 (with title amendment)—On page 8 of the bill, between lines 7 & 8,

insert:

Section 6. Section 373.621, Florida Statutes, is created to read:

373.621 Water conservation.—The Legislature recognizes the significant value of water conservation in the protection and efficient use of water resources. Accordingly, consideration in the administration of s. 373.223, s. 373.233, and s. 373.236 shall be given to applicants who implement water conservation practices pursuant to s. 570.080 or other applicable water conservation measures as determined by the Department or a water management district.

And the title is amended as follows:

On page 1, line 18 after "goat;"

insert: creating s. 373.621, F.S.; providing conditions for agricultural water conservation;

Rep. Spratt moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 953—A bill to be entitled An act relating to burglary; creating s. 810.015, F.S.; providing legislative findings and intent; providing for

retroactive operation; amending s. 810.02, F.S.; revising the definition of burglary; reenacting s. 943.325(1)(a), F.S.; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

REPRESENTATIVE MAYGARDEN IN THE CHAIR

HB 1395—A bill to be entitled An act relating to the exclusionary rule; creating s. 90.959, F.S.; providing legislative findings regarding the Division of Driver Licenses of the Department of Highway Safety and Motor Vehicles; providing legislative findings regarding records maintained by the division; providing legislative findings regarding the mission of the division and the department; providing legislative findings regarding the application of the exclusionary rule; prohibiting the exclusion of evidence in certain circumstances; amending s. 322.20, F.S.; providing that the records of the Department of Highway Safety and Motor Vehicles maintained and created pursuant to ch. 322, F.S., shall not be considered law enforcement functions; providing an effective date.

—was read the second time by title.

Representative(s) Needelman offered the following:

(Amendment Bar Code: 782759)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 90.959, Florida Statutes, is created to read:

90.959 Admission of evidence obtained from the Division of Driver Licenses and the Division of Motor Vehicles.—

(1) The Legislature finds that the Division of Driver Licenses and the Division of Motor Vehicles of the Department of Highway Safety and Motor Vehicles are not law enforcement agencies. The Legislature also finds that the divisions are not adjuncts of any law enforcement agency in that employees have no stake in particular prosecutions. The Legislature further finds that errors in records maintained by the divisions are not within the collective knowledge of any law enforcement agency. The Legislature also finds that the missions of the Division of Driver Licenses, the Division of Motor Vehicles, and the Department of Highway Safety and Motor Vehicles provide a sufficient incentive to maintain records in a current and correct fashion.

(2) The Legislature finds that the purpose of the exclusionary rule is to deter misconduct on the part of law enforcement officers and law enforcement agencies.

(3) The Legislature finds that the application of the exclusionary rule to cases where a law enforcement officer effects an arrest based on objectively reasonable reliance on information obtained from the divisions is repugnant to the purposes of the exclusionary rule and contrary to the decisions of the United States Supreme Court in Arizona v. Evans, 514 U.S. 1 (1995) and United States v. Leon, 468 U.S. 897 (1984).

(4) In any case where a law enforcement officer effects an arrest based on objectively reasonable reliance on information obtained from the divisions, evidence found pursuant to such an arrest shall not be suppressed by application of the exclusionary rule on the grounds that the arrest is subsequently determined to be unlawful due to erroneous information obtained from the divisions.

Section 2. Subsection (15) is added to section 322.20, Florida Statutes, to read:

322.20 Records of the department; fees; destruction of records.—

(15) The creation and maintenance of records by the department and the Division of Driver Licenses pursuant to chapter 322 shall not be regarded as law enforcement functions of agency recordkeeping.

Section 3. A new subsection (5) is added to section 320.05, Florida Statutes, to read:

320.05 Records of the department; inspection procedure; lists and searches; fees.—

(5) The creation and maintenance of records by the department and the Division of Motor Vehicles pursuant to chapter 320 shall not be regarded as law enforcement functions of agency recordkeeping.

Section 4. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1,
remove from the title of the bill: all said lines

and insert in lieu thereof: An act relating to the exclusionary rule; creating s. 90.959, F.S.; providing legislative findings regarding the Division of Driver Licenses and the Division of Motor Vehicles of the Department of Highway Safety and Motor Vehicles; providing legislative findings regarding records maintained by the divisions; providing legislative findings regarding the missions of the divisions and the department; providing legislative findings regarding the application of the exclusionary rule; prohibiting the exclusion of evidence in certain circumstances; amending s. 322.20, F.S.; providing that the records of the Department of Highway Safety and Motor Vehicles maintained and created pursuant to ch. 322, F.S., shall not be considered law enforcement functions; amending s. 320.05, F.S.; providing that the records of the Department of Highway Safety and Motor Vehicles maintained and created pursuant to ch. 320, F.S., shall not be considered law enforcement functions; providing an effective date.

Rep. Needelman moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 1131—A bill to be entitled An act relating to criminal rehabilitation; amending s. 20.315, F.S.; redesignating the area of program services within the Department of Corrections as program, transition, and postrelease services; amending s. 397.333, F.S.; revising the qualifications for members appointed to the Statewide Drug Policy Advisory Council; providing additional duties of the council; amending s. 944.026, F.S.; requiring the department to designate a certain number of beds to be used for transition assistance; expanding the types of offenders who are eligible for nonsecure community-based residential drug treatment; amending s. 944.473, F.S.; requiring certain inmates to participate in substance abuse treatment; providing criteria for program participation; creating s. 944.4731, F.S.; creating the Addiction Recovery Supervision Program Act; providing criteria for program participation; requiring the department to contract with faith-based groups and private organizations to operate substance abuse transition housing programs; providing program requirements; requiring prerelease screening; providing requirements for offenders who participate in the program; authorizing the Parole Commission to adopt rules; amending s. 944.702, F.S.; providing legislative intent with respect to support services for inmates who abuse substances; amending ss. 944.703 and 944.704, F.S., relating to transition assistance for inmates; requiring that inmates who abuse substances receive priority assistance; providing for transition assistance specialists at institutions and community correctional centers; creating s. 944.7031, F.S.; providing for inmates released from private correctional facilities to be eligible for the same transition assistance services that are provided to inmates in state correctional facilities; requiring that such inmates be given access to placement consideration in substance abuse transition housing programs, including programs that have a faith-based component; amending ss. 944.705, 944.706, and 944.707, F.S.; authorizing the department to contract with faith-based service groups for release assistance programs and postrelease services; requiring the department to maintain certain information with regard thereto; removing provisions relating to responsibility of the Department of Labor and Employment Security for inmate placement; amending s. 944.803, F.S.; providing additional requirements for faith-based

programs for inmates; requiring the department to assign chaplains to certain community correctional centers; providing for faith-based dormitory programs; requiring a report to the Governor and the Legislature; amending s. 945.091, F.S.; authorizing an inmate to participate in faith-based service groups; providing conditions for placement of an inmate in a substance abuse transition housing program; amending s. 947.141, F.S.; providing revocation process for offenders on addiction recovery supervision; amending s. 948.08, F.S.; providing that specified offenders are eligible for certain pretrial intervention programs; providing requirements for a defendant to be designated as eligible for a pretrial intervention program; amending s. 951.10, F.S.; clarifying provisions governing the leasing of prisoners; requiring the department to report to the Governor and the Legislature on the implementation of the act; requiring the Legislative Committee on Intergovernmental Relations to report to the Legislature on intervention and treatment strategies for persons convicted of prostitution; requiring inmates to complete a course on job readiness and life management before release; providing an appropriation; providing an effective date.

—was read the second time by title.

The Committee on Crime Prevention, Corrections & Safety offered the following:

(Amendment Bar Code: 773179)

Amendment 1—On page 39, lines 25 through 29, after the period, remove from the bill: all said lines

and insert in lieu thereof: *Recurring funds from this appropriation shall fund contracts with faith-based service groups to continue and expand faith dormitory programs and the additional chaplain positions and clerical-support positions as needed to support these programs.*

Rep. Bilirakis moved the adoption of the amendment, which was adopted.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 670967)

Amendment 2 (with title amendment)—On page 40, line 25, remove from the bill: said line

and insert in lieu thereof:

Section 22. *Legislative intent.—The Legislature recognizes that many faith-based organizations have been successful at helping people to lead happier, more productive, and more successful lives, and that when this occurs the state, its communities, and its citizens receive important benefits. Further, the Legislature recognizes that faith-based organizations have been particularly important to and effective in the delivery of essential services to Florida's most vulnerable and needy citizens, both on a contract and voluntary basis, and that without such support many citizens would experience a much poorer quality of life. It is the Legislature's intent that neither state agencies nor political subdivisions of the state, either by action or inaction, impair such contributions to the common good, and that neither the state nor any of its agencies or political subdivisions be permitted to express hostility toward the free exercise of religious liberties by Floridians. Further, the Legislature intends that, whenever possible and reasonable, the agencies and political subdivisions of the state engage faith-based organizations to work collaboratively in the delivery of services to Florida's citizens, consistent with Florida and federal constitutional law.*

Section 23. *(1) For purposes of this act, "program" means:*

(a) Any state program funded under part A of Title IV of the Social Security Act, as amended by section 103(a) of Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193.

(b) Any other program established or modified under Title I or Title II of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 that permits contracts with organizations or permits certificates, warrants, or other forms of disbursement to be provided to beneficiaries as a means of providing assistance.

(c) Any other state program or policy initiative that provides direct assistance to individuals or families.

(2) Any agency or political subdivision of this state continues to have the authority to contract with faith-based organizations or to allow faith-based organizations to accept certificates, warrants, or other forms of disbursement under any program, on the same basis as any other nongovernmental provider, without impairing the religious character of such organizations. Any faith-based organization may act as a subcontractor in the delivery of services under any program, on the same basis as any other nongovernmental provider, without impairing the religious character of such organization. Each program to which this act is applicable shall be operated in compliance with federal requirements applicable to the particular program, and consistent with the Establishment Clause of the United States Constitution and s. 3, Art. I of the State Constitution.

(3) Any faith-based organization continues to be eligible as a contractor or subcontractor, on the same basis as any other nongovernmental organization, to provide assistance or to accept certificates, warrants, or other forms of disbursement under any program. Any agency of this state or any political subdivision of this state receiving funds under any program shall not discriminate against any organization which is or applies to be a contractor to provide assistance, or which accepts certificates, warrants, or other forms of disbursement, on the basis that the organization has a religious character.

(4)(a) A faith-based organization which has entered into a contract with an agency or political subdivision of this state, or which accepts certificates, warrants, or other forms of disbursement described in subsection (1), shall retain its independence from state and local governments, in regard to the organization's control over the definition, development, practice, and expression of its religious beliefs.

(b) An agency or any political subdivision of this state shall not require a faith-based organization to alter its form of internal governance or remove religious art, icons, scripture, or other symbols in order to be eligible to contract to provide assistance, or to accept certificates, warrants, or other forms of disbursement, funded under a program.

(5) Each agency which administers any program described in this section shall prepare a plan to implement this section and, no later than September 1, 2001, shall submit a copy of the plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(6) Any contractor or provider that has received a contract to provide services under any program may continue to employ faith-based organizations as subcontractors on the same basis as any other nongovernmental provider. Any agency that administers any program described in this section may include in any client services contract a requirement that contractors or providers prepare plans describing their implementation of this section. A failure to deliver such plans, if required, may be considered by the agency as a material breach of the contract that may result in cancellation of the contract.

(7) Task force; membership; duties.—

(a) The "Task Force on Florida Partnerships" is hereby created to serve through February 1, 2002. The task force shall consist of the following members:

1. Five members who are affiliated with a community-based or faith-based organization, to be appointed by the Governor.

2. Two members who are affiliated with a community-based or faith-based organization, to be appointed by the President of the Senate.

3. Two members who are affiliated with a community-based or faith-based organization, to be appointed by the Speaker of the House of Representatives.

4. A representative from each of the Department of Children and Family Services, the Department of Juvenile Justice, the Department of Corrections, and the WAGES Board.

(b) The appointments shall be made no later than September 1, 2001, and immediately reported to the Department of Management Services.

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

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

(e) The Department of Management Services shall convene and facilitate the organizational meeting of the task force on or before October 1, 2001. Thereafter, 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. Seven members of the task force shall constitute a quorum and a quorum is required to conduct official business of the task force. The task force shall use accepted rules of procedure to conduct its meetings and shall keep a complete record of each meeting.

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

(g) The Department of Management Services shall provide staff for the task force.

(h) The task force shall review, for compliance with the provisions of this act, the policies and procedures of each agency of this state or agency of a political subdivision of this state which administers any program. The task force shall identify any barriers in the state's law, rules, or policies that may prevent a faith-based organization from providing assistance under any program, and recommend solutions to those barriers. The task force shall act as an advisory body and shall make recommendations to the Governor and the Legislature on a coordinated plan to carry out the legislative intent of this act.

(i) The task force shall also evaluate the potential usefulness of a statewide clearinghouse, district or regional liaisons, or other mechanism that would provide information to assist faith-based and other community-based organizations in navigating the state procurement process.

(j) The task force shall issue a report to the Legislature no later than February 1, 2002, summarizing its findings, stating its conclusions, and proposing its recommendations.

Section 24. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 3, line 23,
remove from the title of the bill: providing an effective date.

and insert in lieu thereof: providing intent; providing a definition; reaffirming certain agencies' authority to contract or subcontract with faith-based organizations or allow faith-based organizations to accept certificates, warrants, or other forms of disbursement; specifying eligibility of faith-based organizations; providing certain protections for faith-based organizations; requiring certain agencies to prepare implementation plans and submit the plans to the Governor and the Legislature; creating the Task Force on Florida Partnerships; providing membership; providing duties; providing for per diem and travel; providing for a report; providing an effective date.

WHEREAS, the Task Force on Victims of Self-Inflicted Crimes, as created by chapter 2000-366, Laws of Florida, identified in its report issued January 18, 2001, a wide variety of potential legislative solutions for reducing the repetitious self-injurious behavior of prostitution and substance abuse, and

WHEREAS, those recommendations stemmed from the testimony from numerous individuals, substance abuse experts, governmental officials, and private organizations throughout Florida, and

WHEREAS, a significant recommendation made by the task force was recognition that state government should not and cannot bear the sole burden of treating and helping those suffering from addictions and self-injurious behaviors, and

WHEREAS, the task force concluded that faith-based organizations are "armies of compassion" devoted to changing individuals' hearts and lives and can offer cost-effective substance abuse treatment through the use of volunteers and other cost-saving measures, and

WHEREAS, the task force concluded that inmates with histories of substance abuse will most likely return to prison without transition assistance and postrelease supervision, coupled with treatment and job placement, and

WHEREAS, research has proven that "one-on-one" private and faith-based programming is often more effective than government programs in shaping and reclaiming lives because they are free to assert the essential connection between responsibility and human dignity; their approach is personal, not bureaucratic; their service is not primarily a function of professional background, but of individual commitment; and they inject an element of moral challenge and spiritual renewal that government cannot duplicate, and

WHEREAS, a study required by chapter 97-78, Laws of Florida, to measure the effectiveness of faith-based programs in Florida's correctional facilities found a strong and beneficial correlation between faith-based programming and remaining crime free and drug free upon release, and

WHEREAS, the Department of Corrections employs 105 prison chaplains who are responsible for addressing the religious and spiritual needs of over 71,000 inmates; for developing community linkages with churches, synagogues, mosques, and other faith-based institutions; and for recruiting and supervising volunteers who come into Florida's prisons to provide spiritual programs, mentoring activities, and other transitional skills, and

WHEREAS, the continued investment in the work of prison chaplains and their clerical staff is a critical factor for strengthening volunteer participation and support of faith-based programs in the prisons, as recognized by an academic study in 1997 entitled "The Report of Faith-Based Programs in Correctional Facilities," and

WHEREAS, the task force recommended that the Legislature fund faith-based substance abuse recovery programs and transitional assistance for the secular purpose of reducing recidivism, and

WHEREAS, in an effort to transform lives and break the personally destructive and expensive recidivism cycle, Florida should increase the number of chaplains who strengthen volunteer participation; expand the pilot dormitory program started in November 1999; and implement a strong transitional assistance residential program that includes a voluntary faith component that supports inmates as they reenter communities, and

WHEREAS, state government should engage Florida's faith-based organizations to enhance care for the needy and fill hollow hearts, and

WHEREAS, government must have qualities of the spirit, and

WHEREAS, the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 specifically authorized states to administer and provide services under specific programs through contracts with charitable, faith-based, or private organizations, and

WHEREAS, health care facilities operated by or affiliated with faith-based organizations have been effective partners in the provision of public health services for many years without interfering with the religious liberties of Floridians, and

WHEREAS, the Legislature intends to engage Florida's churches, synagogues, other religious congregations, and spiritual entrepreneurs to enhance care for the needy, NOW, THEREFORE,

Rep. Barreiro moved the adoption of the amendment, which failed of adoption.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1937—A bill to be entitled An act relating to state revenues collected by court clerks; creating s. 213.13, F.S.; requiring electronic remittance of certain funds and information to the Department of Revenue; specifying sources of the funds to be electronically remitted; requiring the department to establish procedures for electronic transmittal of funds and return information; granting the department electronic access to specified funds for certain purposes; amending ss. 27.52, 28.101, 28.2401, 28.241, 34.041, 44.108, 316.192, 318.14, 318.18, 318.21, 327.35, 327.73, 372.7015, 372.72, 382.022, 382.023, 569.11, 741.01, 775.0835, 938.01, 938.03, 938.04, 938.06, 938.07, 938.23, 938.25, 938.27, and 960.17, F.S., to conform; providing for deposit by the Department of Revenue of certain moneys into certain trust funds and to certain agencies; providing for remittance of all moneys collected by the court clerks for the state to the Department of Revenue for deposit into certain funds or to certain agencies; authorizing Department of Revenue to adopt necessary forms, rules, and procedures; providing effective dates.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1939—A bill to be entitled An act relating to trust funds; creating the Department of Revenue Clerks of the Court Trust Fund; providing for sources of funds and purposes; providing for future review and termination or re-creation of the trust fund; providing a contingent effective date.

—was read the second time by title.

Representative(s) Byrd offered the following:

(Amendment Bar Code: 791525)

Amendment 1—On page 1, line 23 and on page 1, line 24 of the bill

after "Bill" insert: *1937*

Rep. Byrd moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 365—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; providing an exemption from public records requirements for identifying information and specified financial information in records relating to an individual's health or eligibility for health-related services made or received by the Department of Health or its service providers; specifying conditions under which such information may be released; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1971—A bill to be entitled An act relating to water supply policy; amending s. 153.11, F.S.; authorizing county commissions to establish water and sewer rates and rate structures to encourage and promote water conservation and the use of reclaimed water; amending s. 163.3167, F.S.; requiring that each local government provide in its growth management plan for the long-term availability of water supplies for approved land development; amending s. 163.3177, F.S.; directing local government comprehensive plans to coordinate with regional water supply plans; directing future land use plans to be based on data regarding the availability of sufficient water supplies for present and future growth; amending s. 163.3180, F.S.; providing a concurrency requirement for water supply availability; providing for assistance from water management districts and the Department of Community Affairs; amending s. 373.0361, F.S.; providing that incompatibility with a regional supply plan be considered in determining if a proposed use of water is consistent with the public interest; amending s. 373.236, F.S.; requiring consideration of the implementation of agricultural water conservation best management practices in determining permit duration for water use permits; amending s. 373.406, F.S.; providing an exemption from provisions regulating the management and storage of surface waters for implementation of such best management practices having minimal adverse impacts; creating s. 373.621, F.S.; recognizing the significance of agricultural water conservation; requiring consideration of the implementation of agricultural water conservation practices in water use permitting; amending s. 403.064, F.S.; requiring the reuse of reclaimed water when feasible; removing certain limitations on applicability; creating s. 570.080, F.S.; establishing an agricultural water conservation program; requiring water management districts to develop and finance public-private alternative water supply projects; creating the Water Supply Task Force; providing membership and duties; providing for technical advisory committees; providing for reimbursement for certain expenses; providing for an executive director and staff; requiring reports; providing for state agency assistance; providing for termination of the task force; providing an appropriation; providing an effective date.

—was read the second time by title.

Representative(s) Harrington offered the following:

(Amendment Bar Code: 724771)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 153.11, Florida Statutes, is amended to read:

153.11 Water service charges and sewer service charges; revenues.—

(1)(a) The county commission shall in the resolution providing for the issuance of either water revenue bonds or sewer revenue bonds, or both, fix the initial schedule of rates, *rate structures,* fees*,* and other charges for the use of and for the services furnished or to be furnished by the facilities, to be paid by the owner, tenant or occupant of each lot or parcel of land which may be connected with and use any such facility by or through any part of the water system of the county.

(b) After the system or systems shall have been in operation the county commission may revise *the* ~~such~~ schedule of rates, *rate structures,* fees*,* and charges from time to time. Such rates, *rate structures,* fees*,* and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times to pay the cost of maintaining, repairing and operating the system or systems including the reserves for such purposes and for replacements and depreciation and necessary extensions, to pay the principal of and the interest on the water revenue bonds and/or sewer revenue bonds as the same shall become due and the reserves therefor, and to provide a margin of safety for making such payments. *The county commission may establish rates or rate structures in such a manner as to encourage and promote water conservation and the use of reclaimed water for nonpotable uses.* The county commission shall charge and collect the rates, fees*,* and charges so fixed or revised*,* and *the* ~~such~~ rates, *rate structures,* fees*,* and charges shall not be subject to supervision or regulation by any other commission, board, bureau*,* or agency of the county or of the state or of any sanitary district or other political subdivision of the state.

(c) Such rates, *rate structures,* fees*,* and charges shall be just and equitable and may be based or computed upon the quantity of water consumed and/or upon the number and size of sewer connections or upon the number and kind of plumbing fixtures in use in the premises connected with the sewer system or upon the number or average number of persons residing or working in or otherwise connected with such premises or upon any other factor affecting the use of the facilities furnished or upon any combination of the foregoing factors.

(d) In cases where the amount of water furnished to any building or premises is such that it imposes an unreasonable burden upon the water supply system an additional charge may be made therefor or the county commission may if it deems advisable compel the owners or occupants of such building or premises to reduce the amount of water consumed

thereon in a manner to be specified by the county commission or the county commission may refuse to furnish water to such building or premises.

(e) In cases where the character of the sewage from any manufacturing or industrial plant or any building or premises is such that it imposes an unreasonable burden upon any sewage disposal system, an additional charge may be made therefor, or the county commission may, if it deems it advisable, compel such manufacturing or industrial plant or such building or premises to treat such sewage in such manner as shall be specified by the county commission before discharging such sewage into any sewer lines owned or maintained by the county.

(2) The county commission may charge any owner or occupant of any building or premise receiving the services of the facilities herein provided such initial installation or connection charge or fee as the commission may determine to be just and reasonable.

(3)(a) No rates, *rate structures,* fees*,* or charges shall be fixed under the foregoing provisions of this section until after a public hearing at which all of the users of the facilities provided by this chapter and owners, tenants and occupants of property served or to be served thereby and all others interested shall have an opportunity to be heard concerning the proposed rates, *rate structures,* fees*,* and charges. After the adoption by the county commission of a resolution setting forth the preliminary schedule or schedules fixing and classifying such rates, *rate structures,* fees*,* and charges, notice of such public hearing setting forth the schedule or schedules of rates, *rate structures,* fees*,* and charges shall be given by one publication in a newspaper published in the county at least 10 days before the date fixed in said notice for the hearing, which said hearing may be adjourned from time to time. After such hearing such preliminary schedule or schedules, either as originally adopted or as modified or amended, shall be adopted and put into effect and thereupon the resolution providing for the issuance of water revenue bonds and/or sewer revenue bonds may be finally adopted.

(b) A copy of the schedule or schedules of such rates, *rate structures,* fees*,* and charges finally fixed in such resolution shall be kept on file in the office of the clerk of the circuit court in the county and shall be open to inspection by all parties interested. The rates, *rate structures,* fees*,* or charges so fixed for any class of users or property served shall be extended to cover any additional property thereafter served which fall within the same class without the necessity of any hearing or notice.

(c) Any change or revision of any rates, *rate structures,* fees*,* or charges may be made in the same manner as such rates, *rate structures,* fees*,* or charges were originally established as hereinabove provided, but if such change or revision be made substantially pro rata as to all classes of service no notice or hearing shall be required.

Section 2. Subsection (13) is added to section 163.3167, Florida Statutes, to read:

163.3167 Scope of act.—

(13) Each local government shall address in its comprehensive plan the availability of water supplies necessary to meet the projected water use demands for the established planning period, compatible with any applicable plan developed pursuant to s. 373.036.

Section 3. Paragraph (a) of subsection (3), paragraph (a) of subsection (4), and paragraph (c) of subsection (6) of section 163.3177, Florida Statutes, are amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(3)(a) The comprehensive plan shall contain a capital improvements element designed to consider the need for and the location of public facilities in order to encourage the efficient utilization of such facilities and set forth:

1. A component which outlines principles for construction, extension, or increase in capacity of public facilities, *including potable water facilities compatible with the applicable regional water supply plan developed pursuant to s. 373.0361,* as well as a component which outlines principles for correcting existing public facility deficiencies, which are necessary to implement the comprehensive plan. The components shall cover at least a 5-year period.

2. Estimated public facility costs, including a delineation of when facilities will be needed, the general location of the facilities, and projected revenue sources to fund the facilities.

3. Standards to ensure the availability of public facilities and the adequacy of those facilities including acceptable levels of service.

4. Standards for the management of debt.

(4)(a) Coordination of the local comprehensive plan with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region; *with any applicable plan developed pursuant to s. 373.036;* with adopted rules pertaining to designated areas of critical state concern; and with the state comprehensive plan shall be a major objective of the local comprehensive planning process. To that end, in the preparation of a comprehensive plan or element thereof, and in the comprehensive plan or element as adopted, the governing body shall include a specific policy statement indicating the relationship of the proposed development of the area to the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region and to the state comprehensive plan, as the case may require and as such adopted plans or plans in preparation may exist.

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(c) A general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer recharge protection requirements for the area. The element may be a detailed engineering plan including a topographic map depicting areas of prime groundwater recharge. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The element shall also include a topographic map depicting any areas adopted by a regional water management district as prime groundwater recharge areas for the Floridan or Biscayne aquifers, pursuant to s. 373.0395. These areas shall be given special consideration when the local government is engaged in zoning or considering future land use for said designated areas. For areas served by septic tanks, soil surveys shall be provided which indicate the suitability of soils for septic tanks. *By October 1, 2002, the element shall also include data and analyses, based upon the appropriate plan developed pursuant to s. 373.036, that evaluate the availability of potable water compared to population growth projected by the future land use plan.*

Section 4. Paragraph (k) is added to subsection (2) of section 373.1961, Florida Statutes, to read:

373.1961 Water production.—

(2) The Legislature finds that, due to a combination of factors, vastly increased demands have been placed on natural supplies of fresh water, and that, absent increased development of alternative water supplies, such demands may increase in the future. The Legislature also finds that potential exists in the state for the production of significant quantities of alternative water supplies, including reclaimed water, and that water production includes the development of alternative water supplies, including reclaimed water, for appropriate uses. It is the intent of the Legislature that utilities develop reclaimed water systems, where reclaimed water is the most appropriate alternative water supply option, to deliver reclaimed water to as many users as possible through the most cost-effective means, and to construct reclaimed water system infrastructure to their owned or operated properties and facilities where they have reclamation capability. It is also the intent of the Legislature that the water management districts which levy ad valorem taxes for water management purposes should share a percentage of those tax revenues with water providers and users, including local governments, water, wastewater, and reuse utilities, municipal, industrial, and

agricultural water users, and other public and private water users, to be used to supplement other funding sources in the development of alternative water supplies. The Legislature finds that public moneys or services provided to private entities for such uses constitute public purposes which are in the public interest. In order to further the development and use of alternative water supply systems, including reclaimed water systems, the Legislature provides the following:

(k) Pursuant to chapter 367, the Florida Public Service Commission shall allow entities under its jurisdiction constructing alternative water supply facilities, including but not limited to aquifer storage and recovery wells, to recover the full, prudently incurred cost of such facilities through their rate structure. Every component of an alternative water supply facility constructed by an investor-owned utility shall be recovered in current rates.

Section 5. Subsection (2) of section 373.217, Florida Statutes, is amended to read:

373.217 Superseded laws and regulations.—

(2) It is the further intent of the Legislature that Part II of the Florida Water Resources Act of 1972, as amended, as set forth in ss. 373.203-373.249, shall provide the exclusive authority for requiring permits for the consumptive use of water and for authorizing transportation thereof pursuant to s. 373.223(2). *Nothwithstanding the provisions of Chapter 163, the issuance of a permit under this part shall be a conclusive determination of the availability of water supplies, including ground and surface water resources and alternative water supplies, for the use authorized by such permit.*

Section 6. Section 373.621, Florida Statutes, is created to read:

373.621 Water conservation.—The Legislature recognizes the significant value of water conservation in the protection and efficient use of water resources. Accordingly, additional consideration in the administration of ss. 373.223, 373.233, and 373.236 shall be given to applicants who implement water conservation practices pursuant to s. 570.080 or other applicable water conservation measures as determined by the department or water management district.

Section 7. Section 403.064, Florida Statutes, is amended to read:

403.064 Reuse of reclaimed water.—

(1) The encouragement and promotion of water conservation, and reuse of reclaimed water, as defined by the department, are state objectives and are considered to be in the public interest. *The Legislature finds that the reuse of reclaimed water is a critical component of meeting the state's existing and future water supply needs while sustaining natural systems.* The Legislature *further* finds that for those wastewater treatment plants permitted and operated under an approved reuse program by the department, the reclaimed water shall be considered environmentally acceptable and not a threat to public health and safety.

(2) All applicants for permits to construct or operate a domestic wastewater treatment facility located within, serving a population located within, or discharging within a water resource caution area shall prepare a reuse feasibility study as part of their application for the permit. Reuse feasibility studies shall be prepared in accordance with department guidelines adopted by rule and shall include, but are not limited to:

(a) Evaluation of monetary costs and benefits for several levels and types of reuse.

(b) Evaluation of water savings if reuse is implemented.

(c) Evaluation of rates and fees necessary to implement reuse.

(d) Evaluation of environmental and water resource benefits associated with reuse.

(e) Evaluation of economic, environmental, and technical constraints.

(f) A schedule for implementation of reuse. The schedule shall consider phased implementation.

(3) The permit applicant shall prepare a plan of study for the reuse feasibility study consistent with the reuse feasibility study guidelines adopted by department rule. The plan of study shall include detailed descriptions of applicable treatment and water supply alternatives to be evaluated and the methods of analysis to be used. The plan of study shall be submitted to the department for review and approval.

(4)~~(3)~~ The study required under subsection (2) shall be performed by the applicant, and the applicant *shall determine the feasibility of reuse based upon the results of the study,* ~~'s determination of feasibility is final~~ if the study complies with the requirements of subsection*s* (2) *and (3)*.

(5)~~(4)~~ A reuse feasibility study is not required if:

(a) The domestic wastewater treatment facility has an existing or proposed permitted or design capacity less than 0.1 million gallons per day; or

(b) The permitted reuse capacity equals or exceeds the total permitted capacity of the domestic wastewater treatment facility.

(6)~~(5)~~ A reuse feasibility study prepared under subsection (2) satisfies a water management district requirement to conduct a reuse feasibility study imposed on a local government or utility that has responsibility for wastewater management.

(7)~~(6)~~ Local governments may allow the use of reclaimed water for inside activities, including, but not limited to, toilet flushing, fire protection, and decorative water features, as well as for outdoor uses, provided the reclaimed water is from domestic wastewater treatment facilities which are permitted, constructed, and operated in accordance with department rules.

(8)~~(7)~~ Permits issued by the department for domestic wastewater treatment facilities shall be consistent with requirements for reuse included in applicable consumptive use permits issued by the water management district, if such requirements are consistent with department rules governing reuse of reclaimed water. This subsection applies only to domestic wastewater treatment facilities which are located within, or serve a population located within, or discharge within water resource caution areas and are owned, operated, or controlled by a local government or utility which has responsibility for water supply and wastewater management.

(9)~~(8)~~ Local governments may and are encouraged to implement programs for the reuse of reclaimed water. Nothing in this chapter shall be construed to prohibit or preempt such local reuse programs.

(10)~~(9)~~ A local government that implements a reuse program under this section shall be allowed to allocate the costs in a reasonable manner.

(11)~~(10)~~ Pursuant to chapter 367, the Florida Public Service Commission shall allow entities under its jurisdiction which conduct studies or implement reuse projects, including, but not limited to, any study required by subsection (2) or facilities used for reliability purposes for a reclaimed water reuse system, to recover the full, prudently incurred cost of such studies and facilities through their rate structure.

(12)~~(11)~~ In issuing consumptive use permits, the permitting agency shall consider the local reuse program.

(13)~~(12)~~ A local government shall require a developer, as a condition for obtaining a development order, to comply with the local reuse program.

(14)~~(13) If,~~ After conducting a feasibility study under subsection (2), ~~an applicant determines that reuse of reclaimed water is feasible,~~ domestic wastewater treatment facilities that dispose of effluent by Class I deep well injection, as defined in 40 C.F.R. part 144.6(a), must implement reuse ~~according to the schedule for implementation contained in the study conducted under subsection (2),~~ to the degree that reuse is ~~determined~~ feasible*, based upon the applicant's reuse feasibility*

study. Applicable permits issued by the department shall be consistent with the requirements of this subsection.

(a) This subsection does not limit the use of a Class I deep well injection facility as backup for a reclaimed water reuse system.

(b) This subsection applies only to domestic wastewater treatment facilities located within, serving a population located within, or discharging within a water resource caution area.

(15)~~(14) If,~~ After conducting a feasibility study under subsection (2), ~~an applicant determines that reuse of reclaimed water is feasible,~~ domestic wastewater treatment facilities that dispose of effluent by surface water discharges or by land application methods must implement reuse ~~according to the schedule for implementation contained in the study conducted under subsection (2),~~ to the degree that reuse is ~~determined~~ feasible*, based upon the applicant's reuse feasibility study*.. This subsection does not apply to surface water discharges or land application systems which are currently categorized as reuse under department rules. Applicable permits issued by the department shall be consistent with the requirements of this subsection.

(a) This subsection does not limit the use of a surface water discharge or land application facility as backup for a reclaimed water reuse system.

(b) This subsection applies only to domestic wastewater treatment facilities located within, serving a population located within, or discharging within a water resource caution area.

Section 8. Section 570.080, Florida Statutes, is created to read:

570.080 Agricultural water conservation program.—The department shall establish an agricultural water conservation program which includes the following:

(1) A cost share program, coordinated where appropriate with United States Department of Agriculture and other federal, state, regional, and local agencies, for irrigation system retrofit and application of mobile irrigation laboratory evaluations for water conservation as provided in this section, and where applicable, for water quality improvement pursuant to s. 403.067(7)(d).

(2) The development and implementation of voluntary interim measures or best management practices, adopted by rule, which provide for increased efficiencies in the utilization and management of water for agricultural production. In the process of developing and adopting rules for interim measures or best management practices, the department shall consult with the Department of Environmental Protection and the water management districts. Such rules may also include a system to ensure the implementation of the interim measures or best management practices, including record keeping requirements. As new information regarding efficient agricultural water use and management becomes available the department shall reevaluate, and revise as needed, the interim measures or best management practices. The interim measures or best management practices may include irrigation retrofit, implementation of mobile irrigation laboratory evaluations and recommendations, water resource augmentation, and integrated water management systems for drought management and flood control and should, to the maximum extend practicable, be designed to qualify for regulatory and other incentives, as determined by the agency having applicable statutory authority.

(3) Provision of assistance to the water management districts in the development and implementation of a consistent, to the extent practicable, methodology for the efficient allocation of water for agricultural irrigation.

Section 9. *The South Florida, St. Johns River, and Southwest Florida Water Management Districts shall each develop and participate in financing at least one public-private alternative water project that expands the current availability of alternative water supplies. Funding for the selected project shall commence no later than fiscal year 2001-2002. The selected project shall meet the criteria in s. 373.0831(4)(a). Projects that create new sources in order to help implement a prevention or recovery strategy for a minimum flow or level shall be given priority consideration for funding.*

Section 10. *As a result of ongoing drought conditions throughout the state and in order to aid in the development of a better understanding of Florida's unique surface and ground water sources, it is the intent of the Legislature that the water management districts undertake a coordinated effort to develop an illustrative public service program that depicts the current status of major surface and ground water sources. This program shall be designed to provide information that shows the water levels of aquifers and water bodies that are critical to water supplies within each water management district. It is the intent of the Legislature that the districts develop partnerships with the local media to assist in the dissemination of this information. Further, it is the intent of the Legislature that this program be developed and made available no later than December 31, 2001. Beginning January 1, 2002, and every six months thereafter, the information developed pursuant to this section shall be submitted to the appropriate legislative committees with substantive jurisdiction over the water management districts.*

Section 11. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, line 3 through page 2, line 24
remove from the title of the bill: all of said lines

and insert in lieu thereof: amending s. 153.11, F.S.; authorizing county commissions to establish water and sewer rates and rate structures to encourage and promote water conservation and the use of reclaimed water; amending s. 163.3167, F.S.; requiring that each local government provide in its growth management plan for the long-term availability of water supplies for approved land development; amending s. 163.3177, F.S.; directing local government comprehensive plans to coordinate with regional water supply plans; directing future land use plans to be based on data regarding the availability of sufficient water supplies for present and future growth; amending s. 373.1961, F.S.; allowing certain alternative water supply facilities to recover the costs of such facilities through rate structures; amending s. 373.217, F.S.; recognizing a permit issued under Part II of Chapter 373, F.S., as conclusive determination of water supply availability; creating s. 373.621, F.S.; recognizing the significance of water conservation; requiring consideration of the implementation of water conservation practices in water use permitting; amending s. 403.064, F.S.; requiring the reuse of reclaimed water when feasible; creating s. 570.080, F.S.; establishing an agricultural water conservation program; requiring water management districts to develop and finance public-private alternative water supply projects; requiring the dissemination of public information regarding the status of major water sources; providing an effective date.

Rep. Harrington moved the adoption of the amendment.

Representative(s) Bennett offered the following:

(Amendment Bar Code: 093727)

Amendment 1 to Amendment 1 (with title amendment)—On page 15, between lines 30 and 31,

insert:

Section 11. Subsection (7) of section 373.0693, Florida Statutes, is amended to read:

373.0693 Basins; basin boards.—

(7) At 11:59 p.m. on December 31, 1976, the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District, which is annexed to the Southwest Florida Water Management District by change of its boundaries pursuant to chapter 76-243, Laws of Florida, shall be formed into a subdistrict or basin of the Southwest Florida Water Management District, subject to the same provisions as the other basins in such district. Such subdistrict shall be designated initially as the Manasota Basin. The members of the governing board of the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District shall become members of the governing board of

the Manasota Basin of the Southwest Florida Water Management District. *Notwithstanding other provisions in this section, beginning on July 1, 2001, the membership of the Manasota Basin Board shall be comprised of three members from Manatee County and three members from Sarasota County. Matters relating to tie votes shall be resolved pursuant to subsection (6) by the ex officio chair designated by the governing board to vote in case of a tie vote.*

And the title is amended as follows:

On page 17, line 11, after the semicolon

insert: amending s. 373.0693, F.S.; providing for membership on the Manasota Basin Board and for the resolution of tie votes;

Rep. Bennett moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Greenstein offered the following:

(Amendment Bar Code: 870041)

Amendment 2 to Amendment 1 (with title amendment)—On page 15, between lines 30 and 31, of the amendment

insert:

Section 11. *The Department of Environmental Protection, in coordination with water management districts and the Department of Health, shall determine the arsenic levels within all known watersheds in the state.*

And the title is amended as follows:

On page 17, line 11, of the amendment

after the semicolon, insert: requiring determination of arsenic levels in state watersheds;

Rep. Greenstein moved the adoption of the amendment to the amendment. Subsequently, **Amendment 2 to Amendment 1** was withdrawn.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/CS/HB 807—A bill to be entitled An act relating to the Department of Highway Safety and Motor Vehicles; amending s. 316.003, F.S.; providing that certain vehicles of the Department of Health are authorized emergency vehicles; providing that a motorized scooter is not a motor vehicle for traffic control purposes; creating a definition of the term motorized scooter; amending s. 316.006, F.S.; authorizing the installation of multiparty stop signs on certain roads; providing guidelines for the installation of such signage; amending s. 316.1951, F.S.; revising provisions related to parking vehicles to display for sale; amending s. 316.1975, F.S.; exempting operators of solid waste and recovered materials vehicles from provisions regarding unattended motor vehicles; amending s. 316.2065, F.S.; providing motorized scooter operating regulations; amending s. 316.228, F.S.; requiring strobe lights to be placed on the exterior of a commercial vehicle transporting unprocessed forest products extending more than 4 feet beyond the rear of the vehicle; providing an alternate method for placing strobe lights in certain instances; requiring the use of a red flag on the load; amending s. 316.2397, F.S.; authorizing the emergency response vehicles of the Department of Health to use red flashing lights; amending s. 316.520, F.S.; clarifying that a violation of a provision governing loads on vehicles is a moving rather than a nonmoving violation; exempting certain vehicles carrying agricultural products; amending s. 316.640, F.S.; revising the powers and duties of traffic crash investigation officers; amending s. 316.650, F.S.; requiring the issuance of a copy of the traffic school reference guide with traffic citations under certain circumstances; amending s. 318.14, F.S.; deleting reference to a restriction on the number of elections a person may make to attend a basic driver improvement course; amending s. 318.1451, F.S.; providing an assessment fee with respect to driver improvement courses for persons who are ordered by the court to attend and for certain other violations; providing traffic school reference guide requirements; amending s. 322.0261, F.S.; deleting reference to a time period and increasing the amount of damage required with respect to a crash for the screening of certain crash reports; requiring the Department of Highway Safety and Motor Vehicles to approve and regulate certain courses for driver improvement schools; creating s. 322.02615, F.S.; providing for mandatory driver improvement courses for certain violations; amending s. 322.05, F.S.; adding a condition for the issuance of a driver's license to certain persons; amending s. 319.001, F.S.; providing definitions; amending s. 319.14, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to place a decal on a rebuilt vehicle so as to clarify its identity; providing a penalty for the removal of the decal; amending s. 319.22, F.S.; providing a limitation on an action challenging the validity of a certificate of title issued pursuant to ch. 319, F.S.; amending s. 319.23, F.S.; providing a limitation on the issuance of certain titles; amending s. 319.27, F.S.; including reference to ownership interest with respect to liens on motor vehicles or mobile homes; providing special requirements with respect to an ownership interest which is different from that shown on an application for certificate of title; creating s. 319.275, F.S.; providing for interpleader actions for law enforcement officers alleging possession of a stolen motor vehicle by a good faith purchaser or person duly issued a certificate of title; amending s. 319.32, F.S.; clarifying fees for recording of liens and ownership interests; amending s. 319.323, F.S.; revising language with respect to expedited service on title transfers; amending s. 319.23, F.S.; conforming the requirements for the transfer of ownership on an antique vehicle to that of any other motor vehicle; amending s. 319.28, F.S.; deleting the requirement that a copy of a contract for processing an application for title based on a contractual default be provided; amending s. 319.30, F.S.; clarifying the major component parts of a motor vehicle; amending s. 320.01, F.S.; conforming the length limitation for a motor home to that established in ch. 316, F.S.; providing that a motorized scooter is not a motor vehicle for registration purposes; defining the term "extended registration period"; amending s. 320.055, F.S.; authorizing an extended registration period for certain motor vehicles; amending s. 320.06, F.S.; providing terms and conditions for the issuance of extended registrations; amending s. 320.07, F.S.; providing for expiration of an extended registration; amending s. 320.02, F.S.; requiring application forms for motor vehicle registration and renewal of registration to include language permitting a voluntary contribution to certain organizations; amending s. 320.023, F.S.; requiring certain organizations receiving voluntary check-off contributions to notify the department under certain circumstances and to meet specified requirements; conforming the section to the Florida Single Audit Act; requiring organizations seeking authorization to establish a voluntary check-off contribution on a motor vehicle registration application to conform to the requirements of ch. 496, F.S.; conforming this section to the Florida Single Audit Act; amending s. 320.025, Florida Statutes, conforming the vessel registration law to the motor vehicle registration law; requiring a decal to be affixed to a vessel that is registered under a fictitious name and operated by any law enforcement agency; amending s. 320.05, F.S.; conforming the vessel registration law to the motor vehicle registration law; providing instructions for the release of information regarding a vessel to the public; amending s. 320.055, F.S.; correcting the registration period for nonapportioned vehicles; amending s. 320.06, F.S.; providing for the placement of only one decal rather than two on a license plate; amending s. 320.072, F.S.; reducing the timeframe a registrant can use a previous license plate for the initial registration fee exemption; amending s. 320.0805, F.S.; reducing the timeframe for a personalized license plate to remain out of circulation prior to reassignment; amending s. 320.08056, F.S.; requiring certain organizations to notify the department under certain circumstances; including two more colleges to the discontinuance exemptions provided for collegiate specialty license plates; amending s. 320.08062, F.S.; conforming this section to the Florida Single Audit Act; amending s. 320.083, F.S.; increasing the weight restriction for a private-use vehicle so as to be eligible to apply for the Amateur Radio Operator specialty license plate; amending s. 320.089, F.S.; increasing the weight restriction for a private-use vehicle so as to be eligible to apply for the EX-POW or Purple Heart specialty license plate; amending s. 320.18, F.S.; providing for cancellation of

license plates and fuel use tax decals for failure to pay motor carrier weight and safety violation penalties; amending s. 320.27, F.S.; redefining the term "motor vehicle auction"; deleting the requirement for a licensee to have the certificate of title or ownership indicia in his or her possession at an auction; deleting a requirement for establishing a pattern of wrongdoing; revising requirements for denial, suspension, or revocation of a motor vehicle dealer license; amending s. 320.64, F.S.; providing additional grounds for denial, suspension, or revocation of vehicle manufacturer's license; amending s. 320.691, F.S.; creating the Automobile Dealers Industry Advisory Board; amending s. 322.01, F.S.; providing that a motorized scooter is not a motor vehicle for drivers' licensing purposes; amending s. 322.05, F.S.; correcting a statutory reference regarding the requirements for an individual under 18 years of age to apply for a driver's license; amending s. 322.081, F.S.; requiring certain organizations receiving voluntary check-off contributions to notify the department under certain circumstances and to meet specified requirements; conforming the section to the Florida Single Audit Act; requiring organizations seeking authorization to establish a voluntary contribution on a motor vehicle registration to register with the Department of Agriculture and Consumer Services; amending s. 322.095, F.S.; requiring the Department of Highway Safety and Motor Vehicles to approve and regulate certain courses for driver improvement schools; creating s. 322.222, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to hold a hearing when an individual's driver's license has been suspended or revoked due to medical reasons; amending s. 322.25, F.S.; correcting a cross reference; amending s. 322.2615, F.S.; complying with the USDOT's drunk driving prevention incentive program; reducing the timeframe for a temporary permit that is allotted when an individual is charged with driving with an unlawful blood-alcohol level; amending s. 322.27, F.S.; clarifying the time period for a driver's license revocation of a habitual traffic offender; amending s. 322.28, F.S.; deleting obsolete language regarding the revocation of a driver's license; repealing s. 322.282, F.S., relating to the procedure when the court revokes or suspends license or driving privilege and orders reinstatement; amending s. 322.292, F.S.; adding the requirement that DUI programs must be governmental programs or not-for-profit corporations; amending s. 322.61, F.S.; complying with the Federal Motor Carrier Safety Regulations; adding two more violations for which a commercial motor vehicle may be disqualified of driving privileges; amending s. 322.64, F.S.; reducing the timeframe for a temporary permit allotted when an individual holding a commercial driver's license is charged with an unlawful blood-alcohol level; repealing s. 322.331, F.S., relating to the reinstatement of a license of a habitual traffic offender; amending s. 324.091, F.S.; providing for electronic access to vehicle insurance information; amending s. 328.01, F.S.; deleting the requirement for a copy of a contract upon which a claim of ownership of a vessel is made on a contractual default; amending s. 328.42, F.S.; authorizing the department to deny or cancel any vessel registration, license plate, or fuel use decal when given a dishonored check by the customer; amending s. 328.56, F.S.; deleting the terms "commercial" and "recreational" when referring to vessels operated on the waters of this state; amending s. 328.72, F.S.; deleting the requirements for the transfer of ownership of an antique vessel; amending s. 328.76, F.S.; providing for the appropriation allotted for fiscal year 2000-2001 to be deposited into the Highway Safety Operating Trust Fund; amending s. 713.78, F.S.; adding the insurance company to the list of individuals to be contacted when a vehicle has been towed; providing storage periods before the expiration of which certain salvaged vehicles may not be sold; repealing s. 715.05, F.S., relating to the reporting of unclaimed motor vehicles; amending ss. 681.1096 and 681.1097, F.S.; revising program requirements for the Pilot RV Mediation and Arbitration program; amending s. 681.115, F.S.; providing that a motor vehicle sales agreement which prohibits disclosure of its terms is void; amending s. 715.07, F.S.; conforming the vessel registration law to the motor vehicle registration law; defining the term "vessel"; authorizing the removal of an undocumented vessel parked on private property; amending s. 832.09, F.S.; authorizing the department to create a standardized form to be used for notification of satisfaction of a worthless check; amending s. 212.08, F.S.; providing additional requirements on vehicle tax assessments; creating ch. 261, F.S.; creating the T. Mark Schmidt Off-Highway-Vehicle Safety and Recreation Act; providing legislative intent; providing definitions; creating the Off-Highway-Vehicle Recreation Advisory Committee; providing duties and responsibilities; providing for duties and responsibilities of the Department of Agriculture and Consumer Services; providing for rulemaking authority; providing for the publication and distribution of a guidebook; providing for the repair, maintenance, and rehabilitation of areas, trails, and lands; providing for contracts and agreements; providing criteria for recreation areas and trails; providing for the use of designated off-highway-vehicle funds within the Incidental Trust Fund of the Division of Forestry, Department of Agriculture and Consumer Services; amending s. 316.2074, F.S.; revising the definition of the term "all-terrain vehicle"; prohibiting the use of all-terrain vehicles on public roadways in the state; creating the Florida Off-Highway-Vehicle Titling and Registration Act; providing legislative intent; providing definitions; providing for administration by the Department of Highway Safety and Motor Vehicles; providing for rules, forms, and notices; requiring certificates of title; providing for application for and issuance of certificates of title; providing for duplicate certificates of title; requiring the furnishing of a manufacturer's statement of origin; requiring registration; providing for application for and issuance of certificate of registration, registration number, and decal; providing for the registration period and for reregistration by mail; requiring notification of change of interest and address; providing for duplicate registration certificate and decal; providing for fees; providing for disposition of fees; providing for refusal to issue and authority to cancel a certificate of title or registration; providing for crimes relating to certificates of title and registration decals; providing penalties; providing for noncriminal infractions; providing penalties; amending s. 375.315, F.S., relating to the registration of off-road vehicles; providing an appropriation; amending ss. 316.605, 318.14, 318.18, and 322.121, F.S.; correcting cross references; providing effective dates.

—was read the second time by title.

Representative(s) Slosberg offered the following:

(Amendment Bar Code: 433063)

Amendment 1 (with title amendment)—On page 23, between lines 24 and 25 of the bill

insert:

Section 9. *Short title.—Sections 9 and 10 of this act may be cited as the "Dori Slosberg Act of 2001."*

Section 10. Effective July 1, 2001, section 316.614, Florida Statutes, is amended to read:

316.614 Safety belt usage.—

(1) This section may be cited as the "Florida Safety Belt Law."

~~(2) It is the policy of this state that enactment of this section is intended to be compatible with the continued support by the state for federal safety standards requiring automatic crash protection, and the enactment of this section should not be used in any manner to rescind or delay the implementation of the federal automatic crash protection system requirements of Federal Motor Safety Standard 208 as set forth in S4.1.2.1 thereof, as entered on July 17, 1984, for new cars.~~

(2)~~(3)~~ As used in this section:

(a) "Motor vehicle" means a motor vehicle as defined in s. 316.003 that is operated on the roadways, streets, and highways of this state. The term does not include:

1. A school bus.

2. A bus used for the transportation of persons for compensation.

3. A farm tractor or implement of husbandry.

4. A truck of a net weight of more than 5,000 pounds.

5. A motorcycle, moped, or bicycle.

(b) "Safety belt" means a seat belt assembly that meets the requirements established under Federal Motor Vehicle Safety Standard No. 208, 49 C.F.R. s. 571.208.

(c) "Restrained by a safety belt" means being restricted by an appropriately adjusted safety belt which is properly fastened at all times when a motor vehicle is in motion.

(3)~~(4)~~ It is unlawful for any person:

(a) To operate a motor vehicle in this state unless each passenger of the vehicle under the age of 18 years is restrained by a safety belt or by a child restraint device pursuant to s. 316.613, if applicable; or

(b) To operate a motor vehicle in this state unless the person is restrained by a safety belt.

(4)~~(5)~~ It is unlawful for any person 18 years of age or older to be a passenger in ~~the front seat of~~ a motor vehicle unless such person is restrained by a safety belt when the vehicle is in motion.

(5) The following are not required to be restrained by a safety belt:

~~(6)~~(a) ~~Neither~~ A person who is certified by a physician as having a medical condition that causes the use of a safety belt to be inappropriate or dangerous.

(b) ~~nor~~ An employee of a newspaper home delivery service while in the course of his or her employment delivering newspapers on home delivery routes ~~is required to be restrained by a safety belt~~.

~~(b) The number of front seat passengers of a pickup truck required to wear a safety belt pursuant to this section shall not exceed the number of safety belts which were installed in the front seat of such pickup truck by the manufacturer.~~

(c) An employee of a solid waste or recyclable collection service ~~is not required to be restrained by a safety belt~~ while in the course of employment collecting solid waste or recyclables on designated routes.

(d) The passengers of a motor vehicle in excess of the number of safety belts installed by the manufacturer.

(e)~~(d)~~ The requirements of this section shall not apply to the living quarters of a recreational vehicle or a space within a truck body primarily intended for merchandise or property.

(6)~~(7)~~ It is the intent of the Legislature that all state, county, and local law enforcement agencies, safety councils, and public school systems, in recognition of the fatalities and injuries attributed to unrestrained occupancy of motor vehicles, shall conduct a continuing safety and public awareness campaign as to the magnitude of the problem and adopt programs designed to encourage compliance with the safety belt usage requirements of this section.

(7)~~(8)~~ Any person who violates the provisions of this section commits a nonmoving violation, punishable as provided in chapter 318. *A law enforcement officer may not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because of a violation of this section* ~~However, except for violations of s. 316.613, enforcement of this section by state or local law enforcement agencies must be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of another section of this chapter, chapter 320, or chapter 322~~.

(8)~~(9)~~ A violation of the provisions of this section shall not constitute negligence per se, nor shall such violation be used as prima facie evidence of negligence or be considered in mitigation of damages, but such violation may be considered as evidence of comparative negligence, in any civil action.

And the title is amended as follows:

On page 2, line 3

after the semicolon, insert: creating the "Dori Slosberg Act of 2001"; amending s. 316.614, F.S.; deleting obsolete language; providing for all persons in a motor vehicle to wear a safety belt; revising the Florida Safety Belt Law to eliminate the requirement that the law be enforced as a secondary action when a driver of a motor vehicle has been detained for another violation; providing restrictions on authority to search based on a safety belt violation;

Rep. Slosberg moved the adoption of the amendment.

On motion by Rep. Paul, the amendment was laid on the table. The vote was:

Session Vote Sequence: 197

Yeas—55

The Chair	Brummer	Harrell	Miller
Alexander	Bucher	Harrington	Murman
Arza	Byrd	Hart	Needelman
Attkisson	Carassas	Hogan	Negron
Atwater	Crow	Johnson	Paul
Baker	Diaz-Balart	Kendrick	Pickens
Barreiro	Dockery	Kilmer	Ross
Baxley	Fasano	Kottkamp	Rubio
Bean	Feeney	Kyle	Russell
Bennett	Flanagan	Littlefield	Simmons
Bense	Gardiner	Mack	Sorensen
Berfield	Goodlette	Mahon	Stansel
Bowen	Haridopolos	Mealor	Wallace
Brown	Harper	Melvin	

Nays—53

Allen	Gannon	Kosmas	Ryan
Andrews	Garcia	Lee	Seiler
Ausley	Gelber	Lerner	Siplin
Bendross-Mindingall	Gibson	Machek	Slosberg
Benson	Gottlieb	Mayfield	Smith
Betancourt	Greenstein	Maygarden	Sobel
Brutus	Henriquez	McGriff	Trovillion
Bullard	Heyman	Meadows	Weissman
Cantens	Holloway	Peterman	Wiles
Cusack	Jennings	Prieguez	Wilson
Diaz de la Portilla	Jordan	Rich	Wishner
Farkas	Joyner	Richardson	
Fields	Justice	Ritter	
Frankel	Kallinger	Romeo	

Votes after roll call:
Yeas to Nays—Goodlette

REPRESENTATIVE BALL IN THE CHAIR

Representative(s) Gardiner offered the following:

(Amendment Bar Code: 644929)

Amendment 2 (with title amendment)—On page 34, lines 5-25,
remove from the bill: all of said lines

And the title is amended as follows:

On page 2, lines 27-29,
remove from the title of the bill: all of said lines

and insert in lieu thereof: certain violations; amending

Rep. Gardiner moved the adoption of the amendment, which was adopted.

Representative(s) Gardiner and Russell offered the following:

(Amendment Bar Code: 091495)

Amendment 3—On page 42, lines 15-16
remove from the bill: all of said lines

and insert in lieu thereof:

filing of the application, unless upon reliable documentary evidence provided with the application:

(a) the application is for a title to be issued to the person to whom the non-Florida title was issued,

(b) the application is for a title to be issued on a repossessed motor vehicle to a financial institution or other lender holding a lien on the vehicle that is reflected on the title certificate or recorded according to provisions in the Uniform Commercial Code or other law of the jurisdiction in which the lien is recorded or the lender's interest is registered for more than thirty days in accordance with s. 319.27, or

(c) the application is for a title to be issued on a motor vehicle to an entity that has consigned the vehicle to be offered for sale at a motor vehicle auction licensed pursuant to s. 320.27(1)(c)4.

Identity documents sufficient to obtain a Florida motor vehicle operator's license, certified copies of recorded documents or certified evidence of registration of an interest, or an affidavit with documentation attached evidencing consignment and any other documents required by the department shall constitute reliable documentary evidence for purposes of this subsection.

Rep. Gardiner moved the adoption of the amendment, which was adopted.

Representative(s) Gardiner and Russell offered the following:

(Amendment Bar Code: 021655)

Amendment 4—On page 45, lines 10-13
remove from the bill: all of said lines

and insert in lieu thereof:

competing claimants agree to another resolution or unless the motor vehicle is stored by the officer within the county of residence of the Florida title holder or of the resident in possession, or in the county in which the vehicle is seized, pending judicial determination of ownership or an agreed resolution. The officer may, in lieu of seizing the motor vehicle, assert constructive possession by bringing an action to compel all claimants to interplead in county court. The petition in such action shall set forth, under oath, the following facts, as are known to the officer:

Rep. Gardiner moved the adoption of the amendment, which was adopted.

Representative(s) Gardiner and Russell offered the following:

(Amendment Bar Code: 583929)

Amendment 5—On page 49, lines 9-11
remove from the bill: all of said lines

and insert in lieu thereof:

country unless, upon reliable documentary evidence provided with the application:

(a) the application is for a title to be issued to the person to whom the non-Florida title was issued,

(b) the application is for a title to be issued on a repossessed motor vehicle to a financial institution or other lender holding a lien on the vehicle that is reflected on the title certificate or recorded according to provisions in the Uniform Commercial Code or other law of the jurisdiction in which the lien is recorded or the lender's interest is registered for more than thirty days in accordance with s. 319.27, or

(c) the application is for a title to be issued on a motor vehicle to an entity that has consigned the vehicle to be offered for sale at a motor vehicle auction licensed pursuant to s. 320.27(1)(c)4.

Identity documents sufficient to obtain a Florida motor vehicle operator's license, certified copies of recorded documents or certified evidence of registration of an interest, or an affidavit with documentation attached evidencing consignment and any other documents required by the department shall constitute reliable documentary evidence for purposes of this section.

Rep. Russell moved the adoption of the amendment, which was adopted.

Representative(s) Prieguez offered the following:

(Amendment Bar Code: 100771)

Amendment 6 (with title amendment)—On page 68, between lines 19 & 20,

insert:

Section 42. Paragraph (h) of subsection (4) of section 320.08056, Florida Statutes, is amended to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(h) Florida educational license plate, *$25* ~~$15~~.

And the title is amended as follows:

On page 1, line 3, after the semicolon

insert: amending s. 320.08056, F.S.; increasing the fee for the Florida educational license plate;

Rep. Prieguez moved the adoption of the amendment, which was adopted.

Representative(s) Bense and Diaz-Balart offered the following:

(Amendment Bar Code: 855741)

Amendment 7 (with title amendment)—On page 82, lines 4-27,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 48. Paragraph (a) of subsection (11) of section 320.60, Florida Statutes, is amended and a new subsection (15) is added to read:

320.60 Definitions for ss. 320.61-320.70.—Whenever used in ss. 320.61-320.70, unless the context otherwise requires, the following words and terms have the following meanings:

(11)(a) "Motor vehicle dealer" means any person, firm, *company,* ~~or~~ corporation*, or other entity,* who,

1. Is licensed pursuant to s. 320.27 as a "franchised motor vehicle dealer" and, for commission, money or other things of value, repairs or services motor vehicles or used motor vehicles pursuant to an agreement as defined in subsection (1), or

2. Who sells, exchanges, buys, *leases* or rents, or offers, or attempts to negotiate a sale or exchange of any interest in, motor vehicles*,* or

3. Who is engaged wholly or in part in the business of selling motor vehicles, whether or not such motor vehicles are owned by such person, firm, *company,* or corporation.

(15) "Sell," "selling," "sold," "exchange," "retail sales," and "leases" includes any transaction where the title of motor vehicle or used motor vehicle is transferred to a retail consumer, and also any retail lease transaction where a retail customer leases a vehicle for a period of at least 12 months. Establishing a price for sale pursuant to s. 320.64(24) does not constitute a sale or lease.

Section 49. Subsection (4) of section 320.61, Florida Statutes, is amended to read:

320.61 Licenses required of motor vehicle manufacturers, distributors, importers, etc.—

(4) When a complaint of unfair *or prohibited* cancellation *or nonrenewal* of a dealer agreement is made by a motor vehicle dealer

against a licensee and *such complaint is pending* ~~is in the process of being heard~~ pursuant to ss. 320.60-320.70 ~~by the department~~, no replacement application for such agreement shall be granted *and no license shall be issued by the department under s. 320.27 to any replacement dealer* until a final decision is rendered ~~by the department~~ on the complaint of unfair cancellation*, so long as the dealer agreement of the complaining dealer is in effect as provided under s. 320.641(7)*.

Section 50. Subsections (13) and (16) are stricken, subsections (14), (15), and (17)-(23) are renumbered, subsection (20) is amended and renumbered as (18), and subsections (22)-(33) are added to section 320.64, Florida Statutes, to read:

320.64 Denial, suspension, or revocation of license; grounds.—A license *of a licensee under s. 320.61* may be denied, suspended, or revoked within the entire state or at any specific location or locations within the state at which the applicant or licensee engages or proposes to engage in business, *upon a proof that the section was violated with sufficient frequency to establish a pattern of wrongdoing and a licensee or applicant shall be liable for claims and remedies provided in s. 320.695 and s. 320.697 for any violation of any of the following provisions. A licensee is prohibited from committing the following acts:* ~~upon proof that an applicant or licensee has failed to comply with any of the following provisions with sufficient frequency so as to establish a pattern of wrongdoing on the part of the applicant:~~

(18)~~(20)~~ The applicant or licensee has established a system of motor vehicle allocation or distribution or has implemented a system of allocation or distribution of motor vehicles to one or more of its franchised motor vehicle dealers which is unfair, inequitable, unreasonably discriminatory, or not supportable by reason and good cause after considering the equities of the affected motor vehicles dealer or dealers. *An applicant or licensee shall maintain for 3 years records that describe its methods or formula of allocation and distribution of its motor vehicles and records of its actual allocation and distribution of motor vehicles to its motor vehicle dealers in this state.*

(22) The applicant or licensee has refused to deliver, in reasonable quantities and within a reasonable time, to any duly licensed motor vehicle dealer who has an agreement with such applicant or licensee for the retail sale of new motor vehicles and parts for motor vehicles sold or distributed by the applicant or licensee, any such motor vehicles or parts as are covered by such agreement. Such refusal includes the failure to offer to its same line-make franchised motor vehicle dealers all models manufactured for that line-make, or requiring a dealer to pay any extra fee, require a dealer to execute a separate franchise agreement, purchase unreasonable advertising displays or other materials, or remodel, renovate, or recondition the dealer's existing facilities, or provide exclusive facilities as a prerequisite to receiving a model or series of vehicles. However, the failure to deliver any motor vehicle or part will not be considered a violation of this section if the failure is due to an act of God, work stoppage, or delay due to a strike or labor difficulty, a freight embargo, product shortage, or other cause over which the applicant or licensee has no control. An applicant or licensee may impose reasonable requirements on the motor vehicle dealer, other than the items listed above, including, but not limited to, the purchase of special tools required to properly service a motor vehicle, the undertaking of sales person or service person training related to the motor vehicle.

(23) The applicant or licensee has competed or is competing with respect to any activity covered by the franchise agreement with a motor vehicle dealer of the same line-make located in this state with whom the applicant or licensee has entered into a franchise agreement, except as permitted in s. 320.645.

(24) The applicant or licensee has sold a motor vehicle to any retail consumer in the state except through a motor vehicle dealer holding a franchise agreement for the line-make that includes the motor vehicle. This section does not apply to sales by the applicant or licensee of motor vehicles to its current employees, employees of companies affiliated by common ownership, charitable not-for-profit- organizations, and the federal government.

(25) The applicant or licensee has undertaken an audit of warranty payments or incentive payment previously paid to a motor vehicle dealer in violation of this section or has failed to comply with s. 320.696. An applicant or licensee may reasonably and periodically audit a motor vehicle dealer to determine the validity of paid claims. Audit of warranty payments shall only be for the 1-year period immediately following the date the claim was paid. Audit of incentive payments shall only be for an 18-month period immediately following the date the incentive was paid. An applicant or licensee shall not deny a claim or charge a motor vehicle dealer back subsequent to the payment of the claim unless the applicant or licensee can show that the claim was false or fraudulent or that the motor vehicle dealer failed to substantially comply with the reasonable written and uniformly applied procedures of the applicant or licensee for such repairs or incentives.

(26) Notwithstanding the terms of any franchise agreement, the applicant or licensee has refused to allocate, sell, or deliver motor vehicles, charged back or withheld payments or other things of value for which the dealer is otherwise eligible under a sales promotion, program, or contest, or prevented the motor vehicle dealer from participating in any promotion, program, or contest for selling a motor vehicle to a customer who was present at the dealership and the motor vehicle dealer did not know or should not have reasonably known that the vehicle would be shipped to a foreign country. There will be a rebuttable presumption that the dealer did not know or should not have reasonably known that the vehicle would be shipped to a foreign country if the vehicle is titled in one of the fifty United States.

(27) Notwithstanding the terms of any franchise agreement, the applicant or licensee has failed or refused to indemnify and hold harmless any motor vehicle dealer against any judgment for damages, or settlements agreed to by the applicant or licensee, including, without limitation, court costs and reasonable attorneys fees, arising out of complaints, claims, or lawsuits, including, without limitation, strict liability, negligence, misrepresentation, express or implied warranty, or revocation or rescission of acceptance of the sale of a motor vehicle, to the extent the judgment or settlement relates to the alleged negligent manufacture, design, or assembly of motor vehicles, parts, or accessories. Nothing herein shall obviate the licensee's obligations pursuant to chapter 681.

(28) The applicant or licensee has published, disclosed, or otherwise made available in any form information provided by a motor vehicle dealer with respect to sales prices of motor vehicles or profit per motor vehicle sold. Other confidential financial information provided by motor vehicle dealers shall not be published, disclosed, or otherwise made publicly available except in composite form. However, this information may be disclosed with the written consent of the dealer or in response to a subpoena or order of the Department, a court or a lawful tribunal, or introduced into evidence in such a proceeding, after timely notice to an affected dealer.

(29) The applicant or licensee has failed to reimburse a motor vehicle dealer in full for the reasonable cost of providing a loaner vehicle to any customer who is having a vehicle serviced at the motor vehicle dealer, if a loaner is required by the applicant or licensee, or a loaner is expressly part of an applicant or licensee's customer satisfaction index or computation.

(30) The applicant or licensee has conducted or threatened to conduct any audit of a motor vehicle dealer in order to coerce or attempt to coerce the dealer to forego any rights granted to the dealer under ss. 320.60-320.70 or under the agreement between the licensee and the motor vehicle dealer. Nothing in this section shall prohibit an applicant or licensee from reasonably and periodically auditing a dealer to determine the validity of paid claims.

(31) From and after the effective date of enactment of this provision, the applicant or licensee has offered to any motor vehicle dealer a franchise agreement that:

(a) Requires that a motor vehicle dealer bring an administrative or legal action in a venue outside of this state, or

(b) Requires that any arbitration, mediation, or other legal proceeding be conducted outside of this state, or

(c) Requires that a law of a state other than Florida be applied to any legal proceeding between a motor vehicle dealer and a licensee.

(32) Notwithstanding the terms of any franchise agreement, the applicant or licensee has rejected or withheld approval of any proposed transfer in violation of s. 320.643 or a proposed change of executive management in violation of s. 320.644.

Section 51. Section 320.641, Florida Statutes, is amended and a new subsection (8) is added to read:

320.641 *Discontinuations, cancellations, nonrenewals, modifications, and replacement*~~Unfair cancellation~~ of franchise agreements.—

(1)(a) An applicant or licensee shall give written notice to the motor vehicle dealer and the department of the licensee's intention to discontinue, cancel, or fail to renew a franchise agreement or of the licensee's intention to modify a franchise or replace a franchise with a succeeding franchise, which modification or replacement will adversely alter the rights or obligations of a motor vehicle dealer under an existing franchise agreement or will substantially impair the sales, service obligations, or investment of the motor vehicle dealer, at least 90 days before the effective date thereof, together with the specific grounds for such action.

(b) The failure by the licensee to comply with the 90-day notice period and procedure prescribed herein shall render voidable, at the option of the motor vehicle dealer, any discontinuation, cancellation, nonrenewal, modification, or replacement of any franchise agreement. Designation of a franchise agreement at a specific location as a "nondesignated point" shall be deemed an evasion of this section and constitutes an unfair cancellation.

(2) Franchise agreements are deemed to be continuing unless the applicant or licensee has notified the department of the discontinuation of, cancellation of, failure to renew, modification of, or replacement of the agreement of any of its motor vehicle dealers; and annual renewal of the license provided for under ss. 320.60-320.70 is not necessary for any cause of action against the licensee.

(3) Any motor vehicle dealer *who receives a notice of intent to discontinue, cancel, not renew, modify, or replace* ~~whose franchise agreement is discontinued, canceled, not renewed, modified, or replaced~~ may, within the 90-day notice period, file a petition or complaint for a determination of whether such action is an unfair or prohibited discontinuation, cancellation, nonrenewal, modification, or replacement. Agreements and certificates of appointment shall continue in effect until final determination of the issues raised in such petition or complaint by the motor vehicle dealer. A discontinuation, cancellation, or nonrenewal of a franchise agreement is unfair if it is not clearly permitted by the franchise agreement; is not undertaken in good faith; is not undertaken for good cause; or is based on an alleged breach of the franchise agreement which is not in fact a material and substantial breach*; or, if the grounds relied upon for termination, cancellation, or nonrenewal have not been applied in a uniform and consistent manner by the licensee. A modification or replacement is unfair if it is not clearly permitted by the franchise agreement; is not undertaken in good faith; or is not undertaken for good cause. The applicant or licensee shall have burden of proof that such action is fair and not prohibited.*

(4) Notwithstanding any other provision of this section, the failure of a motor vehicle dealer to be engaged in business with the public for 10 consecutive business days constitutes abandonment by the dealer of his or her franchise agreement. If any motor vehicle dealer abandons his or her franchise agreement, he or she has no cause of action under this section. For the purpose of this section, a dealer shall be considered to be engaged in business with the public if a sales and service facility is open and is performing such services 8 hours a day, 5 days a week, excluding holidays. However, it will not be considered abandonment if such failure to engage in business is due to an act of God, a work stoppage, or a delay due to a strike or labor difficulty, a freight embargo, or other cause over which the motor vehicle dealer has no control, including any violation of ss. 320.60-320.70.

(5) Notwithstanding any other provision of this section, if a motor vehicle dealer has abandoned his or her franchise agreement as provided in subsection (4), the licensee may give written notice to the dealer and the department of the licensee's intention to discontinue, cancel, or fail to renew the franchise agreement with the dealer at least 15 days before the effective date thereof, specifying the grounds for such action. A motor vehicle dealer receiving such notice may file a petition or complaint for determination of whether in fact there has been an abandonment of the franchise.

(6) If the complainant motor vehicle dealer prevails, he or she shall have a cause of action against the licensee for reasonable attorneys' fees and costs incurred by him or her in such proceeding, and he or she shall have a cause of action under s. 320.697.

(7) Except as provided in s. 320.643, no replacement motor vehicle dealer shall be named for this point or location to engage in business *and the franchise agreement shall remain in effect until a final judgment is entered after all appeals are exhausted, provided that, when a motor vehicle dealer appeals a decision upholding a discontinuation, cancellation, or nonrenewal based upon abandonment or revocation of the dealer's license pursuant to s. 320.27, as lawful reasons for such discontinuation, cancellation, or nonrenewal, the franchise agreement shall remain in effect pending exhaustion of all appeals only if the motor vehicle dealer establishes a likelihood of success on appeal and that the public interest will not be harmed by keeping the franchise agreement in effect pending entry of final judgment after such appeal.* ~~prior to the final adjudication by the department on the petition or complaint and the exhaustion of all appellate remedies by the canceled or discontinued dealer, if a stay is issued by either the department or an appellate court.~~

(8) If a transfer is proposed pursuant to s. 320.643(1) or (2) after a notice of intent to discontinue, cancel, or not renew a franchise agreement is received but, prior to the final determination, including exhaustion of all appellate remedies of a motor vehicle dealer's complaint or petition contesting such action, the termination proceedings shall be stayed, without bond, during the period that the transfer is being reviewed by the licensee pursuant to s. 320.643.; During the period that the transfer is being reviewed by the licensee, pursuant to s. 320.643, the franchise agreement shall remain in full force and effect, and the motor vehicle dealer shall retain all rights and remedies pursuant to the terms and conditions of the franchise agreement and applicable law, including all rights of transfer until such time as the licensee has accepted or rejected the proposed tranfer. If the proposed transfer is rejected, the motor vehicle dealer shall retain all of its rights pursuant to s. 320.643 to an administrative determination as to whether the licensee's rejection is in compliance with the provisions of s. 320.643, and during the pendency of any such administrative proceeding, and any related appellate proceedings, the termination proceedings shall remain stayed without bond, the franchise agreement shall remain in full force and effect and the motor vehicle dealer shall retain all rights and remedies pursuant to the terms and conditions of the franchise agreement and applicable law, including all rights of transfer. If a transfer is approved by the licensee or mandated by law, the termination proceedings shall be dismissed with prejudice as moot. The subsection (8) applies only to the first two proposed transfers pursuant to s. 320.643(1) or (2) after notice of intent to discontinue, cancel, or not renew is received.

Section 52. Section 320.643, Florida Statutes, is amended to read:

320.643 Transfer, assignment, or sale of franchise agreements.—

(1) A motor vehicle dealer shall not transfer, assign, or sell a franchise agreement to another person unless the dealer first notifies the licensee of the dealer's decision to make such transfer, by written notice setting forth the prospective transferee's name, address, financial qualification, and business experience during the previous 5 years. The licensee shall, in writing, within 60 days after receipt of such notice, inform the dealer either of the licensee's approval of the transfer, assignment, or sale or of the unacceptability of the proposed transferee, setting forth the material reasons for the rejection. If the licensee does not so inform the dealer within the 60-day period, its approval of the proposed transfer is deemed granted. No such transfer, assignment, or sale will be valid unless the transferee agrees in writing to comply with

all requirements of the franchise then in effect. ~~Notwithstanding the terms of any franchise agreement, the acceptance by the licensee of the proposed transferee shall not be unreasonably withheld.~~ For the purposes of this section, the refusal by the licensee to accept a proposed transferee who is of good moral character and who otherwise meets the written, reasonable, and uniformly applied standards or qualifications, if any, of the licensee relating to *financial qualifications of the transferee and* the business experience of *the transferee or* the transferee's executive management ~~required by the licensee of its motor vehicle dealers~~ is presumed to be unreasonable. A *motor vehicle dealer whose proposed sale is rejected* ~~licensee who receives such notice~~ may, within 60 days following such receipt *of such rejection*, file with the department a ~~verified~~ complaint for a determination that the proposed transferee *has been rejected in violation of* ~~is not a person qualified to be a transferee under~~ this section. The licensee has the burden of proof with respect to all issues raised by such ~~verified~~ complaint. The department shall determine, and enter an order providing, that the proposed transferee is either qualified or is not and cannot be qualified for specified reasons, or the order may provide the conditions under which a proposed transferee would be qualified. If the licensee fails to file such *a response to the motor vehicle dealer's* ~~verified~~ complaint within *30*~~such 60~~-day*s after receipt of the complaint, unless the parties agree in writing to an extension,* ~~period~~ or if the department, after a hearing, ~~dismisses the complaint or~~ renders a decision other than one disqualifying the proposed transferee, the franchise agreement between the motor vehicle dealer and the licensee shall be deemed amended to incorporate such transfer or amended in accordance with the determination and order rendered, effective upon compliance by the proposed transferee with any conditions set forth in the determination or order.

(2)(a) Notwithstanding the terms of any franchise agreement, a licensee shall not, by contract or otherwise, fail or refuse to give effect to, prevent, prohibit, or penalize, or attempt to refuse to give effect to, prevent, prohibit, or penalize, any motor vehicle dealer or any proprietor, partner, stockholder, owner, or other person who holds or otherwise owns an interest therein from selling, assigning, transferring, alienating, or otherwise disposing of, in whole or in part, the equity interest of any of them in such motor vehicle dealer to any other person or persons, including a corporation established or existing for the purpose of owning or holding the stock or ownership interests of other entities, unless the licensee proves at a hearing pursuant to this section that such sale, transfer, alienation, or other disposition is to a person who is not, or whose controlling executive management is not, of good moral character. A motor vehicle dealer, or any proprietor, partner, stockholder, owner, or other person who holds or otherwise owns an interest in the motor vehicle dealer, who desires to sell, assign, transfer, alienate, or otherwise dispose of any interest in such motor vehicle dealer shall notify, or cause the proposed transferee to so notify, the licensee, in writing, of the identity and address of the proposed transferee. A licensee who receives such notice may, within 60 days following such receipt, *notify the motor vehicle dealer in writing* ~~file with the department a verified complaint for a determination~~ that the proposed transferee is not a person qualified to be a transferee under this section *and setting forth the material reasons for such rejection. Failure of the licensee to notify the motor vehicle dealer within the 60-day period of such rejection shall be deemed an approval of the transfer. Any person whose proposed sale of stock is rejected may file within 60 days of receipt of such rejection a complaint with the Department alleging that the rejection was in violation of the law or the franchise agreement.* The licensee has the burden of proof with respect to all issues raised by such ~~verified~~ complaint. The department shall determine, and enter an order providing, that the proposed transferee either is qualified or is not and cannot be qualified for specified reasons; or the order may provide the conditions under which a proposed transferee would be qualified. If *the licensee fails to file a response to the motor vehicle dealer's complaint within 30 days of receipt of the complaint, unless the parties agree in writing to an extension, or if* ~~the licensee fails to file such verified complaint within such 60-day period or if~~ the department, after a hearing, ~~dismisses the complaint or~~ renders a decision *on the complaint* other than one disqualifying the proposed transferee, the transfer *shall be deemed approved* ~~franchise agreement between the motor vehicle dealer and the licensee shall be deemed amended to incorporate such transfer or amended~~ in accordance with the determination and order rendered, effective upon compliance by the proposed transferee with any conditions set forth in the determination or order.

(b) During the pendency of any such hearing, the franchise agreement of the motor vehicle dealer shall continue in effect in accordance with its terms. The department shall expedite any determination requested under this section.

(3) Notwithstanding the terms of any franchise agreement, the acceptance by the licensee of the proposed transferee shall not be unreasonably withheld. For the purposes of this section, the refusal by the licensee to accept a proposed transferee who satisfies the criteria set forth in subsection (1) or (2) is presumed to be unreasonable.

Section 53. Section 320.645, Florida Statutes, is amended to read:

320.645 Restriction upon ownership of dealership by licensee.—

(1) No licensee, including a manufacturer or agent of a manufacturer, or any parent, subsidiary, common entity, or officer or representative of the licensee shall own or operate, either directly or indirectly, a motor vehicle dealership in this state for the sale or service of motor vehicles which have been or are offered for sale under a franchise agreement with a motor vehicle dealer in this state. *A licensee may not be issued a motor vehicle dealer license pursuant to s. 320.27.* However, no such licensee will be deemed to be in violation of this section:

(a) When operating a motor vehicle dealership for a temporary period, not to exceed 1 year, during the transition from one owner of the motor vehicle dealership to another;

(b) When operating a motor vehicle dealership temporarily for a reasonable period *for the exclusive purpose of broadening the diversity of its dealer body and enhancing opportunities for qualified persons who are part of a group that has historically been underrepresented in its dealer body, or for other qualified persons who the licensee deems lack the resources to purchase or capitalize the dealership outright*, ~~not to exceed 1 year, or~~ in a bona fide relationship with an independent person, other than a licensee or its agent or affiliate, who has made a significant investment that is subject to loss in the dealership *within the dealership's first year of operation* and who can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions; or

(c) If the department determines, after a hearing on the matter, pursuant to chapter 120, at the request of any person, that there is no independent person available in the community or territory to own and operate the motor vehicle dealership in a manner consistent with the public interest.

In any such case, the licensee must continue to make the motor vehicle dealership available for sale to an independent person at a fair and reasonable price. Approval of the sale of such a motor vehicle dealership to a proposed motor vehicle dealer shall not be unreasonably withheld.

(2) As used in this section, the term:

(a) "Independent person" is a person who is not an officer, director, or employee of the licensee.

(b) "Reasonable terms and conditions" requires that profits from the dealership are reasonably expected to be sufficient to allow full ownership of the dealership by the independent person within a reasonable time period not to exceed 10 years, which time period may be extended if there is a reasonable basis to do so and is not being sought to evade the purpose of this section; that the independent person has sufficient control to permit acquisition of ownership; and that the relationship cannot be terminated solely to avoid full ownership. The terms and conditions are not reasonable if they preclude the independent person from an expedited purchase of the dealership using a monetary source other than profits from the dealership's operation; provided, however, that the independent person must pay or make an agreement to pay to the licensee any and all reasonable prepayment charges and costs, including all unrecouped restored losses, associated with the expedited

purchase of the dealership. For the purpose of this section, unrecouped restored losses are monies that the manufacturer has provided to the dealership to restore losses of the dealership that the manufacturer has not been paid back through profits of the dealership.

(c) "Significant investment" means a reasonable amount, considering the reasonable capital requirements of the dealership, acquired and obtained from sources other than the licensee or any of its affiliates and not encumbered by the person's interest in the dealership.

(3) Nothing in this section shall prohibit, limit, restrict, or impose conditions on:

(a) The business activities, including, without limitation, the dealings with motor vehicle manufacturers and their representatives and affiliates, of any person that is primarily engaged in the business of short term not to exceed 12 months rental of motor vehicles and industrial and construction equipment and activities incidental to that business, provided that:

1. Any motor vehicles sold by such person are limited to used motor vehicles that have been previously used exclusively and regularly by such person in the conduct of its rental business and used motor vehicles traded in on motor vehicles sold by such person;

2. Warranty repairs performed under any manufacturer's new vehicle warranty by such person on motor vehicles are limited to those motor vehicles that it owns. As to previously owned vehicles, warranty repairs can be performed only if pursuant to a motor vehicle service agreement as defined in chapter 634, part I, issued by such person or an express warranty issued by such person on the retail sale of those vehicles previously owned; and

3. Motor vehicle financing provided by such person to retail consumers for motor vehicles is limited to used motor vehicles sold by such person in the conduct of its business; or

(b) The direct or indirect ownership, affiliation or control of a person described in paragraph (a) of this subsection.

(4) This section does not apply to any dealership that is owned, controlled, or operated by a licensee on July 1, 2000.

~~(2) This section shall not be construed to prohibit any licensee from owning or operating a motor vehicle dealership in this state if such dealership was owned or operated by the licensee on May 31, 1984.~~

Section 54. Subsection (2) of section 320.699, Florida Statutes, is amended to read:

320.699 Administrative hearings and adjudications; procedure.—

(2) If a written objection or notice of protest is filed with the department under paragraph (1)(b), a hearing shall be held *not sooner than 180 days nor later than 240 days from* ~~within 180 days of~~ the date of filing of the first objection or notice of protest, unless the time is extended by the *Administrative Law Judge for good cause shown. This subsection shall govern the schedule of hearings in lieu of any other provision of law with respect to administrative hearings conducted by the Department of Highway Safety and Motor Vehicles or the Division of Administrative Hearings, including performance standards of state agencies, which may be included in current and future appropriations acts.* ~~hearing officer for good cause shown. If a hearing is not scheduled within said time, any party may request such hearing which shall be held forthwith by the hearing officer.~~

Section 55. Section 320.6991, Florida Statutes, is created to read:

Section 320.6991 Severability.—If a provision of ss. 320.60-320.70 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of ss. 320.60-320.70 that can be given effect without the invalid provision or application, and to this end the provisions of 320.60-320.70 are severable.

And the title is amended as follows:

On page 6, lines 17-19
remove from the title of the bill: all of said lines

and insert in lieu thereof: amending s. 320.60, F.S.; revising definitions used in ss. 320.61-320.70, F.S.; amending s. 320.61, F.S.; amending procedures to be followed when a complaint of unfair cancellation of a dealer agreement has been made by a motor vehicle dealer against a licensee; defining the term "final decision"; amending s. 320.64, F.S.; providing penalties and remedies for violations; deleting subsections (13) and (16); amending subsection (18); creating subsections (22) through (32) and renumbering sections; amending s. 320.641, F.S.; providing procedures relating to discontinuations, cancellations, nonrenewals, modifications, and replacements of franchise agreements; amending s. 320.643, F.S.; amending provisions relating to the transfer, assignment, or sale of franchise agreements; amending s. 320.645, F.S.; amending provisions relating to restrictions upon a licensee's owning a dealership; providing for "dealer development arrangements"; providing exceptions; amending s. 320.699, F.S.; amending procedures for administrative hearings; creating s. 320.6991; providing for severability; amending s. 320.691

Rep. Bense moved the adoption of the amendment, which was adopted.

Representative(s) Russell offered the following:

(Amendment Bar Code: 762081)

Amendment 8 (with title amendment)—On page 102, between lines 10 and 11,

insert:

Section 65. *Driver Licensing Study Commission created.—*

(1) The Driver Licensing Study Commission is created within the Department of Highway Safety and Motor Vehicles. The commission shall consist of eight members, to be appointed as follows:

(a) The Speaker of the House of Representatives shall appoint two members, at least one of whom must have business managerial experience in the private sector.

(b) The President of the Senate shall appoint two members, at least one of whom must have business managerial experience in the private sector.

(c) The Governor shall appoint three members, at least one of whom must have information technology experience relating to systems utilizing complex databases.

(d) The Executive Director of the Department of Highway Safety and Motor Vehicles shall serve as an ex officio, nonvoting member of the commission.

(2) The commission shall elect a chair and a vice chair from its membership at its first meeting.

(3) The commission shall be appointed no later than June 15, 2001, and its first meeting shall be held no later than July 15, 2001. The commission shall meet periodically at the request of the chair.

(3) Members of the commission shall serve without compensation, except for per diem and reimbursement for travel expenses as provided by s. 112.061, Florida Statutes.

(4) A vacancy in the commission shall be filled within 30 days after its occurrence in the same manner as the original appointment.

(5) The Department of Highway Safety and Motor Vehicles shall serve as primary staff to the commission, providing technical and administrative assistance and ensuring that commission meetings are electronically recorded. Such recordings shall be preserved pursuant to chs. 119 and 257, Florida Statutes.

(6) The commission shall study and make recommendations on the feasibility of using privatization, outsourcing, and public-private partnership techniques in the delivery of driver's license services. The

commission shall review local government driver's licensing programs and shall review results available from driver's licensing privatization pilot projects in the state. The study shall address the following issues:

(a) Identification of functions that are appropriate for privatization or outsourcing and functions for which the public sector should maintain direct control.

(b) Technology and re-engineering of business processes to achieve greater efficiencies, ultimately resulting in cost reduction.

(c) The format and type of necessary procurement procedures and oversight and audit mechanisms to protect the interests of the State of Florida in dealings with private service providers.

(d) Contractual controls to ensure appropriate service delivery and customer satisfaction levels.

(e) Safeguards for control of personal information.

(f) Ways to encourage the use of alternative service delivery options.

(g) Service center size and location to ensure that the public is best served.

(h) Issues related to utilization and placement of current public driver's license employees in public-private licensing enterprises.

(i) Any other issues the commission deems relevant to the privatization of drivers licensing functions.

(7) The commission shall prepare an initial report of its findings and recommendations on the issues listed in subsection (6) and shall submit the report to the Governor, the Speaker of the House of Representatives, and the President of the Senate on or before January 1, 2002. The commission shall prepare a final report of its findings and recommendations, taking into consideration the results of any pilot projects for delivery of driver's license services, and shall submit the report to the Governor, the Speaker of the House of Representatives, and the President of the Senate on or before January 1, 2003. The commission is dissolved at the time it submits its final report.

Section 66. *There is appropriated from the Highway Safety Operating Trust Fund to the Driver Licensing Study Commission the sum of $100,000 for the purpose of conducting the study required in this act.*

And the title is amended as follows:

On page 8, line 13 after: offender;

insert: creating the Driver Licensing Study Commission within the Department of Highway Safety and Motor Vehicles; providing for membership and appointment; providing for staff; providing for duties of the commission; providing for dissolution of the commission upon submission of a required report; providing an appropriation;

Rep. Russell moved the adoption of the amendment, which was adopted.

Representative(s) Russell offered the following:

(Amendment Bar Code: 522217)

Amendment 9—On page 128, lines 17 through 20,
remove from the bill: all of said lines

and insert in lieu thereof: *(5) The members of the advisory committee shall serve without compensation, but shall be paid travel and per diem as provided in s. 112.061 while in the performance of their official duties.*

Rep. Russell moved the adoption of the amendment, which was adopted.

Representative(s) Lynn offered the following:

(Amendment Bar Code: 515939)

Amendment 10—On page 143, lines 9 & 10,
remove from the bill: all of said lines

and insert in lieu thereof: *by non-Florida residents, off-highway vehicles used for agricultural purposes, or off-highway vehicles rented for use on public beaches by concessionaires who are franchised by the public entities controlling those beaches, must be registered within 30 days after purchase.*

Rep. Russell moved the adoption of the amendment.

Representative(s) Russell offered the following:

(Amendment Bar Code: 124539)

Amendment 1 to Amendment 10—On page 1, line 18
remove from the amendment: the words *"used for"*

and insert in lieu thereof: *in use for specific*

Rep. Russell moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 10**, as amended, which was adopted.

On motion by Rep. Weissman, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Weissman offered the following:

(Amendment Bar Code: 161863)

Amendment 11 (with title amendment)—On page 11, line 16,

insert:

Section 1. Section 860.146, Florida Statutes, is created to read:

860.146 Fake airbags; junk-filled airbag compartment.—

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

(a) "Fake airbag" means any item other than an air bag that was designed in accordance with federal safety regulations for a given make, model, and year of motor vehicle as part of a motor vehicle inflatable restraint system.

(b) "Junk-filled airbag compartment" means an airbag compartment that is filled with any substance that does not function in the same manner or to the same extent as an airbag to protect vehicle occupants in a vehicle crash. The term does not include a compartment from which an airbag has deployed if there is no concealment of the deployment.

(2) It is unlawful for anyone to knowingly purchase, sell, or install on any vehicle any fake airbag or junk-filled airbag compartment. Any person who violates this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

And the title is amended as follows:

On page 1, line 3,

after the semicolon insert: creating s. 860.146, F.S.; defining the terms "fake airbag" and "junk-filled airbag compartment"; prohibiting the sale, purchase, or installation of fake airbags or junk-filled airbag compartments; providing criminal penalties;

Rep. Weissman moved the adoption of the amendment, which was adopted.

On motion by Rep. Goodlette, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Goodlette offered the following:

(Amendment Bar Code: 342225)

Amendment 12 (with title amendment)—On page 56, line 5, through page 59, line 28,
remove from the bill: all of said lines.

And the title is amended as follows:

On page 4, lines 7 through 14,
remove from the title of the bill: all of said lines.

and insert in lieu thereof: amending s. 320.02, F.S.;

Rep. Goodlette moved the adoption of the amendment.

Rep. Kyle moved that, under Rule 12.2(c), a late-filed amendment be allowed for consideration, which was not agreed to.

On motion by Rep. Peterman, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Peterman offered the following:

(Amendment Bar Code: 944675)

Amendment 13 (with title amendment)—On page 153, between lines 16 & 17,

insert:

Section 105. Subsection (1) of section 322.056, Florida Statutes, is amended to read:

322.056 Mandatory revocation or suspension of, or delay of eligibility for, driver's license for persons under age 18 found guilty of certain alcohol, drug, or tobacco offenses; prohibition.—

(1) Notwithstanding the provisions of s. 322.055, if a person under 18 years of age is found guilty of or delinquent for a violation of s. 562.11(2), s. 562.111, or chapter 893, and:

(a) The person is eligible by reason of age for a driver's license or driving privilege, the court shall direct the department to revoke or to withhold issuance of his or her driver's license or driving privilege for a period of:

1. Not less than 6 months and not more than 1 year for the first violation.

2. Two years, for a subsequent violation.

(b) The person's driver's license or driving privilege is under suspension or revocation for any reason, the court shall direct the department to extend the period of suspension or revocation by an additional period of:

1. Not less than 6 months and not more than 1 year for the first violation.

2. Two years, for a subsequent violation.

(c) The person is ineligible by reason of age for a driver's license or driving privilege, the court shall direct the department to withhold issuance of his or her driver's license or driving privilege for a period of:

1. Not less than 6 months and not more than 1 year after the date on which he or she would otherwise have become eligible, for the first violation.

2. Two years after the date on which he or she would otherwise have become eligible, for a subsequent violation.

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 in s. 322.271, if the person is otherwise qualified for such a license.

And the title is amended as follows:

On page 1, line 3 after the semicolon

insert: amending s. 322.056, F.S.; authorizing the court to direct the Department of Highway Safety and Motor Vehicles to issue a driver's license restricted to business or employment purposes only to certain persons under age 18 found guilty of certain alcohol, drug, or tobacco offenses;

Rep. Peterman moved the adoption of the amendment, which was adopted.

THE SPEAKER IN THE CHAIR

Reconsideration

On motion by Rep. Kendrick, the House reconsidered the vote by which **Amendment 1** was laid on the table earlier today.

The question recurred on the adoption of Amendment 1, which failed of adoption.

The vote was:

Session Vote Sequence: 198

Yeas—34

Allen	Gannon	Justice	Ryan
Andrews	Garcia	Lerner	Seiler
Ausley	Gelber	Machek	Slosberg
Bullard	Gottlieb	Meadows	Sobel
Cantens	Greenstein	Peterman	Wiles
Cusack	Henriquez	Prieguez	Wilson
Farkas	Heyman	Rich	Wishner
Fields	Holloway	Ritter	
Frankel	Joyner	Romeo	

Nays—75

The Chair	Bucher	Hogan	Murman
Alexander	Byrd	Jennings	Needelman
Argenziano	Carassas	Johnson	Negron
Arza	Detert	Jordan	Paul
Attkisson	Diaz de la Portilla	Kallinger	Pickens
Atwater	Diaz-Balart	Kendrick	Richardson
Baker	Dockery	Kilmer	Ross
Ball	Fasano	Kottkamp	Rubio
Barreiro	Fiorentino	Kravitz	Russell
Baxley	Flanagan	Kyle	Simmons
Bean	Gardiner	Lacasa	Siplin
Bennett	Gibson	Lee	Smith
Bense	Goodlette	Littlefield	Sorensen
Benson	Green	Mack	Stansel
Berfield	Haridopolos	Mahon	Trovillion
Betancourt	Harper	Maygarden	Wallace
Bowen	Harrell	Mealor	Waters
Brown	Harrington	Melvin	Weissman
Brummer	Hart	Miller	

Votes after roll call:
Yeas—McGriff
Nays to Yeas—Weissman

The question recurred on the adoption of **Amendment 12**, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1429—A bill to be entitled An act relating to automatic external defibrillators; creating s. 768.1325, F.S.; creating the Cardiac Arrest Survival Act; providing definitions; providing immunity from liability for certain persons who use automatic external defibrillators under certain circumstances; providing exceptions; repealing s. 768.13(4), F.S., relating to the Good Samaritan Act, to delete reference to the use of an automatic external defibrillator in certain emergency situations; amending s. 401.2915, F.S.; revising a provision of law relating to automatic external defibrillators to conform to the act; providing an effective date.

—was read the second time by title.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 571015)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 768.1325, Florida Statutes, is created to read:

768.1325 Cardiac Arrest Survival Act; immunity from civil liability.—

(1) This section may be cited as the "Cardiac Arrest Survival Act."

(2) As used in this section:

(a) "Perceived medical emergency" means circumstances in which the behavior of an individual leads a reasonable person to believe that the individual is experiencing a life-threatening medical condition that requires an immediate medical response regarding the heart or other cardiopulmonary functioning of the individual.

(b) "Automated external defibrillator device" means a defibrillator device that:

1. Is commercially distributed in accordance with the Federal Food, Drug, and Cosmetic Act.

2. Is capable of recognizing the presence or absence of ventricular fibrillation, and is capable of determining without intervention by the user of the device whether defibrillation should be performed.

3. Upon determining that defibrillation should be performed, is able to deliver an electrical shock to an individual.

4. In the case of a defibrillator device that may be operated in either an automatic or a manual mode, is set to operate in the automatic mode.

(c) "Harm" means damage or loss of any and all types, including, but not limited to, physical, nonphysical, economic, noneconomic, actual, compensatory, consequential, incidental, and punitive damages or losses.

(3) Notwithstanding any other provision of law to the contrary, and except as provided in subsection (4), any person who uses or attempts to use an automated external defibrillator device on a victim of a perceived medical emergency is immune from civil liability for any harm resulting from the use or attempted use of such device, or any act or failure to act in providing or arranging further medical treatment. In addition, any person who acquired the device is immune from such liability, if the harm was not due to the failure of such acquirer of the device to:

(a) Notify the local emergency medical services medical director of the most recent placement of the device within a reasonable period of time after the device was placed;

(b) Properly maintain and test the device; or

(c) Provide appropriate training in the use of the device to an employee or agent of the acquirer when the employee or agent was the person who used the device on the victim, except that such requirement of training does not apply if:

1. The employee or agent was not an employee or agent who would have been reasonably expected to use the device; or

2. The period of time elapsing between the engagement of the person as an employee or agent and the occurrence of the harm, or between the acquisition of the device and the occurrence of the harm in any case in which the device was acquired after engagement of the employee or agent, was not a reasonably sufficient period in which to provide the training.

(4) Immunity under subsection (3) does not apply to a person if:

(a) The harm involved was caused by that person's willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the victim who was harmed;

(b) The person is a hospital, clinic, or other entity whose primary purpose is providing health care directly to patients, and the harm was caused by an employee or agent of the entity who used the device while acting within the scope of the employment or agency of the employee or agent;

(c) The person is an acquirer of the device who leased the device to a health care entity, or who otherwise provided the device to such entity for compensation without selling the device to the entity, and the harm was caused by an employee or agent of the entity who used the device while acting within the scope of the employment or agency of the employee or agent; or

(d) The person is the manufacturer of the device.

(5) This section does not establish any cause of action. This section does not require that an automated external defibrillator device be placed at any building or other location or require an acquirer to make available on its premises one or more employees or agents trained in the use of the device.

Section 2. *Subsection (4) of section 768.13, Florida Statutes, is repealed.*

Section 3. Section 401.2915, Florida Statutes, is amended to read:

401.2915 *Automated* ~~Automatic~~ external defibrillators.—It is the intent of the Legislature that an *automated* ~~automatic~~ external defibrillator may be used by any person for the purpose of saving the life of another person in cardiac arrest. In order to ensure public health and safety:

(1) All persons who ~~have access to or~~ use an *automated* ~~automatic~~ external defibrillator must obtain appropriate training, to include completion of a course in cardiopulmonary resuscitation or successful completion of a basic first aid course that includes cardiopulmonary resuscitation training, and demonstrated proficiency in the use of an *automated* ~~automatic~~ external defibrillator;

(2) Any person or entity in possession of an *automated* ~~automatic~~ external defibrillator is encouraged to register with the local emergency medical services medical director the existence and location of the *automated* ~~automatic~~ external defibrillator; and

(3) Any person who uses an *automated* ~~automatic~~ external defibrillator is required to activate the emergency medical services system as soon as possible upon use of the *automated* ~~automatic~~ external defibrillator.

Section 4. *No later than January 1, 2003, the Secretary of the Department of Health shall adopt rules to establish guidelines on the appropriate placement of automated external defibrillator devices in buildings or portions of buildings owned or leased by the state, and shall establish, by rule, recommendations on procedures for the deployment of automated external defibrillator devices in such buildings in accordance with the guidelines. The Secretary of the Department of Management Services shall assist the Secretary of the Department of Health in the development of the guidelines. The guidelines for the placement of the automated external defibrillators shall take into account the typical number of employees and visitors in the buildings, the extent of the need for security measures regarding the buildings, special circumstances in buildings or portions of buildings such as high electrical voltages or extreme heat or cold, and such other factors as the Secretaries determine to be appropriate. The Secretary of the Department of Health's recommendations for deployment of automated external defibrillators in buildings or portions of buildings owned or leased by the state shall include:*

(a) A reference list of appropriate training courses in the use of such devices, including the role of cardiopulmonary resuscitation;

(b) The extent to which such devices may be used by laypersons;

(c) Manufacturer recommended maintenance and testing of the devices; and

(d) Coordination with local emergency medical services systems regarding the incidents of use of the devices.

In formulating these guidelines and recommendations, the Secretary may consult with all appropriate public and private entities, including national and local public health organizations that seek to improve the survival rates of individuals who experience cardiac arrest.

Section 5. This act shall take effect October 1, 2001.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: An act relating to automated external defibrillators; creating s. 768.1325, F.S.; creating the Cardiac Arrest Survival Act; providing definitions; providing immunity from liability for certain persons who use automated external defibrillators under certain circumstances; providing exceptions; repealing s. 768.13(4), F.S., relating to the Good Samaritan Act, to delete reference to the use of an automatic external defibrillator in certain emergency situations; amending s. 401.2915, F.S.; revising a provision of law relating to automatic external defibrillators to conform to the act; directing the Department of Health, with assistance from the Department of Management Services, to adopt rules to establish guidelines on the appropriate placement and deployment of automated external defibrillator devices in certain buildings owned or leased by the state; specifying factors to be considered in device placement and deployment; providing an effective date.

WHEREAS, over 700 lives are lost every day to sudden cardiac arrest in the United States alone, and

WHEREAS, two out of every three sudden cardiac deaths occur before a victim can reach a hospital, and

WHEREAS, more than 95 percent of these cardiac arrest victims will die, many because of lack of readily available lifesaving medical equipment, and

WHEREAS, with current medical technology, up to 30 percent of cardiac arrest victims could be saved if victims had access to immediate medical response, including defibrillation and cardiopulmonary resuscitation, and

WHEREAS, once a victim has suffered a cardiac arrest, every minute that passes before returning the heart to a normal rhythm decreases the chances of survival by 10 percent, and

WHEREAS, most cardiac arrests are caused by an abnormal heart rhythm called ventricular fibrillation, which occurs when the heart's electrical system malfunctions, causing a chaotic rhythm that prevents the heart from pumping oxygen to the victim's brain and body, and

WHEREAS, communities that have implemented programs ensuring widespread access to defibrillators, combined with appropriate training, maintenance, and coordination with local emergency medical systems have dramatically improved the survival rates from cardiac arrest, and

WHEREAS, automated external defibrillator devices have been demonstrated to be safe and effective, even when used by laypersons, since the devices are designed not to allow a user to administer a shock until after the device has analyzed a victim's heart rhythm and determined that an electric shock is required, and

WHEREAS, increased public awareness regarding automated external defibrillator devices will greatly facilitate their adoption, and

WHEREAS, limiting the liability of users and acquirers of automated external defibrillator devices in emergency situations may encourage the use of the devices, and result in saved lives, NOW, THEREFORE,

Rep. Murman moved the adoption of the amendment.

Representative(s) Byrd offered the following:

(Amendment Bar Code: 241421)

Amendment 1 to Amendment 1—On page 2, lines 10 through 12, remove from the amendment: all of said lines

Rep. Murman moved the adoption of the amendment to the amendment.

On motion by Rep. Byrd, further consideration of **HB 1429**, with pending amendment, was temporarily postponed under Rule 11.10.

CS/CS/HB 1053—A bill to be entitled An act relating to transportation; amending s. 20.23, F.S.; revising language with respect to the organization of the department; deleting responsibilities assigned to the secretary; providing that the secretary or his or her designee shall submit a report on major actions at each meeting of the Florida Transportation Commission; revising language with respect to assistant secretaries; creating the Office of Comptroller; deleting language with respect to the inspector general and comptroller; changing the Turnpike District into a turnpike enterprise; giving the Secretary of Transportation the authority to exempt the turnpike enterprise from department policies, procedures, and standards; giving the secretary authority to promulgate rules that will assist the turnpike enterprise in using best business practices; amending s. 110.205, F.S.; correcting cross references, to conform; amending s. 189.441, F.S.; removing an exemption to s. 287.055, F.S.; amending s. 206.46, F.S.; revising language with respect to the State Transportation Trust Fund; increasing the debt service cap; amending s. 255.20, F.S.; exempting certain transportation projects for certain competitive bidding requirements; amending s. 287.005, F.S.; increasing the amount defining a continuing contract; amending s. 311.07, F.S.; adding seaport security projects to the types of projects eligible for these funds; exempting seaport security projects from matching requirements; amending s. 311.09, F.S.; directing seaports to abide by the provisions of s. 287.055, F.S., related to competitive negotiation; amending s. 316.302, F.S.; revising a date concerning commercial motor vehicles to conform to federal regulations; amending s. 316.3025, F.S.; updating a cross reference to federal trucking regulations; amending s. 316.515, F.S.; deleting a requirement for a department permit with respect to the height of automobile transporters; amending s. 316.535, F.S.; adding weight requirements for certain commercial trucks; amending s. 316.545, F.S.; correcting a cross reference; amending s. 330.27, F.S.; revising definitions relating to aviation; providing definitions; amending s. 316.650, F.S.; requiring the issuance of a copy of the Traffic School Reference Guide with traffic citations; amending s. 318.14, F.S.; deleting reference to a restriction on the number of elections a person may make to attend a basic driver improvement course; amending s. 318.1451, F.S.; providing an assessment fee with respect to driver improvement courses for persons who are ordered by the court to attend and for certain other violations; amending s. 322.0261, F.S.; deleting reference to a time period and increasing the amount of damage required with respect to a crash for the screening of certain crash reports; creating s. 322.02615, F.S.; providing for mandatory driver improvement courses for certain violations; amending s. 322.05, F.S.; adding a condition for the issuance of a driver's license to certain persons; amending s. 330.29, F.S.; clarifying the department's rulemaking authority with respect to airports; amending s. 330.30, F.S.; eliminating airport license fees; revising language with respect to the department's site approval process; eliminating on-site inspections of private airports; creating a registration process for private airports; providing conditions; deleting obsolete language; providing exceptions; amending s. 330.35, F.S.; deleting obsolete language with respect to airport zoning; amending s. 330.36, F.S.; providing conditions under which municipalities may prohibit or otherwise regulate seaplanes; amending s. 332.004, F.S.; adding off-airport noise mitigation projects to the projects eligible for federal and state matching funds; amending s. 334.044, F.S.; authorizing the department to expend promotional money on scenic highway projects; authorizing the department to delegate its drainage permitting responsibilities to other governmental entities under certain circumstances; amending s. 334.193, F.S.; providing for employee bidding by department employees; amending s. 334.30, F.S.; clarifying existing program for public-private transportation projects; deleting requirement for legislative approval except for projects requiring more than $50 million from the State Transportation Trust Fund; specifying notice and selection requirements for projects under this section; allowing Internal Revenue Service Code chapter 63-20 corporations to participate in these public-private transportation projects; providing conditions for using loans from Toll Facilities Revolving Trust Fund; deleting obsolete language; creating s. 335.066, F.S.; creating the Safe Paths to Schools Program; directing the department to establish the program and to authorize establishment of a grant program for purposes of funding the program; authorizing the department to adopt rules to administer the program; amending s. 335.141, F.S.; eliminating the

requirement that the department regulate all train speeds; amending s. 336.12, F.S.; creating process for homeowners' associations to be conveyed roads and rights-of-way abandoned by a county governing board for the purpose of converting a subdivision to a gated neighborhood; amending s. 336.41, F.S.; clarifying that a contract already qualified by the Department of Transportation is presumed qualified to bid on county road projects; amending s. 336.44, F.S.; replacing the term "competent" with "responsible bidder"; amending s. 337.107, F.S.; authorizing the department to enter into design-build contracts that include right-of-acquisition services; amending s. 337.11, F.S.; raising the cap on certain contracts into which the department can enter without first obtaining bids; adding enhancement projects to the types of projects that can be combined into a design-build contract; specifying that construction on design-build projects may not begin until certain conditions have been met; amending s. 337.14, F.S.; clarifying that contractors qualified by the Department of Transportation are presumed qualified to bid on projects for expressway authorities; amending s. 337.401, F.S.; providing that for projects on public roads or rail corridors under the department's jurisdiction, a utility relocation schedule and relocation agreement may be executed in lieu of a written permit; amending s. 339.08, F.S.; clarifying language with respect to the use of moneys in the State Transportation Trust Fund; amending s. 339.12, F.S.; providing that local governments which perform projects for the department are reimbursed promptly; specifying that certain counties that use revenues from a 1-cent local option sales tax for state transportation improvement projects not be penalized by receiving fewer state transportation funds; amending s. 339.135, F.S.; conforming language with respect to the tentative work program; conforming a reference to the turnpike district; amending s. 339.137, F.S.; revising definitions; amending criteria for program eligibility; directing the advisory council to develop methodology for ranking and prioritizing project proposals; directing the Florida Transportation Commission to review the proposed project list before submittal to the Legislature; amending s. 341.051, F.S.; deleting obsolete language; amending s. 341.302, F.S.; deleting language requiring the department to perform certain railroad regulation tasks which are federal responsibilities; amending s. 348.0003, F.S.; giving a county governing body authority to set qualifications, terms of office, and obligations for the members of expressway authorities within their jurisdictions; amending ss. 348.0012, 348.754, 348.7543, 348.7544, 348.7545, 348.755, and 348.765, F.S.; giving the Orlando-Orange County Expressway Authority the ability to issue bonds, rather than issuance through the state Division of Bond Finance; amending s. 373.4137, F.S.; allowing transportation authorities created pursuant to chs. 348 and 349, F.S., to create environmental impact inventories and participate in a mitigation program to offset adverse impacts caused by their transportation projects; amending s. 475.011, F.S.; granting exemption from Florida licensing for certain firms or their employees under contract with the state or a local governmental entity to provide right-of-way acquisition services for property subject to condemnation; amending s. 479.15, F.S.; revising language with respect to harmony of regulations concerning lawfully erected signs; creating s. 479.25, F.S.; authorizing local governments to enter into agreements which allow outdoor signs to be erected above sound barriers; creating s. 70.20, F.S.; creating process for governmental entities and sign owners to enter into relocation and reconstruction agreements related to outdoor advertising signs; providing for just compensation to sign owners under certain conditions; amending s. 496.425, F.S.; redefining the term "facility"; creating s. 496.4256, F.S.; providing that a governmental entity or authority that owns or operates welcome centers, wayside parks, service plazas, or rest areas on the state highway system are not required to issue a permit to, or grant access to, any person for the purpose of soliciting funds; repealing s. 316.3027, F.S.; relating to identification requirements on certain commercial motor vehicles; amending s. 337.408, F.S.; revising language with respect to the regulation of benches, transit shelters, and waste disposal receptacles within rights-of-way; providing for regulation of street light poles; amending s. 380.0651, F.S.; excluding certain wholesaling facilities from development-of-regional-impact review; deleting provision which provides the development-of-regional-impact statewide guidelines and standards for airports; deleting provision which provides for certain residential developments located in one county to be treated as located in an adjacent less populated county; amending s. 768.28, F.S.; providing that certain operators of rail services and providers of security for rail services are agents of the state for certain purposes; providing for indemnification; repealing s. 316.610(3), F.S.; relating to certain inspections of certain commercial motor vehicles; amending s. 337.025, F.S.; eliminating cap on innovative highway projects for the turnpike enterprise; amending s. 337.11, F.S.; providing an exemption for a turnpike enterprise project; amending s. 338.22, F.S.; redesignating the Florida Turnpike Law as the Florida Turnpike Enterprise Law; amending s. 338.221, F.S.; redefining the term "economically feasible" as used with respect to turnpike projects; creating s. 338.2215, F.S.; providing legislative findings, policy, purpose, and intent for the Florida Turnpike Enterprise; creating s. 338.2216, F.S.; prescribing the power and authority of the turnpike enterprise; amending s. 338.223, F.S.; increasing the maximum loan amount for the turnpike enterprise; amending ss. 338.165 and 338.227, F.S.; conforming provisions; amending s. 338.2275, F.S.; authorizing the turnpike enterprise to advertise for bids for contracts prior to obtaining environmental permits; amending s. 338.234, F.S.; authorizing the turnpike enterprise to expand business opportunities; amending s. 338.235, F.S.; authorizing the consideration of goods instead of fees; amending s. 338.239, F.S.; providing that approved expenditure to the Florida Highway Patrol be paid by the turnpike enterprise; amending s. 338.241, F.S.; lowering the required cash reserve for the turnpike enterprise; amending s. 338.251, F.S.; conforming provisions; amending s. 553.80, F.S.; providing for self-regulation; amending s. 333.06, F.S.; requiring each licensed publicly owned and operated airport to prepare an airport master plan; providing notice to affected local governments with respect thereto; amending s. 380.06, F.S., relating to developments of regional impact; removing the rebuttable presumptions with respect to application of the statewide guidelines and standards; removing provisions which specify that certain changes in airport facilities or increases in the storage capacity for chemical or petroleum storage facilities constitute a substantial deviation and require further development-of-regional-impact review; exempting certain proposed facilities for the storage of any petroleum product from development-of-regional-impact requirements; amending ss. 163.3180 and 331.303, F.S.; correcting references; providing application with respect to airports and petroleum storage facilities which have received a development-of-regional-imapct development order, or which have an application for development approval or notification of proposed change pending, on the effective date of the act; providing for severability; providing an effective date.

—was read the second time by title.

Representative(s) Bennett offered the following:

(Amendment Bar Code: 960809)

Amendment 1 (with title amendment)—On page 10, line 18,

insert:

Section 1. Paragraph (e) is added to subsection (2) of section 333.03, Florida Statutes, to read:

333.03 Power to adopt airport zoning regulations.—

(2) In the manner provided in subsection (1), interim airport land use compatibility zoning regulations shall be adopted. When political subdivisions have adopted land development regulations in accordance with the provisions of chapter 163 which address the use of land in the manner consistent with the provisions herein, adoption of airport land use compatibility regulations pursuant to this subsection shall not be required. Interim airport land use compatibility zoning regulations shall consider the following:

(e) Where an airport authority or other governing body operating a publicly owned public-use airport has conducted a noise study in accordance with the provisions of 14 C.F.R. part 150, any county or municipality applying a noise exposure map to a development as defined in s. 163.3164(6) pursuant to its comprehensive plan, a development order, or a development permit, as defined in s. 163.3164(4), (7), and (8), respectively, or any land development regulation as defined in s.

163.3221(7), shall utilize the noise exposure map most recently approved by the Federal Aviation Administration.

And the title is amended as follows:

On page 1, line 2, after the semicolon

insert: amending s. 333.03, F.S.; requiring an airport authority or other governing body operating a publicly owned public-use airport to utilize the most recently approved noise exposure map;

Rep. Bennett moved the adoption of the amendment, which was adopted.

Representative(s) Mack offered the following:

(Amendment Bar Code: 702559)

Amendment 2 (with title amendment)—On page 41, between lines 12 & 13,

insert:

Section 9. Subsection (1) of Section 315.031, Florida Statutes is amended to read:

315.031 Promoting and advertising port facilities.—

(1) Each unit is authorized and empowered:

(a) To publicize, advertise and promote the activities and port facilities herein authorized;

(b) To make known the advantages, facilities, resources, products, attractions and attributes of the activities and port facilities herein authorized;

(c) To create a favorable climate of opinion concerning the activities and port facilities herein authorized;

(d) To cooperate with other agencies, public and private, in accomplishing these purposes;

(e) To enter into agreements with the purchaser or purchasers of port facilities bonds issued under the provisions of this law to establish a special fund to be set aside from the proceeds of the revenues collected under the provisions of s. 315.03(13), during any fiscal year, for the promotional activities authorized herein.

(f) To authorize expenditures for promotional activities authorized by this section, including meals, hospitality, and entertainment of persons in the interest of promoting and engendering goodwill toward its port facilities.

~~Nothing herein shall be construed to authorize any unit to expend funds for meals, hospitality, amusement or any other purpose of an entertainment nature.~~

(Renumber subsequent sections)

And the title is amended as follows:

On page 1,line 9 after the semi-colon,

insert: s. 315.031, F.S.; authorizing certain entertainment expenditures for seaport;

Rep. Mack moved the adoption of the amendment, which was adopted.

Representative(s) Russell offered the following:

(Amendment Bar Code: 174173)

Amendment 3—On page 45, lines 12-19 delete,

and insert in lieu thereof: ordinance of any city or town, shall deposit the original and one copy of such traffic citation or, in the case of a traffic enforcement agency which has an automated citation issuance system, shall provide an electronic facsimile with a court having jurisdiction over the alleged offense or with its traffic violations bureau within 5 days after issuance to the violator. *If a law enforcement officer distributes additional information, such information shall be a copy of the traffic school reference guide.*

Rep. Russell moved the adoption of the amendment, which was adopted.

Representative(s) Brown offered the following:

(Amendment Bar Code: 802057)

Amendment 4 (with title amendment)—On page 110, between lines 25 and 26 of the bill

insert:

Section 54. Subsection (18) of section 373.414, Florida Statutes, is amended to read:

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

(18) The department and each water management district responsible for implementation of the environmental resource permitting program shall develop a uniform wetland mitigation assessment method no later than October 1, 2001. The department shall adopt the uniform wetland mitigation assessment method by rule no later than January 31, 2002. *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 2002 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.* Once the department adopts the uniform wetland mitigation assessment method by rule, the uniform wetland mitigation assessment method shall be binding on the department, the water management districts, local governments, and any other governmental agencies and shall be the sole means to determine mitigation needed to offset adverse impacts and to award and deduct mitigation bank credits. A water management district and any other governmental agency subject to chapter 120 may apply the uniform wetland mitigation assessment method without the need to adopt it pursuant to s. 120.54. It shall be a goal of the department and water management districts that the uniform wetland mitigation assessment method developed be practicable for use within the timeframes provided in the permitting process and result in a consistent process for determining mitigation requirements. It shall be recognized that any such method shall require the application of reasonable scientific judgment. The uniform wetland mitigation assessment method must determine the value of functions provided by wetlands and other surface waters considering the current conditions of these areas, utilization by fish and wildlife, location, uniqueness, and hydrologic connection, in addition to the factors listed in s. 373.4136(4). The uniform wetland mitigation assessment method shall also account for the expected time-lag associated with offsetting impacts and the degree of risk associated with the proposed mitigation. The uniform wetland mitigation assessment method shall account for different ecological communities in different areas of the state. In developing the uniform wetland mitigation assessment method, the department and water management districts shall consult with approved local programs under s. 403.182 which have an established wetland mitigation program. The department and water management districts shall consider the recommendations submitted by such approved local programs, including any recommendations relating to the adoption by the department and water management districts of any uniform wetland mitigation methodology that has been adopted and used by an approved local program in its established wetland mitigation program. Environmental resource permitting rules may establish categories of permits or thresholds for minor impacts under which the use of the uniform wetland mitigation assessment method will not be required. The application of the uniform wetland mitigation assessment method is not subject to s. 70.001. In the event the rule establishing the uniform wetland mitigation assessment method is deemed to be invalid, the applicable rules related to establishing needed mitigation in existence

prior to the adoption of the uniform wetland mitigation assessment method, including those adopted by a county which is an approved local program under s. 403.182, and the method described in paragraph (b) for existing mitigation banks, shall be authorized for use by the department, water management districts, local governments, and other state agencies.

(a) In developing the uniform wetland mitigation assessment method, the department shall seek input from the United States Army Corps of Engineers in order to promote consistency in the mitigation assessment methods used by the state and federal permitting programs.

(b) An entity which has received a mitigation bank permit prior to the adoption of the uniform wetland mitigation assessment method shall have impact sites assessed, for the purpose of deducting bank credits, using the credit assessment method, including any functional assessment methodology, which was in place when the bank was permitted; unless the entity elects to have its credits redetermined, and thereafter have its credits deducted, using the uniform wetland mitigation assessment method.

And the title is amended as follows:

On page 7, line 1
remove from the title of the bill: all of said line

and insert in lieu thereof: projects; amending s. 373.414, F.S.; providing for legislative review of the uniform wetland mitigation assessment method rule; amending s. 475.011, F.S.; granting

Rep. Brown moved the adoption of the amendment, which was adopted.

Representative(s) Greenstein offered the following:

(Amendment Bar Code: 031199)

Amendment 5 (with title amendment)—On page 130, line 11 through page 134, line 27,
remove from the bill: all of said lines

And the title is amended as follows:

On page 7, lines 12-18,
remove from the title of the bill: all of said lines

and insert in lieu thereof: erected above sound barriers; amending s. 496.425, F.S.;

Rep. Greenstein moved the adoption of the amendment.

On motion by Rep. Johnson, the amendment was laid on the table.

Representative(s) Melvin offered the following:

(Amendment Bar Code: 635295)

Amendment 6—On page 134, line 22, after *act*

insert: *nor shall the provisions of this act apply to any signs that are the subject of an ordinance providing an amortization period, which period has expired, and which ordinance is the subject of judicial proceedings which were commenced on or before January 1, 2001.*

Rep. Melvin moved the adoption of the amendment, which was adopted.

Representative(s) Slosberg offered the following:

(Amendment Bar Code: 754409)

Amendment 7 (with title amendment)—On page 156, between lines 16 and 17,

insert:

Section 1. *(1) This shall be known as the "Dori Slosberg Act of 2001."*

(2) Notwithstanding the provisions of s. 318.121, Florida Statutes, a board of county commissioners may require, by ordinance, that the clerk of the court collect an additional $3 with each civil traffic penalty, which shall be used to fund driver education programs in public and nonpublic schools. The ordinance shall provide for the board of county commissioners to administer the funds. The funds shall be used for direct educational expenses and shall not be used for administration.

And the title is amended as follows:

On page 10, line 14 after "severability;"

insert: authorizing a board of county commissioners to require by ordinance that an additional amount be collected with each civil fine and used to fund traffic education and awareness programs;

Rep. Slosberg moved the adoption of the amendment, which was adopted.

Rep. Mealor moved that, under Rule 12.2(c), a late-filed amendment be allowed for consideration, which was not agreed to.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1885—A bill to be entitled An act relating to health care; amending s. 381.0403, F.S.; transferring the programs for community hospital education and graduate medical education under the "Community Hospital Education Act" from the Board of Regents to the Department of Health; authorizing certain expenditure of funds; revising provisions to conform; authorizing participation in the innovations grant program by individual Florida medical schools providing graduate medical education in community-based clinical settings; revising the membership of a committee; providing rulemaking authority to the Department of Health; amending s. 409.908, F.S.; revising provisions relating to the reimbursement of Medicaid providers to conform to the transfer of the Community Hospital Education Program from the Board of Regents to the Department of Health; providing for the certification of local matching funds; providing requirements for the distribution of federal funds earned as a result of local matching funds; requiring an impact statement; amending s. 409.911, F.S.; revising the definition of the term "charity care"; amending s. 409.9117, F.S.; revising criteria for participation in the primary care disproportionate share program; providing an effective date.

—was read the second time by title.

The Committee on Health & Human Services Appropriations offered the following:

(Amendment Bar Code: 201415)

Amendment 1 (with title amendment)—On page 2, line 2,

insert:

Section 1. Subsections (3) and (4) of section 154.306, Florida Statutes, are redesignated as subsections (4) and (5), respectively, and a new subsection (3) is added to said section, to read:

154.306 Financial responsibility for certified residents who are qualified indigent patients treated at an out-of-county participating hospital or regional referral hospital.—Ultimate financial responsibility for treatment received at a participating hospital or a regional referral hospital by a qualified indigent patient who is a certified resident of a county in the State of Florida, but is not a resident of the county in which the participating hospital or regional referral hospital is located, is the obligation of the county of which the qualified indigent patient is a resident. Each county shall reimburse participating hospitals or regional referral hospitals as provided for in this part, and shall provide or arrange for indigent eligibility determination procedures and resident certification determination procedures as provided for in rules developed to implement this part. The agency, or any county determining eligibility of a qualified indigent, shall provide to the county of residence, upon request, a copy of any documents, forms, or other information, as determined by rule, which may be used in making an eligibility determination.

(3) For the purpose of computing the maximum amount that a county having a population of 100,000 or less may be required to pay, the agency must reduce the official state population estimates by the number of inmates and patients residing in the county in institutions operated by the Federal Government, the Department of Corrections, the Department of Health, or the Department of Children and Family Services, and by the number of active-duty military personnel residing in the county, none of whom shall be considered residents of the county. However, a county is entitled to receive the benefit of such a reduction in estimated population figures only if the county accepts as valid and true, and does not require any reverification of, the documentation of financial eligibility and county residency which is provided to it by the participating hospital or regional referral hospital. The participating hospital or regional referral hospital must provide documentation that is complete and in the form required by s. 154.3105.

And the title is amended as follows:

On page 1, line 2,

insert: amending s. 154.306, F.S.; providing procedures for computing the maximum amount that specified counties must pay for the treatment of an indigent resident of the county at a hospital located outside the county; providing for the exclusion of active-duty military personnel and certain institutionalized county residents from state population estimates when calculating a county's financial responsibility for such hospital care; requiring the county of residence to accept the hospital's documentation of financial eligibility and county residence; requiring that the documentation meet specified criteria;

Rep. Littlefield moved the adoption of the amendment, which was adopted.

The Committee on Health & Human Services Appropriations offered the following:

(Amendment Bar Code: 114071)

Amendment 2—On page 3, line 6, of the bill

before the word "council" insert: *program and the*

Rep. Littlefield moved the adoption of the amendment, which was adopted.

The Committee on Health & Human Services Appropriations offered the following:

(Amendment Bar Code: 593599)

Amendment 3—On page 11, line 31,
remove from the bill: 150

and insert in lieu thereof: *200* ~~150~~

Rep. Littlefield moved the adoption of the amendment, which was adopted.

Representative(s) Littlefield offered the following:

(Amendment Bar Code: 863605)

Amendment 4 (with title amendment)—On page 14, between lines 16 and 17, of the bill

insert:

Section 5. Paragraph (d) of subsection (3) of section 409.912, Florida Statutes, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(3) The agency may contract with:

(d) No more than four provider service networks for demonstration projects to test Medicaid direct contracting. The demonstration projects may be reimbursed on a fee-for-service or prepaid basis. A provider service network which is reimbursed by the agency on a prepaid basis shall be exempt from parts I and III of chapter 641, but must meet appropriate financial reserve, quality assurance, and patient rights requirements as established by the agency. The agency shall award contracts on a competitive bid basis and shall select bidders based upon price and quality of care. Medicaid recipients assigned to a demonstration project shall be chosen equally from those who would otherwise have been assigned to prepaid plans and MediPass. The agency is authorized to seek federal Medicaid waivers as necessary to implement the provisions of this section. A demonstration project awarded pursuant to this paragraph shall be for *4* ~~2~~ years from the date of implementation.

And the title is amended as follows:

On page 1, line 29,

after the semicolon insert: amending s. 409.912, F.S.; extending the duration of provider service network demonstration projects;

Rep. Littlefield moved the adoption of the amendment, which was adopted.

Representative(s) Justice offered the following:

(Amendment Bar Code: 371999)

Amendment 5 (with title amendment)—On page 14, between lines 23 and 24, of the bill

insert:

Section 6. *The Legislature finds that personal identifying information, name, age, diagnosis, address, bank account numbers, and debit and credit card numbers contained in the records relating to an individual's personal health or eligibility for health-related services made or received by the individual's physician, pharmacist, and public or private health facility should be held confidential. Furthermore, the Legislature finds that every person has an expectation of and a right to privacy in all matters concerning her or his personal health when medical services are provided. Matters of personal health are traditionally private and confidential concerns between the patient and the health care provider. The private and confidential nature of personal health matters pervades both the public and private sectors. For these reasons, it is the express intent of the Legislature to protect confidential information and the individual's expectations of the right to privacy in all matters regarding her or his personal health and not to have such information exploited for purposes of solicitation or marketing the sale of goods and services.*

Section 7. Subsection (5) of section 456.057, Florida Statutes, is amended to read:

456.057 Ownership and control of patient records; report or copies of records to be furnished.—

(5)*(a)* Except as otherwise provided in this section and in s. 440.13(4)(c), such records may not be furnished to, and the medical condition of a patient may not be discussed with, any person other than the patient or the patient's legal representative or other health care practitioners and providers involved in the care or treatment of the patient, except upon written authorization of the patient. However, such records may be furnished without written authorization under the following circumstances:

1.~~(a)~~ To any person, firm, or corporation that has procured or furnished such examination or treatment with the patient's consent.

2.~~(b)~~ When compulsory physical examination is made pursuant to Rule 1.360, Florida Rules of Civil Procedure, in which case copies of the medical records shall be furnished to both the defendant and the plaintiff.

3.~~(c)~~ 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 patient or the patient's legal representative by the party seeking such records.

4.~~(d)~~ For statistical and scientific research, provided the information is abstracted in such a way as to protect the identity of the patient or provided written permission is received from the patient or the patient's legal representative.

(b) Absent a specific written release or authorization permitting utilization of patient information for solicitation or marketing the sale of goods or services, any use of that information for those purposes is prohibited.

(14) Licensees in violation of the provisions of this section shall be disciplined by the appropriate licensing authority.

(15) The Attorney General is authorized to enforce the provisions of this section for records owners not otherwise licensed by the state, through injunctive relief and fines not to exceed $5,000 per violation.

Section 8. Subsection (7) of section 395.3025, Florida Statutes is amended to read:

395.3025 Patient and personnel records; copies; examination.—

(7)*(a)* If the content of any record of patient treatment is provided under this section, the recipient, if other than the patient or the patient's representative, may use such information only for the purpose provided and may not further disclose any information to any other person or entity, unless expressly permitted by the written consent of the patient. A general authorization for the release of medical information is not sufficient for this purpose. The content of such patient treatment record is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Absent a specific written release or authorization permitting utilization of patient information for solicitation or marketing the sale of goods or services, any use of that information for those purposes is prohibited.

Section 9. Subsection (1) of section 400.1415, Florida Statutes, is amended to read:

400.1415 Patient records; penalties for alteration.—

(1) Any person who fraudulently alters, defaces, or falsifies any medical *record or releases medical records for the purposes of solicitation or marketing the sale of goods or services absent a specific written release or authorization permitting utilization of patient information,* or other nursing home record, or causes or procures any of these offenses to be committed, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 10. Section 626.9651, Florida Statutes, is created to read:

626.9651 Privacy.—The department shall adopt rules consistent with other provisions of the Florida Insurance Code to govern the use of a consumer's nonpublic personal financial and health information. These rules must be based on, consistent with, and not more restrictive than the Privacy of Consumer Financial and Health Information Regulation, adopted September 26, 2000, by the National Association of Insurance Commissioners; however, the rules must permit the use and disclosure of nonpublic personal health information for scientific, medical, or public policy research, in accordance with federal law. In addition, these rules must be consistent with, and not more restrictive than, the standards contained in Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102. If the department determines that a health insurer or health maintenance organization is in compliance with, or is actively undertaking compliance with, the consumer privacy protection rules adopted by the United States Department of Health and Human Services, in conformance with the Health Insurance Portability and Affordability Act, that health insurer or health maintenance organization is in compliance with this section.

And the title is amended as follows:

On page 1, line 29,

after the semicolon insert: providing legislative intent; amending ss. 395.3025, 400.1415, and 456.057, F.S.; prohibiting the use of a patient's medical records for purposes of solicitation and marketing absent a specific written release or authorization; providing penalties; creating s. 626.9651, F.S.; requiring the Department of Insurance to adopt rules governing the use of a consumer's nonpublic personal financial and health information; providing standards for the rules;

Rep. Justice moved the adoption of the amendment.

On motion by Rep. Justice, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Justice offered the following:

(Amendment Bar Code: 291277)

Amendment 1 to Amendment 5—On page 1, line 22, remove from the amendment: *pharmacist,*

Rep. Justice moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 5**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 475—A bill to be entitled An act relating to public health; amending ss. 39.201, 63.0423, 383.50, and 827.035, F.S.; expanding the type of personnel and facilities that may accept abandoned newborns; providing implied consent for treatment and transport and certain immunity from liability; amending s. 154.02, F.S.; specifying purposes for which reserve amounts must be maintained in the County Health Department Trust Fund; amending s. 232.465, F.S.; expanding the type of personnel that may supervise nonmedical school district personnel; providing technical corrections; amending s. 381.0056, F.S.; providing requirements for school health programs funded by health care districts or certain health care entities; amending s. 381.0059, F.S.; revising background screening requirements for school health service personnel; amending s. 381.026, F.S., relating to the Florida Patient's Bill of Rights and Responsibilities; replacing references to the term "physical handicap" with the term "handicap"; amending ss. 382.003, 382.004, 382.013, 382.016, and 382.0255, F.S.; modifying provisions relating to vital records; amending s. 383.14, F.S.; requiring postnatal tests and screenings for infant metabolic disorders to be performed by the State Public Health Laboratory; amending s. 383.402, F.S.; modifying the annual report date for child abuse death reviews; creating s. 391.037, F.S.; providing that the furnishing of medical services by state employees under specified conditions does not constitute a conflict of interest; amending s. 401.113, F.S.; providing for use of funds in the Emergency Medical Services Trust Fund for injury prevention programs; amending s. 401.27, F.S.; authorizing the Department of Health to define by rule the equivalent of cardiopulmonary resuscitation courses for emergency medical technicians and paramedics; exempting emergency medical services examination questions and answers from discovery; providing conditions for introduction in administrative proceedings; requiring the department to establish rules; repealing s. 404.056(2), F.S., relating to the Florida Coordinating Council on Radon Protection; amending s. 404.056, F.S.; deleting an obsolete environmental radiation soil-testing requirement; clarifying rulemaking authority; amending s. 499.012, F.S.; modifying provisions relating to a retail pharmacy wholesaler's permit to authorize transfer of certain prescription drugs between the permittee and a Modified Class II institutional pharmacy; amending s. 509.049, F.S.; revising provisions related to food service employee training programs; providing for audits and revocation of training program approval; providing

rulemaking authority; amending s. 742.10, F.S.; requiring a voluntary acknowledgment of paternity for a child born out of wedlock to be notarized; amending s. 743.0645, F.S., relating to consent to medical care or treatment of a minor; providing that a power of attorney to provide such consent includes the power to consent to surgical and general anesthesia services; repealing s. 71(1) of ch. 98-171, Laws of Florida; abrogating the repeal of provisions of law which require background screening of certain applicants for licensure, certification, or registration; providing effective dates.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 477—A bill to be entitled An act relating to public records; amending s. 383.51, F.S.; providing an exemption from public records requirements for information that identifies parents who leave newborn infants at emergency medical services stations; providing an exception; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

—was read the second time by title.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 734935)

Amendment 1—On page 2, line 7,
remove from the bill: "_____"

and insert in lieu thereof: 475

Rep. Hogan moved the adoption of the amendment, which was adopted.

The Council for Healthy Communities offered the following:

(Amendment Bar Code: 241051)

Amendment 2 (with title amendment)—On page 2, line 6,
remove from the bill: all of said line

and insert in lieu thereof:

Section 3. (1) *All information contained in the Paternity Registry created by section 63.165, Florida Statutes, is exempt from public disclosure pursuant to section 119.07(1), Florida Statutes, and Section 24(a) of Article I of the State Constitution, except that certificates attesting to the results of a search of the Paternity Registry pursuant to section 63.165(8), Florida Statutes, may be disclosed as provided in section 63.165(8), Florida Statutes. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with section 119.15, Florida Statutes, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.*

(2) This section shall take effect on the same date that Committee Substitute for House Bill 415 or similar legislation takes effect if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

Section 4. (1) *The Legislature finds that it is a public necessity to exempt from disclosure pursuant to section 119.07(1), Florida Statutes, and Section 24 of Article I of the State Constitution all information contained in the Paternity Registry created by section 63.165, Florida Statutes. The Legislature finds that it is good public policy to encourage putative fathers to grasp both the responsibility and the opportunity to be made legally aware of petitions and hearings to terminate their parental rights pending an adoption. The Legislature also finds that by providing legal notice to putative fathers, adoptions will be less likely to be legally disrupted. The Legislature further finds that the information required by the Paternity Registry reveals the existence of intimate sexual relations. Disclosure of this information would likely have a chilling effect on the likelihood that putative fathers will register. Therefore, the Legislature finds that any benefit that could occur from public disclosure of the information in the Paternity Registry is outweighed by the necessity to ensure the due process rights of putative fathers.*

(2) This section shall take effect on the same date that Committee Substitute for House Bill 415 or similar legislation takes effect if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

Section 5. Except as otherwise provided herein, this act shall take effect on the same date

And the title is amended as follows:

On page 1, lines 7-10,
remove from the title of the bill: all of said lines

and insert in lieu thereof: providing an exception; providing an exemption from public records requirements for information contained in the Paternity Registry; providing for future legislative review and repeal; providing findings of public necessity; providing contingent effective dates.

Rep. Hogan moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

On motion by Rep. Paul, consideration of **HM 37** was temporarily postponed under Rule 11.10.

HB 1799—A bill to be entitled An act relating to integrated children's crisis stabilization unit/juvenile addictions receiving facility services; creating s. 394.499, F.S.; authorizing the Department of Children and Family Services, in consultation with the Agency for Health Care Administration, to establish children's behavioral crisis unit demonstration models to provide integrated emergency mental health and substance abuse services to persons under 18 years of age at facilities licensed as children's crisis stabilization units; providing for standards, procedures, and requirements for services; providing eligibility criteria; requiring the department to report on the initial demonstration models; providing for expanding the demonstration models; providing for independent evaluation and report; providing rulemaking authority; providing an effective date.

—was read the second time by title.

The Committee on Health & Human Services Appropriations offered the following:

(Amendment Bar Code: 791485)

Amendment 1 (with title amendment)—On page 5, between lines 8 and 9, of the bill

insert:

Section 3. Subsection (20) is added to section 402.305, Florida Statutes, to read:
402.305 Licensing standards; child care facilities.—

(20) The department shall establish separate personnel standards, in conjunction with existing providers, for before and after school programs, day camp programs, and summer camp programs.

And the title is amended as follows:

On page 1, line 20, after the semicolon,

insert: amending s. 402.305, F.S.; requiring establishment of separate personnel standards for certain child care programs;

Rep. Detert moved the adoption of the amendment.

The Council for Healthy Communities offered the following:

(Amendment Bar Code: 863779)

Amendment 1 to Amendment 1—On page 1, line 14 to page 2, line 3,
remove from the amendment: all said lines

Rep. Detert moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

The Council for Healthy Communities offered the following:

(Amendment Bar Code: 521503)

Amendment 2 (with title amendment)—On page 5, between lines 8 and 9 of the bill

insert:

Section 3. Subsections (13) and (14) are added to section 394.66, Florida Statutes, to read:

394.66 Legislative intent with respect to substance abuse and mental health services.—It is the intent of the Legislature to:

(13) Promote best practices and the highest quality of care in contracted alcohol, drug abuse, and mental health services through achievement of national accreditation.

(14) Ensure that the state agencies licensing and monitoring contracted providers perform in the most cost-efficient and effective manner with limited duplication and disruption to organizations providing services.

Section 4. Section 394.741, Florida Statutes, is created to read:

394.741 Accreditation requirements for providers of behavioral health care services.—

(1) As used in this section, the term "behavioral health care services" means mental health and substance abuse treatment services.

(2) Notwithstanding any provision of law to the contrary, accreditation of the following shall be accepted by the agency and department in lieu of the agency's and department's facility licensure onsite review requirements and shall be accepted as a substitute for the department's administrative and program monitoring requirements, except as required by subsection (3):

(a) Any organization from which the department purchases behavioral health care services that is accredited by the Joint Commission on Accreditation of Health Care Organizations or the Council on Accreditation for Children and Family Services; or which has those services that are being purchased by the department accredited by CARF--the Rehabilitation Accreditation Commission.

(b) Any mental health facility licensed by the agency or any substance abuse component licensed by the department that is accredited by the Joint Commission on Accreditation of Health Care Organizations, CARF--the Rehabilitation Accreditation Commission, or the Council on Accreditation of Children and Family Services.

(c) Any network of providers from which the department or the agency purchases behavioral health care services accredited by the Joint Commission on Accreditation of Health Care Organizations, CARF--the Rehabilitation Accreditation Commission, the Council on Accreditation of Children and Family Services, or the National Committee for Quality Assurance. A provider organization which is part of an accredited network is afforded the same rights under this part.

(3) The department and the agency may adopt rules that establish:

(a) Additional standards for monitoring and licensing accredited programs and facilities that the department and the agency have determined are not specifically and distinctly covered by the accreditation standards and processes. These standards and the associated monitoring must not duplicate the standards and processes already covered by the accrediting bodies.

(b) An onsite monitoring process between 24 months and 36 months after accreditation for nonresidential facilities to assure that accredited organizations exempt from licensing and monitoring activities under this part continue to comply with critical standards.

(c) An onsite monitoring process between 12 months and 24 months after accreditation for residential facilities to assure that accredited organizations exempt from licensing and monitoring activities under this part continue to comply with critical standards.

(4) The department and the agency shall be given access to all accreditation reports, corrective action plans, and performance data submitted to the accrediting organizations. When major deficiencies, as defined by the accrediting organization, are identified through the accreditation process, the department and the agency may perform followup monitoring to assure that such deficiencies are corrected and that the corrections are sustained over time.

(5) The department or the agency, by accepting the survey or inspection of an accrediting organization, does not forfeit its right to perform inspections at any time, including contract monitoring to ensure that deliverables are provided in accordance with the contract.

(6) The department and the agency shall report to the Legislature by January 1, 2003, on the viability of mandating all organizations under contract with the department for the provision of behavioral health care services, or licensed by the department or the agency, to be accredited. The department and the agency shall also report to the Legislature by January 1, 2003, on the viability of privatizing all licensure and monitoring functions through an accrediting organization.

(7) The accreditation requirements of this section shall apply to contracted organizations that are already accredited immediately upon becoming law.

Section 5. Subsection (5) of section 394.90, Florida Statutes, is amended to read:

394.90 Inspection; right of entry; records.—

(5)~~(a)~~ The agency *shall* ~~may~~ accept, in lieu of its own inspections for licensure, the survey or inspection of an accrediting organization, if the provider is accredited *according to the provisions of s. 394.741* and the agency receives the report of the accrediting organization. ~~The department, in consultation with the agency, shall develop, and adopt by rule, specific criteria for assuring that the accrediting organization has specific standards and experience related to the program area being licensed, specific criteria for accepting the standards and survey methodologies of an accrediting organization, delineations of the obligations of accrediting organizations to assure adherence to those standards, criteria for receiving, accepting and maintaining the confidentiality of the survey and corrective action reports, and allowance for the agency's participation in surveys.~~

~~(b) The agency shall conduct compliance investigations and sample validation inspections to evaluate the inspection process of accrediting organizations to ensure minimum standards are maintained as provided in Florida statute and rule. The agency may conduct a lifesafety inspection in calendar years in which an accrediting organization survey is not conducted and shall conduct a full state inspection, including a lifesafety inspection, if an accrediting organization survey has not been conducted within the previous 36 months. The agency, by accepting the survey or inspection of an accrediting organization, does not forfeit its right to perform inspections.~~

Section 6. Subsection (3) of section 397.403, Florida Statutes, is amended to read:

397.403 License application.—

(3) The department shall accept proof of accreditation by *CARF*--the *Rehabilitation Accreditation* Commission ~~on Accreditation of Rehabilitation Facilities (CARF)~~ or the Joint Commission on Accreditation of Health Care Organizations (JCAHCO), or through any other nationally recognized certification process that is acceptable to the department and meets the minimum licensure requirements under this chapter, in lieu of requiring the applicant to submit the information required by paragraphs (1)(a)-(c).

Section 7. Subsection (2) of section 397.411, Florida Statutes, is amended to read:

397.411 Inspection; right of entry; records.—

(2)~~(a)~~ The department *shall* ~~may~~ accept, in lieu of its own inspections for licensure, the survey or inspection of an accrediting organization, if the provider is accredited *according to the provisions of s. 394.741* and the department receives the report of the accrediting organization. ~~The department shall develop, and adopt by rule, specific criteria for assuring that the accrediting organization has specific standards and experience related to the program area being licensed; specific criteria for accepting the standards and survey methodologies of an accrediting organization; delineations of the obligations of accrediting organizations to assure adherence to those standards; criteria for receiving, accepting, and maintaining the confidentiality of the survey and corrective action reports; and allowance for the department's participation in surveys.~~

~~(b) The department shall conduct compliance investigations and sample validation inspections to evaluate the inspection process of accrediting organizations to ensure minimum standards are maintained as provided in Florida statute and rule. The department may conduct a fire, safety, and health inspection in calendar years in which an accrediting organization survey is not conducted and shall conduct a full state inspection, including a lifesafety inspection, if an accrediting organization survey has not been conducted within the previous 36 months. The department, by accepting the survey or inspection of an accrediting organization, does not forfeit its right to perform inspections.~~

And the title is amended as follows:

On page 1, line 20

insert after the semicolon: amending s. 394.66, F.S.; providing legislative intent relating to the accreditation and cost-efficiency of substance abuse and mental health service providers; creating s. 394.741, F.S., relating to accreditation requirements for providers of behavioral health care services; defining the term "behavioral health care services"; requiring the accreditation of certain entities to be accepted in lieu of licensure, administrative, and program monitoring requirements; authorizing the adoption of rules; requiring that the Department of Children and Family Services and the Agency for Health Care Administration be allowed access to all accreditation reports, corrective action plans, and performance data submitted to accrediting organizations; authorizing followup monitoring by the department and the agency if major deficiencies are identified through the accreditation process; preserving the right of the department and agency to perform inspections, including contract monitoring; requiring the department and the agency to report to the Legislature on the viability of mandating accreditation and privatizing licensure and monitoring functions; specifying that the accreditation requirements of s. 394.741, F.S., apply to contracted organizations that are already accredited; amending s. 394.90, F.S., relating to substance abuse and mental health services; revising provisions relating to licensure, accreditation, and inspection of facilities, to conform; providing a cross reference; amending s. 397.411, F.S., relating to substance abuse service providers; revising provisions relating to licensure, accreditation, and inspection of facilities, to conform; providing a cross reference; amending ss. 397.403; revising the name of the Commission on Accreditation of Rehabilitation Facilities;

Rep. Detert moved the adoption of the amendment.

Representative(s) Detert offered the following:

(Amendment Bar Code: 561319)

Amendment 1 to Amendment 2—On page 1, line 29 to page 4, line 15
remove from the amendment: all said lines

and insert in lieu thereof:

Section 4. Section 394.741, Florida Statutes, is created to read:

394.741 Accreditation requirements for providers of behavioral health care services.—

(1) As used in this section, the term "behavioral health care services" means mental health and substance abuse treatment services.

(2) Notwithstanding any provision of law to the contrary, accreditation shall be accepted by the agency and department in lieu of the agency's and department's facility licensure on-site review requirements and shall be accepted as a substitute for the department's administrative and program monitoring requirements, except as required by subsections (3) and (4):

(a) Any organization from which the department purchases behavioral health care services that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or the Council on Accreditation for Children and Family Services, or have those services that are being purchased by the department accredited by CARF—the Rehabilitation Accreditation Commission.

(b) Any mental health facility licensed by the agency or any substance abuse component licensed by the department that is accredited by the Joint Commission on Accreditation of Healthcare Organizations, CARF--the Rehabilitation Accreditation Commission or the Council on Accreditation of Children and Family Services.

(c) Any network of providers from which the department or the agency purchase behavioral health care services accredited by the Joint Commission on Accreditation of Healthcare Organizations, CARF--the Rehabilitation Accreditation Commission, the Council on Accreditation of Children and Family Services, or the National Committee for Quality Assurance. A provider organization, which is part of an accredited network, is afforded the same rights under this part.

(3) For mental health services, the department and the agency may adopt rules that establish:

(a) Additional standards for monitoring and licensing accredited programs and facilities that the department and the agency have determined are not specifically and distinctly covered by the accreditation standards and processes. These standards and the associated monitoring must not duplicate the standards and processes already covered by the accrediting bodies.

(b) An on-site monitoring process between 24 months and 36 months after accreditation for non-residential facilities to assure that accredited organizations exempt from licensing and monitoring activities under this part continue to comply with critical standards.

(c) An on-site monitoring process between 12 months and 24 months after accreditation for residential facilities to assure that accredited organizations exempt from licensing and monitoring activities under this part continue to comply with critical standards.

(4) For substance abuse services, the department shall conduct full licensure inspections every three years and shall develop in rule criteria which would justify more frequent inspections.

(5) The department and the agency shall be given access to all accreditation reports, corrective action plans, and performance data submitted to the accrediting organizations. When major deficiencies, as defined by the accrediting organization, are identified through the accreditation process, the department and the agency may perform followup monitoring to assure that such deficiencies are corrected and that the corrections are sustained over time. Proof of compliance with fire and health safety standards will be submitted as required by rule.

(6) The department or agency, by accepting the survey or inspection of an accrediting organization, does not forfeit its rights to perform inspections at any time, including contract monitoring to ensure that deliverables are provided in accordance with the contract.

(7) The department and the agency shall report to the Legislature by January 1, 2003 on the viability of mandating all organizations under contract with the department for the provision of behavioral healthcare services, or licensed by the agency or department to be accredited. The department and the agency shall also report to the Legislature by January 1, 2003 on the viability of privatizing all licensure and monitoring functions through an accrediting organization.

(8) The accreditation requirements of this section shall apply to contracted organizations that are already accredited immediately upon becoming law.

Rep. Detert moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 2**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

REPRESENTATIVE MAYGARDEN IN THE CHAIR

CS/HB 1145 was taken up. On motion by Rep. Murman, the rules were waived and CS for CS for SB 1214 was substituted for CS/HB 1145. Under Rule 5.15, the House bill was laid on the table and—

CS for CS for SB 1214—A bill to be entitled An act relating to foster care; amending s. 20.19, F.S.; modifying the authority for lead agencies to provide services; amending s. 39.521, F.S., relating to disposition hearings; providing that certain children must be assessed for placement and placed in licensed residential group care; requiring results of an assessment to be reviewed by the court; requiring certain residential group care facilities to establish permanency teams; requiring that the Department of Children and Family Services report to the Legislature each year on the number of children placed in residential group care and the number of children for whom placement was unavailable; amending s. 409.1671, F.S.; redefining the term "related services"; providing for a plan to be used as an alternative to procuring foster care services through an eligible lead community-based provider; creating s. 409.1676, F.S.; providing for comprehensive residential services to children who have extraordinary needs; defining terms; providing for the Department of Children and Family Services to contract with specified entities for such services; specifying duties of the contracting entity; providing legal authority of the contracting entity to authorize specified activities for children served; prescribing departmental duties; creating s. 409.1677, F.S.; providing for model comprehensive residential services programs in specified counties; defining terms; providing for the programs to be established through contracts between the department and specified entities; prescribing the content of each model program; establishing responsibilities of the contracting private entity; providing legal authority of the contracting private entity to authorize certain activities for children served; prescribing departmental duties; creating s. 409.1679, F.S.; prescribing additional requirements for the programs established under ss. 409.1676, 409.1677, F.S., including requirements relating to reimbursement methodology and program evaluation; requiring the department to provide progress reports to the Legislature; amending s. 409.175, F.S.; allowing a family foster home license to be valid for an extended period in specified circumstances; amending s. 784.081, F.S., relating to upgrading the seriousness of the offense if a person commits an assault or a battery against specified officials or employees; including on the list of such officials and employees an employee of a lead community-based provider and its direct-service contract providers; providing an effective date.

—was read the second time by title.

Representative(s) Murman offered the following:

(Amendment Bar Code: 483633)

Amendment 1 (with title amendment)—
remove from the bill: everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraph (c) of subsection (7) of section 20.19, Florida Statutes, is amended to read:

20.19 Department of Children and Family Services.—There is created a Department of Children and Family Services.

(7) PROTOTYPE REGION.—

(c) The department is authorized to contract for children's services with a lead agency in each county of the prototype area, except that the lead agency contract may cover more than one county when it is determined that such coverage will provide more effective or efficient services. The duties of the lead agency shall include, but not necessarily be limited to:

1. Directing and coordinating the program and children's services within the scope of its contract.

2. *Providing or* contracting for the provision of core services, including intake and eligibility, assessment, service planning, and case management. ~~However, a lead agency may obtain approval from the department to provide core services, including intake and eligibility, assessment, service planning, and case management, upon a finding by the department that such lead agency is the only appropriate organization within the service district capable of providing such service or services within the department's quality assurance and performance standards.~~

3. Creating a service provider network capable of delivering the services contained in client service plans, which shall include identifying the necessary services, the necessary volume of services, and possible utilization patterns and negotiating rates and expectations with providers.

4. Managing and monitoring of provider contracts and subcontracts.

5. Developing and implementing an effective bill payment mechanism to ensure all providers are paid in a timely fashion.

6. Providing or arranging for administrative services necessary to support service delivery.

7. Utilizing departmentally approved training and meeting departmentally defined credentials and standards.

8. Providing for performance measurement in accordance with the department's quality assurance program and providing for quality improvement and performance measurement.

9. Developing and maintaining effective interagency collaboration to optimize service delivery.

10. Ensuring that all federal and state reporting requirements are met.

11. Operating a consumer complaint and grievance process.

12. Ensuring that services are coordinated and not duplicated with other major payors, such as the local schools and Medicaid.

13. Any other duties or responsibilities defined in s. 409.1671 related to community-based care.

Section 2. Present subsection (15) of section 39.402, Florida Statutes, is redesignated as subsection (16), subsection (9) is amended and a new subsection (15) is added to that section, to read:

(9) At any shelter hearing, *the department shall provide to the court a recommendation for scheduled contact between the child and parents, if appropriate. T* ~~t~~he court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child. *If visitation is ordered but will not commence within 72 hours of the shelter hearing, the department shall provide justification to the court.*

(10) The shelter hearing order shall contain a written determination as to whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. If the department has not made such an effort, the court shall order the department to provide appropriate and available services to ensure the protection of the child in the home when such services are necessary for the child's health and safety.

(11) If a child is placed in a shelter pursuant to a court order following a shelter hearing, the court shall require in the shelter hearing

order that the parents of the child, or the guardian of the child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay, to the department or institution having custody of the child, fees as established by the department. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate. The shelter order shall also require the parents to provide to the department and any other state agency or party designated by the court, within 28 days after entry of the shelter order, the financial information necessary to accurately calculate child support pursuant to s. 61.30.

(12) In the event the shelter hearing is conducted by a judge other than the juvenile court judge, the juvenile court judge shall hold a shelter review on the status of the child within 2 working days after the shelter hearing.

(13) A child may not be held in a shelter under an order so directing for more than 60 days without an adjudication of dependency. A child may not be held in a shelter for more than 30 days after the entry of an order of adjudication unless an order of disposition has been entered by the court.

(14) The time limitations in this section do not include:

(a) Periods of delay resulting from a continuance granted at the request or with the consent of the child's counsel or the child's guardian ad litem, if one has been appointed by the court, or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child's attorney or the child's guardian ad litem, if one has been appointed by the court, and the child.

(b) Periods of delay resulting from a continuance granted at the request of the attorney for the department, if the continuance is granted:

1. Because of an unavailability of evidence material to the case when the attorney for the department has exercised due diligence to obtain such evidence and there are substantial grounds to believe that such evidence will be available within 30 days. However, if the department is not prepared to present its case within 30 days, the parent or legal custodian may move for issuance of an order to show cause or the court on its own motion may impose appropriate sanctions, which may include dismissal of the petition.

2. To allow the attorney for the department additional time to prepare the case and additional time is justified because of an exceptional circumstance.

(c) Reasonable periods of delay necessary to accomplish notice of the hearing to the child's parents or legal custodians; however, the petitioner shall continue regular efforts to provide notice to the parents or legal custodians during such periods of delay.

(d) Reasonable periods of delay resulting from a continuance granted at the request of the parent or legal custodian of a subject child.

(15) The department at the conclusion of the shelter hearing, shall make available to parents or legal custodians seeking voluntary services, any referral information necessary for participation in such identified services. The parents' or legal custodians'participation in the services shall not be considered an admission or other acknowledgement of the allegations in the shelter petition.

(16)~~(15)~~ At the conclusion of a shelter hearing, the court shall notify all parties in writing of the next scheduled hearing to review the shelter placement. Such hearing shall be held no later than 30 days after placement of the child in shelter status, in conjunction with the arraignment hearing, and every 15 days thereafter until the child is released from shelter status.

Section 3. Present subsections (5), (6), and (7) of section 39.521,Florida Statutes are redesignated as subsections (6), (7),and (8), respectively, and a new subsection (5) is added to that section, to read:

39.521 Disposition hearings; powers of disposition.—

(5)(a) In districts 4, 11, and 12 and in the Suncoast Region of the department and, except as provided in s. 39.407, any child 11 years of age or older who has been in licensed family foster care for 6 months or longer and who is then moved more than once must be assessed for placement in licensed residential group care. The assessment procedures shall be conducted by the department or its agent and shall incorporate and address current and historical information from any psychological testing or evaluation that has occurred; current and historical information from the guardian ad litem, if one has been assigned; current and historical information from any current therapist, teacher, or other professional who has knowledge of the child and has worked with the child; information regarding the placement of any siblings of the child and the impact of the child's placement in residential group care on the child's siblings; the circumstances necessitating the moves of the child while in family foster care and the recommendations of the former foster families, if available; the status of the child's case plan and a determination as to the impact of placing the child in residential group care on the goals of the case plan; the age, maturity, and desires of the child concerning placement; the availability of any less restrictive, more family-like setting for the child in which the foster parents have the necessary training and skills for providing a suitable placement for the child; and any other information concerning the availability of suitable residential group care. If such placement is determined to be appropriate as a result of this procedure, the child must be placed in residential group care, if available.

(b) The results of the assessment described in paragraph (a) and the actions taken as a result of the assessment must be included in the next judicial review of the child. At each subsequent judicial review, the court must be advised in writing of the status of the child's placement, with special reference regarding the stability of the placement and the permanency planning for the child.

(c) Any residential group care facility that receives children under the provisions of this subsection shall establish special permanency teams dedicated to overcoming the special permanency challenges presented by this population of children. Each facility shall report to the department its success in achieving permanency for children placed by the department in its care at intervals that allow the current information to be provided to the court at each judicial review for the child.

(d) This subsection does not prohibit the department from assessing and placing children who do not meet the criteria in paragraph (a) in residential group care if such placement is the most appropriate placement for such children.

(e) By December 1 of each year beginning in 2001, the department shall report to the Legislature on the placement of children in licensed residential group care during the year, including the criteria used to determine the placement of children, the number of children who were evaluated for placement, the number of children who were placed based upon the evaluation, and the number of children who were not placed. The department shall maintain data specifying the number of children who were referred to licensed residential child care for whom placement was unavailable and the counties in which such placement was unavailable. The department shall include this data in its report to the Legislature due on December 1, so that the Legislature may consider this information in developing the General Appropriations Act.

(f) The provisions of this subsection shall be implemented to the extent of available appropriations contained in the annual General Appropriations Act for such purpose.

Section 4. Subsection (1) of section 409.1671, Florida Statutes, is amended to read:

409.1671 Foster care and related services; privatization.—

(1)(a) It is the intent of the Legislature that the Department of Children and Family Services shall privatize the provision of foster care and related services statewide. It is further the Legislature's intent to encourage communities and other stakeholders in the well-being of children to participate in assuring that children are safe and well-nurtured. However, while recognizing that some local governments are

presently funding portions of certain foster care and related services programs and may choose to expand such funding in the future, the Legislature does not intend by its privatization of foster care and related services that any county, municipality, or special district be required to assist in funding programs that previously have been funded by the state. Nothing in this paragraph prohibits any county, municipality, or special district from future voluntary funding participation in foster care and related services. As used in this section, the term "privatize" means to contract with competent, community-based agencies. The department shall submit a plan to accomplish privatization statewide, through a competitive process, phased in over a 3-year period beginning January 1, 2000. This plan must be developed with local community participation, including, but not limited to, input from community-based providers that are currently under contract with the department to furnish community-based foster care and related services, and must include a methodology for determining and transferring all available funds, including federal funds that the provider is eligible for and agrees to earn and that portion of general revenue funds which is currently associated with the services that are being furnished under contract. The methodology must provide for the transfer of funds appropriated and budgeted for all services and programs that have been incorporated into the project, including all management, capital (including current furniture and equipment), and administrative funds to accomplish the transfer of these programs. This methodology must address expected workload and at least the 3 previous years' experience in expenses and workload. With respect to any district or portion of a district in which privatization cannot be accomplished within the 3-year timeframe, the department must clearly state in its plan the reasons the timeframe cannot be met and the efforts that should be made to remediate the obstacles, which may include alternatives to total privatization, such as public-private partnerships. As used in this section, the term "related services" *includes, but is not limited to,* ~~means~~ family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, foster care supervision, case management, postplacement supervision, permanent foster care, and family reunification. Unless otherwise provided for, beginning in fiscal year 1999-2000, either the state attorney or the Office of the Attorney General shall provide child welfare legal services, pursuant to chapter 39 and other relevant provisions, in Sarasota, Pinellas, Pasco, Broward, and Manatee Counties. Such legal services shall commence and be effective, as soon as determined reasonably feasible by the respective state attorney or the Office of the Attorney General, after the privatization of associated programs and child protective investigations has occurred. When a private nonprofit agency has received case management responsibilities, transferred from the state under this section, for a child who is sheltered or found to be dependent and who is assigned to the care of the privatization project, the agency may act as the child's guardian for the purpose of registering the child in school if a parent or guardian of the child is unavailable and his or her whereabouts cannot reasonably be ascertained. The private nonprofit agency may also seek emergency medical attention for such a child, but only if a parent or guardian of the child is unavailable, his or her whereabouts cannot reasonably be ascertained, and a court order for such emergency medical services cannot be obtained because of the severity of the emergency or because it is after normal working hours. However, the provider may not consent to sterilization, abortion, or termination of life support. If a child's parents' rights have been terminated, the nonprofit agency shall act as guardian of the child in all circumstances.

(b) As used in this section, the term "eligible lead community-based provider" means a single agency with which the department shall contract for the provision of child protective services in a community that is no smaller than a county. The secretary of the department may authorize more than one eligible lead community-based provider within a single county when to do so will result in more effective delivery of foster care and related services. To compete for a privatization project, such agency must have:

1. The ability to coordinate, integrate, and manage all child protective services in the designated community in cooperation with child protective investigations.

2. The ability to ensure continuity of care from entry to exit for all children referred from the protective investigation and court systems.

3. The ability to provide directly, or contract for through a local network of providers, all necessary child protective services.

4. The willingness to accept accountability for meeting the outcomes and performance standards related to child protective services established by the Legislature and the Federal Government.

5. The capability and the willingness to serve all children referred to it from the protective investigation and court systems, regardless of the level of funding allocated to the community by the state, provided all related funding is transferred.

6. The willingness to ensure that each individual who provides child protective services completes the training required of child protective service workers by the Department of Children and Family Services.

7. The ability to maintain eligibility to receive all federal child welfare funds, including Title IV-E and IV-A funds, currently being used by the Department of Children and Family Services.

(c)*1. If attempts to competitively procure services through an eligible lead community-based provider as defined in paragraph (b) do not produce a capable and willing agency, the department shall develop a plan in collaboration with the local community alliance. The plan must detail how the community will continue to implement privatization through competitively procuring either the specific components of foster care and related services or comprehensive services for defined eligible populations of children and families from qualified licensed agencies as part of its efforts to develop the local capacity for a community-based system of coordinated care. The plan must ensure local control over the management and administration of the service provision in accordance with the intent of this section and may include recognized best business practices, including some form of public or private partnerships. In the absence of a community alliance, the plan must be submitted to the President of the Senate and the Speaker of the House of Representatives for their comments.*

2.~~1.~~ The Legislature finds that the state has traditionally provided foster care services to children who have been the responsibility of the state. As such, foster children have not had the right to recover for injuries beyond the limitations specified in s. 768.28. The Legislature has determined that foster care and related services need to be privatized pursuant to this section and that the provision of such services is of paramount importance to the state. The purpose for such privatization is to increase the level of safety, security, and stability of children who are or become the responsibility of the state. One of the components necessary to secure a safe and stable environment for such children is that private providers maintain liability insurance. As such, insurance needs to be available and remain available to nongovernmental foster care and related services providers without the resources of such providers being significantly reduced by the cost of maintaining such insurance.

3.~~2.~~ The Legislature further finds that, by requiring the following minimum levels of insurance, children in privatized foster care and related services will gain increased protection and rights of recovery in the event of injury than provided for in s. 768.28.

(d) Other than an entity to which s. 768.28 applies, any eligible lead community-based provider, as defined in paragraph (b), or its employees or officers, except as otherwise provided in paragraph (e), must, as a part of its contract, obtain a minimum of $1 million per claim/$3 million per incident in general liability insurance coverage. In any tort action brought against such an eligible lead community-based provider, net economic damages shall be limited to $1 million per claim, including, but not limited to, past and future medical expenses, wage loss, and loss of earning capacity, offset by any collateral source payment paid or payable. In any tort action brought against such an eligible lead community-based provider, noneconomic damages shall be limited to $200,000 per claim. A claims bill may be brought on behalf of a claimant pursuant to s. 768.28 for any amount exceeding the limits specified in this paragraph. Any offset of collateral source payments made as of the

date of the settlement or judgment shall be in accordance with s. 768.76. The lead community-based provider shall not be liable in tort for the acts or omissions of its subcontractors or the officers, agents, or employees of its subcontractors.

(e) The liability of an eligible lead community-based provider described in this section shall be exclusive and in place of all other liability of such provider. The same immunities from liability enjoyed by such providers shall extend as well to each employee of the provider when such employee is acting in furtherance of the provider's business. Such immunities shall not be applicable to a provider or an employee who acts in a culpably negligent manner or with willful and wanton disregard or unprovoked physical aggression when such acts result in injury or death or such acts proximately cause such injury or death; nor shall such immunities be applicable to employees of the same provider when each is operating in the furtherance of the provider's business, but they are assigned primarily to unrelated works within private or public employment. The same immunity provisions enjoyed by a provider shall also apply to any sole proprietor, partner, corporate officer or director, supervisor, or other person who in the course and scope of his or her duties acts in a managerial or policymaking capacity and the conduct that caused the alleged injury arose within the course and scope of those managerial or policymaking duties. Culpable negligence is defined as reckless indifference or grossly careless disregard of human life.

(f) Any subcontractor of an eligible lead community-based provider, as defined in paragraph (b), which is a direct provider of foster care and related services to children and families, and its employees or officers, except as otherwise provided in paragraph (e), must, as a part of its contract, obtain a minimum of $1 million per claim $3 million per incident in general liability insurance coverage. In any tort action brought against such subcontractor, net economic damages shall be limited to $1 million per claim, including, but not limited to, past and future medical expenses, wage loss, and loss of earning capacity, offset by any collateral source payment paid or payable. In any tort action brought against such subcontractor, noneconomic damages shall be limited to $200,000 per claim. A claims bill may be brought on behalf of a claimant pursuant to s. 768.28 for any amount exceeding the limits specified in this paragraph. Any offset of collateral source payments made as of the date of the settlement or judgment shall be in accordance with s. 768.76.

(g) The liability of a subcontractor of an eligible lead community-based provider that is a direct provider of foster care and related services as described in this section shall be exclusive and in place of all other liability of such provider. The same immunities from liability enjoyed by such subcontractor provider shall extend as well to each employee of the subcontractor when such employee is acting in furtherance of the subcontractor's business. Such immunities shall not be applicable to a subcontractor or an employee who acts in a culpably negligent manner or with willful and wanton disregard or unprovoked physical aggression when such acts result in injury or death or such acts proximately cause such injury or death; nor shall such immunities be applicable to employees of the same subcontractor when each is operating in the furtherance of the subcontractor's business, but they are assigned primarily to unrelated works within private or public employment. The same immunity provisions enjoyed by a subcontractor shall also apply to any sole proprietor, partner, corporate officer or director, supervisor, or other person who in the course and scope of his or her duties acts in a managerial or policymaking capacity and the conduct that caused the alleged injury arose within the course and scope of those managerial or policymaking duties. Culpable negligence is defined as reckless indifference or grossly careless disregard of human life.

(h) The Legislature is cognizant of the increasing costs of goods and services each year and recognizes that fixing a set amount of compensation actually has the effect of a reduction in compensation each year. Accordingly, the conditional limitations on damages in this section shall be increased at the rate of 5 percent each year, prorated from the effective date of this paragraph to the date at which damages subject to such limitations are awarded by final judgment or settlement.

Section 5. Section 409.1676, Florida Statutes, is created to read:

409.1676 Comprehensive residential services to children who have extraordinary needs.—

(1) It is the intent of the Legislature to provide comprehensive residential services, including residential care, case management, and other services, to children in the child protection system who have extraordinary needs, such as serious behavioral problems or having been determined to be without the options of either reunification with family or adoption. These services are to be provided in a residential group care setting by a not-for-profit corporation or a local government entity under a contract with the Department of Children and Family Services or by a lead agency as described in s. 409.1671. These contracts should be designed to provide an identified number of children with access to a full array of services for a fixed price.

(2) As used in this section, the term:

(a) "Residential group care" means a living environment for children who have been adjudicated dependent and are expected to be in foster care for at least 6 months with 24-hour-awake staff or live-in group home parents or staff. Beginning July 1, 2001, all facilities must be appropriately licensed in this state, and they must be accredited by July 1, 2005.

(b) "Serious behavioral problems" means behaviors of children who have been assessed by a licensed master's-level human-services professional to need at a minimum intensive services but who do not meet the criteria of s. 394.492(6) or s. 394.492(7). A child with an emotional disturbance as defined in s. 394.492(5) may be served in residential group care unless a determination is made by a mental health professional that such a setting is inappropriate.

(3) The department, in accordance with a specific appropriation for this program, shall contract with a not-for-profit corporation, a local government entity, or the lead agency that has been established in accordance with s. 409.1671 for the performance of residential group care services described in this section in, at a minimum, districts 4, 11, 12, and the Suncoast Region of the Department of Children and Family Services and with a not-for-profit entity serving children from multiple districts. A lead agency that is currently providing residential care may provide this service directly with the approval of the local community alliance. The department or a lead agency may contract for more than one site in a county if that is determined to be the most effective way to achieve the goals set forth in this section.

(4) The lead agency, the contracted not-for-profit corporation, or the local government entity is responsible for a comprehensive assessment, residential care, transportation, behavioral health services, recreational activities, clothing, supplies and miscellaneous expenses associated with caring for these children, for necessary arrangement for or provision of educational services, and for assuring necessary and appropriate health and dental care.

(5) The department may transfer all casework responsibilities for children served under this program to the entity that provides this service, including case management and development and implementation of a case plan in accordance with current standards for child protection services. When the department establishes this program in a community that has a lead agency as described in s. 409.1671, the casework responsibilities must be transferred to the lead agency.

(6) This section does not prohibit any provider of these services from appropriately billing Medicaid for services rendered, from contracting with a local school district for educational services, or from earning federal or local funding for services provided, as long as two or more funding sources do not pay for the same specific service that has been provided to a child.

(7) The lead agency, not-for-profit corporation, or local government entity has the legal authority for children served under this program, as provided in chapter 39 or this chapter, as appropriate, to enroll the child in school, to sign for a driver's license for the child, to co-sign loans and insurance for the child, to sign for medical treatment, and to authorize other such activities.

(8) The department shall provide technical assistance as requested and contract-management services.

(9) The provisions of this section shall be implemented to the extent of available appropriations contained in the annual General Appropriations Act for such purpose.

Section 6. Section 409.1677, Florida Statutes, is created to read:

409.1677 Model comprehensive residential services programs.—

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

(a) "Residential group care" means a living environment for children who have been adjudicated dependent and are expected to be in foster care for a minimum of 6 months with 24-hour-awake staff or live-in group home parents or staff. Beginning July 1, 2001, all facilities must be appropriately licensed in this state, and they must be accredited by July 1, 2005.

(b) "Serious behavioral problems" means behaviors of children who have been assessed by a licensed master's-level human services professional to need at a minimum intensive services but who do not meet the criteria of s. 394.492(6) or s. 394.492(7). A child with an emotional disturbance as defined in s. 394.492(5) may be served in residential group care unless a determination is made by a mental health professional that such a setting is inappropriate.

(2) The department shall establish a model comprehensive residential services program in Dade and Manatee Counties through a contract with the designated lead agency established in accordance with s. 409.1671 or with a private entity capable of providing residential group care and home-based care and experienced in the delivery of a range of services to foster children, if no lead agency exists. These model programs are to serve that portion of eligible children within each county which is specified in the contract, based on funds appropriated, to include a full array of services for a fixed price. The private entity or lead agency is responsible for all programmatic functions necessary to carry out the intent of this section.

(3) Each model must include:

(a) A focus on serving the full range of children in foster care, including those who have specialized needs, such as children who are unlikely to be reunited with their families or placed in adoptive homes; sibling groups; children who have serious behavioral problems; and children who are victims of sexual abuse.

(b) For each child who is in care, the provision of or arrangements for a comprehensive assessment; residential care; transportation; behavioral health services; recreational activities; clothing, supplies, and miscellaneous expenses associated with caring for these children; educational services; necessary and appropriate health and dental care; legal services; and aftercare services.

(c) A commitment and ability to find and use innovative approaches to address the problems in the traditional foster care system, such as high caregiver turnover, disrupted and multiple placements, runaway behavior, and abusive or nontherapeutic care.

(d) The provision of a full range of residential services tailored to the individual needs of each child in care, including group homes for initial assessment and for stabilization; professional and traditional foster homes; residential group care provided in a setting that is homelike and provides care in residences housing no more than 12 children and staffed with full-time, appropriately trained house parents; and independent living apartments. The programs are designed for children who must enter the foster care system, but the use of placement with relatives as part of a child's care is encouraged.

(e) The provision of the full range of administrative services necessary to operate the program.

(f) Specific eligibility criteria established in the contract, including a "no-reject-no-eject" commitment with the described eligible children, unless the court determines that the placement is not in a child's best interest.

(g) An ability, through its trained, multidisciplinary staff, to facilitate the achievement of the permanency goals of the children who are in care.

(h) The design and utilization of a retired-volunteer mentor program that would make use of the skills of retired individuals in helping to meet the needs of both the children in care and their caregivers.

(i) The willingness and ability to assume financial risk for the care of children referred to the program under the contract.

(j) The willingness and ability to serve as a research and teaching laboratory for departmental and community-based care programs throughout the state in an effort to improve the quality of foster care.

(4) This section does not prohibit any provider of these services from appropriately billing Medicaid for services rendered, from contracting with a local school district for educational services, or from earning federal or local funding for services provided, as long as two or more funding sources do not pay for the same specific service that has been provided to a child.

(5) The lead agency, not-for-profit corporation, or local government entity has the legal authority for children served under this program, as provided in chapter 39 or this chapter, as appropriate, to enroll the child in school, to sign for a driver's license for the child, to co-sign loans and insurance for the child, to sign for medical treatment, and to authorize other such activities.

(6) The department shall provide technical assistance as requested and contract-management services.

(7) The provisions of this section shall be implemented to the extent of available appropriations contained in the annual General Appropriations Act for such purpose.

Section 7. Section 409.1679, Florida Statutes, is created to read:

409.1679 Additional requirements, effective date, reimbursement methodology, and evaluation.—

(1) The programs established under ss. 409.1676 and 409.1677 are to be operational within 6 months after those sections take effect, and, beginning 1 month after this section takes effect and continuing until full operation of those programs is realized, the department shall provide to the Legislature monthly written status reports on the progress toward implementing those programs.

(2) The programs established under ss. 409.1676 and 409.1677 must be included as part of the annual evaluation currently required under s. 409.1671. With respect to these specific programs and models, the annual evaluation must be conducted by an independent third party and must include, by specific site, the level of attainment of the targeted outcomes listed in subsection (3). The evaluation of the model programs must include, at a minimum, an assessment of their cost-effectiveness, of their ability to successfully implement the assigned program elements, and of their attainment of performance standards that include legislatively established standards for similar programs and other standards determined jointly by the department and the providers and stated in a contract.

(3) Each program established under ss. 409.1676 and 409.1677 must meet the following expectations, which must be included in its contracts with the department or lead agency:

(a) No more than 10 percent of the children served may move from one living environment to another, unless the child is returned to family members or is moved, in accordance with the treatment plan, to a less-restrictive setting. Each child must have a comprehensive transitional plan that identifies the child's living arrangement upon leaving the program and specific steps and services that are being provided to prepare for that arrangement. Specific expectations as to the time period necessary for the achievement of these permanency goals must be included in the contract.

(b) Each child must receive a full academic year of appropriate educational instruction. No more than 10 percent of the children may be

in more than one academic setting in an academic year, unless the child is being moved, in accordance with an educational plan, to a less-restrictive setting. Each child must demonstrate academic progress and must be performing at grade level or at a level commensurate with a valid academic assessment.

(c) Siblings must be kept together in the same living environment 100 percent of the time, unless that is determined by the provider not to be in the children's best interest. When siblings are separated in placement, the decision must be reviewed and approved by the court within 30 days.

(d) The program must experience a caregiver turnover rate and an incidence of child runaway episodes which are at least 50 percent below the rates experienced in the rest of the state.

(e) In addition to providing a comprehensive assessment, the program must provide, 100 percent of the time, any or all of the following services that are indicated through the assessment: residential care; transportation; behavioral health services; recreational activities; clothing, supplies, and miscellaneous expenses associated with caring for these children; necessary arrangements for or provision of educational services; and necessary and appropriate health and dental care.

(f) The children who are served in this program must be satisfied with the services and living environment.

(g) The caregivers must be satisfied with the program.

(4) Notwithstanding the provisions of s. 409.141, the Department of Children and Family Services shall fairly and reasonably reimburse the programs established under ss. 409.1676 and 409.1677 based on a prospective per-diem rate, which must be specified annually in the General Appropriations Act. Funding for these programs shall be made available from resources appropriated and identified in the General Appropriations Act.

Section 8. Present paragraph (j) of subsection (5) of section 409.175, Florida Statutes, is redesignated as paragraph (k), paragraphs (h) and (i) of that subsection are amended, and a new paragraph (j) is added to that subsection, to read:

409.175 Licensure of family foster homes, residential child-caring agencies, and child-placing agencies.—

(5)

(h) Upon determination that the applicant meets the state minimum licensing requirements, the department shall issue a license without charge to a specific person or agency at a specific location. A license may be issued if all the screening materials have been timely submitted; however, a license may not be issued or renewed if any person at the home or agency has failed the required screening. The license is nontransferable. A copy of the license shall be displayed in a conspicuous place. *Except as provided in paragraph (j),* the license is valid for 1 year from the date of issuance, unless the license is suspended or revoked by the department or is voluntarily surrendered by the licensee. The license is the property of the department.

(i) A license issued for the operation of a family foster home or agency, unless sooner suspended, revoked, or voluntarily returned, will expire automatically 1 year from the date of issuance *except as provided in paragraph (j)*. Ninety days prior to the expiration date, an application for renewal shall be submitted to the department by a licensee who wishes to have the license renewed. A license shall be renewed upon the filing of an application on forms furnished by the department if the applicant has first met the requirements established under this section and the rules promulgated hereunder.

(j) The department may issue a license that is valid for longer than 1 year but no longer than 3 years to a family foster home that:

1. Has maintained a license with the department as a family foster home for at least the 3 previous consecutive years;

2. Remains in good standing with the department; and

3. Has not been the subject of a report of child abuse or neglect with any findings of maltreatment.

A family foster home that has been issued a license valid for longer than 1 year must be monitored and visited as frequently as one that has been issued a 1-year license. The department reserves the right to reduce a licensure period to 1 year at any time.

(k)~~(j)~~ The department may not license summer day camps or summer 24-hour camps. However, the department shall have access to the personnel records of such facilities to ensure compliance with the screening requirements.

Section 9. Paragraph (a) of subsection (2) of section 409.176, Florida Statutes, amended to read:

409.176 Registration of residential child-caring agencies and family foster homes.—

(1)(a) A residential child-caring agency or family foster home may not receive a child for continuing full-time care or custody, and a residential child-caring agency may not place a child for full-time continuing care or custody in a family foster home, unless it has first registered with an association that is certified by a Florida statewide child care organization which was in existence on January 1, 1984, and which publishes, and requires compliance with, its standards and files copies thereof with the department as provided in paragraph (5)(b). For purposes of this section, such an association shall be referred to as the "qualified association."

(b) For the purposes of this section, the terms "child," "family foster home," "screening," and "residential child-caring agency" are defined as provided in s. 409.175(2), and the terms "personnel," "operator," and "owner" as they pertain to "residential child-caring agency" are defined as provided in s. 409.175.

(c) As used in this section, the term "facility" means a residential child-caring agency or a family foster home.

(2)(a) Registration shall consist of annually filing with the qualified association, on forms provided by the qualified association, the name and address of the facility; the capacity of, and the number of children being cared for in, the facility; the names and addresses of the officers and the board of directors or other governing body of the organization, if applicable; the name of the officer or person in charge of the facility; and proof that the facility is in compliance with the minimum ~~fire,~~ health, sanitary, and safety standards required by applicable state law or local ordinance*, and the uniform fire safety standards required by chapter 633,* and in compliance with the requirements for screening of personnel in s. 409.175 and chapter 435. A separate registration form shall be filed for each such facility.

(b) As part of the registration application, each child-caring agency and each family foster home shall annually provide to the qualified association the names and ages of children being cared for in the facility; the names of children who have been received from out of state or who have been sent out of state during the past calendar year; the names of children who have left the facility during the past year, the lengths of their stays, and the nature of the placements; the names of all personnel; and proof that the facility is in compliance with published minimum standards that are filed with the department under the provisions of paragraph (5)(b). The agency shall also attest to the good moral character of the personnel of the facility by providing proof of compliance with the screening requirements of s. 409.175 and chapter 435 and provide the name of any member of the staff having a prior felony conviction.

(c) Upon verification that all requirements for registration have been met, the qualified association shall issue without charge a certificate of registration valid for 1 year.

Section 10. Section 435.045, Florida Statutes, is amended to read:

435.045 Requirements for *placement of dependent children* ~~prospective foster or adoptive parents.—~~

(1)(a) Unless an election provided for in subsection (2) is made with respect to the state, the department *is authorized to*~~shall~~ conduct criminal records checks equivalent to the level 2 screening required in s. 435.04(1) for any *person being considered by the department for placement of a child subject to a placement decision pursuant to ch. 39, Florida Statutes.* ~~prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child on whose behalf foster care maintenance payments or adoption assistance payments under s. 471 of the Social Security Act, 42 U.S.C. s. 671, are to be made.~~ Approval shall not be granted:

1. In any case in which a record check reveals a felony conviction for child abuse, abandonment, or neglect; for spousal abuse; for a crime against children, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide but not including other physical assault or battery, if the department finds that a court of competent jurisdiction has determined that the felony was committed at any time; and

2. In any case in which a record check reveals a felony conviction for physical assault, battery, or a drug-related offense, if the department finds that a court of competent jurisdiction has determined that the felony was committed within the past 5 years.

(b) Notwithstanding paragraph (a), the department may place a child in a foster home which otherwise meets licensing requirements if state and local criminal records checks do not disqualify the applicant and the department has submitted fingerprint information to the Florida Department of Law Enforcement for forwarding to the Federal Bureau of Investigation and is awaiting the results of the federal criminal records check.

(c) Prospective and approved foster parents must disclose to the department any prior or pending local, state, or federal criminal proceedings in which they are or have been involved.

(2) For purposes of this section, and ss. 39.401(3) and 39.521(1)(d), the department and its authorized agents or contract providers are hereby designated a criminal justice agency for the purposes of accessing criminal justice information, including National Crime Information Center information, to be used for enforcing Florida's laws concerning the crimes of child abuse, abandonment, and neglect. This information shall be used solely for purposes supporting the detection, apprehension, prosecution, pretrial release, posttrial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect and shall not be further disseminated or used for any other purposes.

(3) Subsection (2) shall not apply if the Governor has notified the Secretary of the United States Department of Health and Human Services in writing that the state has elected to make subsection (2) inapplicable to the state, or if the Legislature, by law, has elected to make subsection (2) inapplicable to the state.

Section 11. Section 784.081, Florida Statutes, is amended to read:

784.081 Assault or battery on specified officials or employees; reclassification of offenses.—Whenever a person is charged with committing an assault or aggravated assault or a battery or aggravated battery upon any elected official or employee of: a school district; a private school; the Florida School for the Deaf and the Blind; a university developmental research school; a state university or any other entity of the state system of public education, as defined in s. 228.041; ~~or~~ an employee or protective investigator of the Department of Children and Family Services*; or an employee of a lead community-based provider and its direct service contract providers*, when the person committing the offense knows or has reason to know the identity or position or employment of the victim, the offense for which the person is charged shall be reclassified as follows:

(1) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree.

(2) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree.

(3) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

(4) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

Section 12. *Status report on the child protection program.—*

(1) The Office of Program Policy Analysis and Government Accountability shall provide the Legislature with a report on the status of the child protection program. The report shall be submitted to the Governor, the Speaker of the House of Representatives, the President of the Senate, the minority leaders of each house of the Legislature, and the appropriate substantive committees of each house of the Legislature, no later than February 1, 2002.

(2) The status report shall contain, at a minimum:

(a) The most current statistical information from the abuse hotline.

(b) The most current data on the number of abuse and neglect cases that are not closed within 60 days, by district.

(c) Reasons cases are not closed, by district.

(d) The turnover rate of the child protective investigator staff, by district.

(e) Strategies to retain child protective investigator staff.

(f) Factors that are creating caseload increases in district 7 and other districts, including strategies to address these factors.

(g) The most current statistical information concerning the number of foster homes recruited, the number of additional foster homes needed, and the description of the department's effort to recruit foster homes.

(h) The department's progress in implementing the HomeSafeNet information system.

(i) The progress made in implementing the recommendations of the Office of Program Policy Analysis and Government Accountability in the March 2001 justification review of the child protection program.

Section 13. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 2 after the semicolon, through page 2, line 31 remove from the title of the bill: all said lines

and insert in lieu thereof: amending s. 20.19, F.S.; modifying the authority for lead agencies to provide services; amending s. 39.402, F.S.; requiring department recommend visitation schedule; requiring department provide information regarding services and providing that participation in services not be considered admission of allegations; amending s. 39.521, F.S., relating to disposition hearings; providing that certain children must be assessed for placement and placed in licensed residential group care; requiring results of an assessment to be reviewed by the court; requiring certain residential group care facilities to establish permanency teams; requiring that the Department of Children and Family Services report to the Legislature each year on the number of children placed in residential group care and the number of children for whom placement was unavailable; amending s. 409.1671, F.S.; redefining the term "related services"; providing for a plan to be used as an alternative to procuring foster care services through an eligible lead community-based provider; creating s. 409.1676, F.S.; providing for comprehensive residential services to children who have extraordinary needs; defining terms; providing for the Department of Children and Family Services to contract with specified entities for such services; specifying duties of the contracting entity; providing legal authority of the contracting entity to authorize specified activities for children served; prescribing departmental duties; creating s. 409.1677, F.S.; providing for model comprehensive residential services programs in specified counties; defining terms; providing for the programs to be established through contracts between the department and specified entities; prescribing the content of each model program; establishing

responsibilities of the contracting private entity; providing legal authority of the contracting private entity to authorize certain activities for children served; prescribing departmental duties; creating s. 409.1679, F.S.; prescribing additional requirements for the programs established under ss. 409.1676, 409.1677, F.S., including requirements relating to reimbursement methodology and program evaluation; requiring the department to provide progress reports to the Legislature; amending s. 409.175, F.S.; allowing a family foster home license to be valid for an extended period in specified circumstances; amending s. 409.176, F.S., providing for compliance with uniform fire safety standards; amending s. 435.045, F.S., relating to placement of dependent children, authorizing department to conduct criminal records checks; amending s. 784.081, F.S., relating to upgrading the seriousness of the offense if a person commits an assault or a battery against specified officials or employees; including on the list of such officials and employees an employee of a lead community-based provider and its direct-service contract providers; requiring the Office of Program Policy Analysis and Government Accountability to provide the Legislature with a report on the status of the child protection program; providing an effective date.

Rep. Murman moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 1073 was taken up. On motion by Rep. Murman, the rules were waived and CS for CS for SB 1258 was substituted for CS/HB 1073. Under Rule 5.15, the House bill was laid on the table and—

CS for CS for SB 1258—A bill to be entitled An act relating to behavioral health services; providing legislative findings with respect to providing mental health and substance-abuse-treatment services; permitting the Department of Children and Family Services and the Agency for Health Care Administration to contract for the establishment of two behavioral health service delivery strategies to test methods and techniques for coordinating, integrating, and managing the delivery of mental health services and substance-abuse-treatment services for persons with emotional, mental, or addictive disorders; requiring a managing entity for each service delivery strategy; requiring that costs be shared by the Department of Children and Family Services and the Agency for Health Care Administration; specifying the goals of the service delivery strategies; specifying the target population of persons to be enrolled under each strategy; requiring a continuing care system; requiring an advisory body for each demonstration model; requiring certain cooperative agreements; providing reporting requirements; requiring an independent entity to evaluate the service delivery strategies; requiring annual reports; creating a Behavioral Health Services Integration Workgroup; requiring the Secretary of the Department of Children and Family Services to appoint members to the Workgroup; providing authority for a transfer of funds to support the Workgroup; requiring the Workgroup to report to the Governor and the Legislature; creating s. 394.499, F.S.; authorizing the Department of Children and Family Services, in consultation with the Agency for Health Care Administration, to establish children's behavioral crisis unit demonstration models to provide integrated emergency mental health and substance abuse services to persons under 18 years of age at facilities licensed as children's crisis stabilization units; providing for standards, procedures, and requirements for services; providing eligibility criteria; requiring the department to report on the initial demonstration models; providing for expanding the demonstration models; providing for independent evaluation and report; providing rulemaking authority; amending s. 394.66, F.S.; providing legislative intent; creating s. 394.741, F.S.; requiring the Agency for Health Care Administration and the Department of Children and Family Services to accept accreditation in lieu of its administrative and program monitoring under certain circumstances; amending s. 394.90, F.S.; requiring the Agency for Health Care Administration to accept accreditation in lieu of its onsite licensure reviews; amending s. 397.411, F.S.; requiring the Department of Children and Family Services to accept accreditation in lieu of its onsite licensure reviews; amending s. 397.403, F.S.; conforming provisions; providing an appropriation; providing an effective date.

—was read the second time by title.

Representative(s) Murman offered the following:

(Amendment Bar Code: 102671)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 394.499, Florida Statutes, is created to read:

394.499 Integrated children's crisis stabilization unit/juvenile addictions receiving facility services.—

(1) Beginning July 1, 2001, the Department of Children and Family Services, in consultation with the Agency for Health Care Administration, is authorized to establish children's behavioral crisis unit demonstration models in Collier, Lee, and Sarasota Counties. By December 31, 2003, the department shall submit to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the Senate and House committees that oversee departmental activities a report that evaluates the number of clients served, quality of services, performance outcomes, and feasibility of continuing or expanding the demonstration models. Beginning July 1, 2004, subject to approval by the Legislature, the department, in cooperation with the agency, may expand the demonstration models to other areas in the state. The children's behavioral crisis unit demonstration models will integrate children's mental health crisis stabilization units with substance abuse juvenile addictions receiving facility services, to provide emergency mental health and substance abuse services that are integrated within facilities licensed and designated by the agency for children under 18 years of age who meet criteria for admission or examination under this section. The services shall be designated as "integrated children's crisis stabilization unit/juvenile addictions receiving facility services," shall be licensed by the agency as children's crisis stabilization units, and shall meet all licensure requirements for crisis stabilization units. The department, in cooperation with the agency, shall develop standards that address eligibility criteria, clinical procedures, staffing requirements, operational, administrative, and financing requirements, and investigation of complaints for such integrated facility services. Standards that are implemented specific to substance abuse services shall meet or exceed existing standards for addictions receiving facilities.

(2) Children eligible to receive integrated children's crisis stabilization unit/juvenile addictions receiving facility services include:

(a) A person under 18 years of age for whom voluntary application is made by his or her guardian, if such person is found to show evidence of mental illness and to be suitable for treatment pursuant to s. 394.4625. A person under 18 years of age may be admitted for integrated facility services only after a hearing to verify that the consent to admission is voluntary.

(b) A person under 18 years of age who may be taken to a receiving facility for involuntary examination, if there is reason to believe that he or she is mentally ill and because of his or her mental illness, pursuant to s. 394.463:

1. Has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination; or

2. Is unable to determine for himself or herself whether examination is necessary; and

a. Without care or treatment is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or

b. There is a substantial likelihood that without care or treatment he or she will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.

(c) A person under 18 years of age who wishes to enter treatment for substance abuse and applies to a service provider for voluntary admission, pursuant to s. 397.601.

(d) A person under 18 years of age who meets the criteria for involuntary admission because there is good faith reason to believe the person is substance abuse impaired pursuant to s. 397.675 and, because of such impairment:

1. Has lost the power of self-control with respect to substance use; and

2.a. Has inflicted, or threatened or attempted to inflict, or unless admitted is likely to inflict, physical harm on himself or herself or another; or

b. Is in need of substance abuse services and, by reason of substance abuse impairment, his or her judgment has been so impaired that the person is incapable of appreciating his or her need for such services and of making a rational decision in regard thereto; however, mere refusal to receive such services does not constitute evidence of lack of judgment with respect to his or her need for such services.

(e) A person under 18 years of age who meets the criteria for examination or admission under paragraph (b) or paragraph (d) and has a coexisting mental health and substance abuse disorder.

(3) The department shall contract for an independent evaluation of the children's behavioral crisis unit demonstration models to identify the most effective ways to provide integrated crisis stabilization unit/juvenile addiction receiving facility services to children. The evaluation shall be reported to the Legislature by December 31, 2003.

(4) The department, in cooperation with the agency, is authorized to adopt rules regarding standards and procedures for integrated children's crisis stabilization unit/juvenile addictions receiving facility services.

Section 2. *Nothing in s. 394.499, Florida Statutes, shall be construed to require an existing crisis stabilization unit or juvenile addictions receiving facility to convert to a children's behavioral crisis unit.*

Section 3. Subsections (13) and (14) are added to section 394.66, Florida Statutes, to read:

394.66 Legislative intent with respect to substance abuse and mental health services.—It is the intent of the Legislature to:

(13) Promote best practices and the highest quality of care in contracted alcohol, drug abuse, and mental health services through achievement of national accreditation.

(14) Ensure that the state agencies licensing and monitoring contracted providers perform in the most cost-efficient and effective manner with limited duplication and disruption to organizations providing services.

Section 4. Section 394.741, Florida Statutes, is created to read:

394.741 Accreditation requirements for providers of behavioral health care services.—

(1) As used in this section, the term "behavioral health care services" means mental health and substance abuse treatment services.

(2) Notwithstanding any provision of law to the contrary, accreditation shall be accepted by the agency and department in lieu of the agency's and department's facility licensure on-site review requirements and shall be accepted as a substitute for the department's administrative and program monitoring requirements, except as required by subsections (3) and (4):

(a) Any organization from which the department purchases behavioral health care services that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or the Council on Accreditation for Children and Family Services, or have those services that are being purchased by the department accredited by CARF—the Rehabilitation Accreditation Commission.

(b) Any mental health facility licensed by the agency or any substance abuse component licensed by the department that is accredited by the Joint Commission on Accreditation of Healthcare Organizations, CARF--the Rehabilitation Accreditation Commission, or the Council on Accreditation of Children and Family Services.

(c) Any network of providers from which the department or the agency purchase behavioral health care services accredited by the Joint Commission on Accreditation of Healthcare Organizations, CARF--the Rehabilitation Accreditation Commission, the Council on Accreditation of Children and Family Services, or the National Committee for Quality Assurance. A provider organization, which is part of an accredited network, is afforded the same rights under this part.

(3) For mental health services, the department and the agency may adopt rules that establish:

(a) Additional standards for monitoring and licensing accredited programs and facilities that the department and the agency have determined are not specifically and distinctly covered by the accreditation standards and processes. These standards and the associated monitoring must not duplicate the standards and processes already covered by the accrediting bodies.

(b) An on-site monitoring process between 24 months and 36 months after accreditation for nonresidential facilities to assure that accredited organizations exempt from licensing and monitoring activities under this part continue to comply with critical standards.

(c) An on-site monitoring process between 12 months and 24 months after accreditation for residential facilities to assure that accredited organizations exempt from licensing and monitoring activities under this part continue to comply with critical standards.

(4) For substance abuse services, the department shall conduct full licensure inspections every 3 years and shall develop in rule criteria which would justify more frequent inspections.

(5) The department and the agency shall be given access to all accreditation reports, corrective action plans, and performance data submitted to the accrediting organizations. When major deficiencies, as defined by the accrediting organization, are identified through the accreditation process, the department and the agency may perform followup monitoring to assure that such deficiencies are corrected and that the corrections are sustained over time. Proof of compliance with fire and health safety standards will be submitted as required by rule.

(6) The department or agency, by accepting the survey or inspection of an accrediting organization, does not forfeit its rights to perform inspections at any time, including contract monitoring to ensure that deliverables are provided in accordance with the contract.

(7) The department and the agency shall report to the Legislature by January 1, 2003, on the viability of mandating all organizations under contract with the department for the provision of behavioral health care services, or licensed by the agency or department to be accredited. The department and the agency shall also report to the Legislature by January 1, 2003, on the viability of privatizing all licensure and monitoring functions through an accrediting organization.

(8) The accreditation requirements of this section shall apply to contracted organizations that are already accredited immediately upon becoming law.

Section 5. Subsection (5) of section 394.90, Florida Statutes, is amended to read:

394.90 Inspection; right of entry; records.—

(5)~~(a)~~ The agency *shall* ~~may~~ accept, in lieu of its own inspections for licensure, the survey or inspection of an accrediting organization, if the provider is accredited *according to the provisions of s. 394.741* and the agency receives the report of the accrediting organization. ~~The department, in consultation with the agency, shall develop, and adopt by rule, specific criteria for assuring that the accrediting organization has specific standards and experience related to the program area being~~

~~licensed, specific criteria for accepting the standards and survey methodologies of an accrediting organization, delineations of the obligations of accrediting organizations to assure adherence to those standards, criteria for receiving, accepting and maintaining the confidentiality of the survey and corrective action reports, and allowance for the agency's participation in surveys.~~

~~(b) The agency shall conduct compliance investigations and sample validation inspections to evaluate the inspection process of accrediting organizations to ensure minimum standards are maintained as provided in Florida statute and rule. The agency may conduct a lifesafety inspection in calendar years in which an accrediting organization survey is not conducted and shall conduct a full state inspection, including a lifesafety inspection, if an accrediting organization survey has not been conducted within the previous 36 months. The agency, by accepting the survey or inspection of an accrediting organization, does not forfeit its right to perform inspections.~~

Section 6. Subsection (3) of section 397.403, Florida Statutes, is amended to read:

397.403 License application.—

(3) The department shall accept proof of accreditation by *CARF*--the *Rehabilitation Accreditation* Commission ~~on Accreditation of Rehabilitation Facilities (CARF)~~ or the Joint Commission on Accreditation of Health Care Organizations (JCAHCO), or through any other nationally recognized certification process that is acceptable to the department and meets the minimum licensure requirements under this chapter, in lieu of requiring the applicant to submit the information required by paragraphs (1)(a)-(c).

Section 7. Subsection (2) of section 397.411, Florida Statutes, is amended to read:

397.411 Inspection; right of entry; records.—

(2)~~(a)~~ The department *shall* ~~may~~ accept, in lieu of its own inspections for licensure, the survey or inspection of an accrediting organization, if the provider is accredited *according to the provisions of s. 394.741* and the department receives the report of the accrediting organization. ~~The department shall develop, and adopt by rule, specific criteria for assuring that the accrediting organization has specific standards and experience related to the program area being licensed; specific criteria for accepting the standards and survey methodologies of an accrediting organization; delineations of the obligations of accrediting organizations to assure adherence to those standards; criteria for receiving, accepting, and maintaining the confidentiality of the survey and corrective action reports; and allowance for the department's participation in surveys.~~

~~(b) The department shall conduct compliance investigations and sample validation inspections to evaluate the inspection process of accrediting organizations to ensure minimum standards are maintained as provided in Florida statute and rule. The department may conduct a fire, safety, and health inspection in calendar years in which an accrediting organization survey is not conducted and shall conduct a full state inspection, including a lifesafety inspection, if an accrediting organization survey has not been conducted within the previous 36 months. The department, by accepting the survey or inspection of an accrediting organization, does not forfeit its right to perform inspections.~~

Section 8. Paragraph (a) of subsection (4) of section 409.1671, Florida Statutes, is amended to read:

409.1671 Foster care and related services; privatization.—

(4)(a) The department shall establish a quality assurance program for privatized services. The quality assurance program shall be based on standards established by a national accrediting organization such as the Council on Accreditation of Services for Families and Children, Inc. (COA) or *CARF--the Rehabilitation Accreditation Commission* ~~the Council on Accreditation of Rehabilitation Facilities (CARF)~~. The department may develop a request for proposal for such oversight. This program must be developed and administered at a statewide level. The Legislature intends that the department be permitted to have limited flexibility to use funds for improving quality assurance. To this end, effective January 1, 2000, the department may transfer up to 0.125 percent of the total funds from categories used to pay for these contractually provided services, but the total amount of such transferred funds may not exceed $300,000 in any fiscal year. When necessary, the department may establish, in accordance with s. 216.177, additional positions that will be exclusively devoted to these functions. Any positions required under this paragraph may be established, notwithstanding ss. 216.262(1)(a) and 216.351. The department, in consultation with the community-based agencies that are undertaking the privatized projects, shall establish minimum thresholds for each component of service, consistent with standards established by the Legislature. Each program operated under contract with a community-based agency must be evaluated annually by the department. The department shall submit an annual report regarding quality performance, outcome measure attainment, and cost efficiency to the President of the Senate, the Speaker of the House of Representatives, the minority leader of each house of the Legislature, and the Governor no later than January 31 of each year for each project in operation during the preceding fiscal year.

Section 9. *Behavioral Health Service Delivery Strategies.—*

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that a management structure that places the responsibility for mental health and substance abuse treatment services within a single entity and that contains a flexible funding arrangement will allow for customized services to meet individual client needs and will provide incentives for provider agencies to serve persons in the target population who have the most complex treatment and support needs. The Legislature recognizes that in order for the state's publicly funded mental health and substance abuse treatment systems to evolve into a single well-integrated behavioral health system, a transition period is needed and demonstration sites must be established where new ideas and technologies can be tested and critically reviewed.

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

(a) "Behavioral health services" means mental health services and substance abuse treatment services that are provided with state and federal funds.

(b) "Managing entity" means an entity that manages the delivery of behavioral health services.

(3) SERVICE DELIVERY STRATEGIES.—The Department of Children and Family Services and the Agency for Health Care Administration shall develop service delivery strategies that will improve the coordination, integration, and management of the delivery of mental health and substance abuse treatment services to persons with emotional, mental, or addictive disorders. It is the intent of the Legislature that a well-managed service delivery system will increase access for those in need of care, improve the coordination and continuity of care for vulnerable and high-risk populations, redirect service dollars from restrictive care settings and out-of-date service models to community-based psychiatric rehabilitation services, and reward cost-effective and appropriate care patterns. The Legislature recognizes that the Medicaid, mental health, and substance abuse treatment programs are three separate systems and that each has unique characteristics, including unique requirements for eligibility. To move toward a well-integrated system of behavioral health care services will require careful planning and implementation. It is the intent of the Legislature that the service delivery strategies will be the first phase of transferring the provision and management of mental health and substance abuse treatment services provided by the Department of Children and Family Services and the Medicaid program from traditional fee-for-service and unit-cost contracting methods to risk-sharing arrangements. As used in this section, the term "behavioral health care services" means mental health services and substance abuse treatment services that are provided with state and federal funds.

(4) CONTRACT FOR SERVICES.—

(a) The Department of Children and Family Services and the Agency for Health Care Administration may contract for the provision or management of behavioral health services with a managing entity in at least two geographic areas. Both the Department of Children and Family Services and the Agency for Health Care Administration must contract with the same managing entity in any distinct geographic area where the strategy operates. This managing entity shall be accountable for the delivery of behavioral health services specified by the department and the agency for children, adolescents, and adults. The geographic area must be of sufficient size in population and have enough public funds for behavioral health services to allow for flexibility and maximum efficiency. Notwithstanding the provisions of s. 409.912(3)(b) 1. and 2., Florida Statutes, at least one service delivery strategy must be in one of the service districts in the catchment area of G. Pierce Wood Memorial Hospital.

(b) Under one of the service delivery strategies, the Department of Children and Family Services may contract with a prepaid mental health plan that operates under s. 409.912, Florida Statutes, to be the managing entity. Under this strategy, the Department of Children and Family Services is not required to competitively procure those services and, notwithstanding other provisions of law, may employ prospective payment methodologies that the department finds are necessary to improve client care or institute more efficient practices. The Department of Children and Family Services may employ in its contract any provision of the current prepaid behavioral health care plan authorized under s. 409.912(3)(a) and (b), Florida Statutes, or any other provision necessary to improve quality, access, continuity, and price. Any contracts under this strategy in Area 6 of the Agency for Health Care Administration or in the prototype region under s. 20.19(7), Florida Statutes, of the Department of Children and Family Services may be entered with the existing substance abuse treatment provider network if an administrative services organization is part of its network. In Area 6 of the Agency for Health Care Administration or in the prototype region of the Department of Children and Family Services, the Department of Children and Family Services and the Agency for Health Care Administration may employ alternative service delivery and financing methodologies, which may include prospective payment for certain population groups. The population groups that are to be provided these substance abuse services would include at a minimum: individuals and families receiving family safety services; Medicaid-eligible children, adolescents, and adults who are substance-abuse-impaired; or current recipients and persons at risk of needing cash assistance under Florida's welfare reform initiatives.

(c) Under the second service delivery strategy, the Department of Children and Family Services and the Agency for Health Care Administration shall competitively procure a contract for the management of behavioral health services with a managing entity. The Department of Children and Family Services and the Agency for Health Care Administration may purchase from the managing entity the management services necessary to improve continuity of care and access to care, contain costs, and improve quality of care. The managing entity shall manage and coordinate all publicly funded diagnostic or assessment services, acute care services, rehabilitative services, support services, and continuing care services for persons who meet the financial criteria specified in part IV of chapter 394, Florida Statutes, for publicly funded mental health and substance abuse treatment services or for persons who are Medicaid eligible. The managing entity shall be solely accountable for a geographic area and shall coordinate the emergency care system. The managing entity may be a network of existing providers with an administrative services organization that can function independently, may be an administrative services organization that is independent of local provider agencies, or may be an entity of state or local government.

(d) Under both strategies, the Department of Children and Family Services and the Agency for Health Care Administration may:

1. Establish benefit packages based on the level of severity of illness and level of client functioning;

2. Align and integrate procedure codes, standards, or other requirements if it is jointly determined that these actions will simplify or improve client services and efficiencies in service delivery;

3. Use prepaid per capita and prepaid aggregate fixed-sum payment methodologies; and

4. Modify their current procedure codes to increase clinical flexibility, encourage the use of the most effective interventions, and support rehabilitative activities.

(e) The cost of the managing entity contract shall be funded through a combination of funds from the Department of Children and Family Services and the Agency for Health Care Administration. To operate the managing entity, the Department of Children and Family Services and the Agency for Health Care Administration may not expend more than 10 percent of the annual appropriations for mental health and substance abuse treatment services prorated to the geographic areas and must include all behavioral health Medicaid funds, including psychiatric inpatient funds. This restriction does not apply to a prepaid behavioral health plan that is authorized under s. 409.912(3)(a) and (b), Florida Statutes.

(f) Contracting and payment mechanisms for services should promote flexibility and responsiveness and should allow different categorical funds to be combined. The service array should be determined by using needs assessment and best practice models.

(5) STATEWIDE ACTIONS.—If Medicaid appropriations for Community Mental Health Services or Mental Health Targeted Case Management are reduced in Fiscal Year 2001-02, the agency and the department shall jointly develop and implement strategies that reduce service costs in a manner that mitigates the impact on persons in need of those services. The agency and department may employ any methodologies on a regional or statewide basis necessary to achieve the reduction, including but not limited to use of case rates, prepaid per capita contracts, utilization management, expanded use of care management, use of waivers from the Health Care Financing Administration to maximize federal matching of current local and state funding, modification or creation of additional procedure codes, and certification of match or other management techniques.

(6) GOALS.—The goal of the service delivery strategies is to provide a design for an effective coordination, integration, and management approach for delivering effective behavioral health services to persons who are experiencing a mental health or substance abuse crisis, who have a disabling mental illness or substance abuse disorder and will require extended services in order to recover from their illness, or who need brief treatment or supportive interventions to avoid a crisis or disability. Other goals of the models include the following:

(a) Improve accountability for a local system of behavioral health care services to meet performance outcomes and standards.

(b) Assure continuity of care for all children, adolescents, and adults who enter the publicly funded behavioral health service system.

(c) Provide early diagnosis and treatment interventions to enhance recovery and prevent hospitalization.

(d) Improve assessment of local needs for behavioral health services.

(e) Improve the overall quality of behavioral health services through the use of best practice models.

(f) Demonstrate improved service integration between behavioral health programs and other programs, such as vocational rehabilitation, education, child welfare, primary health care, emergency services, and criminal justice.

(g) Provide for additional testing of creative and flexible strategies for financing behavioral health services to enhance individualized treatment and support services.

(h) Control the costs of services without sacrificing quality of care.

(i) Coordinate the admissions and discharges from state mental health hospitals and residential treatment centers.

(j) Improve the integration, accessibility, and dissemination of behavioral health data for planning and monitoring purposes.

(k) Promote specialized behavioral health services to residents of assisted living facilities.

(l) Reduce the admissions and the length of stay for dependent children in residential treatment centers.

(m) Provide services to abused and neglected children and their families as indicated in court-ordered case plans.

(7) ESSENTIAL ELEMENTS.—

(a) The managing entity must demonstrate the ability of its network of providers to comply with the pertinent provisions of chapters 394 and 397, Florida Statutes, and to assure the provision of comprehensive behavioral health services. The network of providers shall include, but is not limited to, mental health centers, substance abuse treatment providers, hospitals, licensed psychiatrists, licensed psychiatric nurses, and mental health professionals licensed under chapter 490 or chapter 491, Florida Statutes. A behavioral health client served by the network under the service delivery strategies may reside in his or her own home or in settings including, but not limited to, assisted living facilities, skilled nursing facilities, foster homes, or group homes.

(b) The target population to be served in the service delivery strategies must include children, adolescents, and adults who fall into the following categories:

1. Adults in mental health crisis;

2. Older adults in crisis;

3. Adults with serious and persistent mental illness;

4. Adults with substance abuse problems;

5. Adults with forensic involvement;

6. Older adults with severe and persistent mental illness;

7. Older adults with substance abuse problems;

8. Children and adolescents with serious emotional disturbances as defined in s. 394.492(6), Florida Statutes;

9. Children with substance abuse problems as defined in s. 397.93(2), Florida Statutes;

10. Children and adolescents in state custody pursuant to chapter 39, Florida Statutes; and

11. Children and adolescents in residential commitment programs of the Department of Juvenile Justice pursuant to chapter 985, Florida Statutes.

(c) The service delivery strategies must include a continuing care system for persons whose clinical and functional status indicates the need for these services. These persons will be eligible for a range of treatment, rehabilitative, and support services until they no longer need the services to maintain or improve their level of functioning. Given the long-term nature of some mental and addictive disorders, continuing care services should be sensitive to the variable needs of individuals across time and shall be designed to help assure easy access for persons with these long-term problems. The Department of Children and Family Services shall develop criteria for the continuing care program for behavioral health services.

(d) A local body or group must be identified by the district administrator of the Department of Children and Family Services to serve in an advisory capacity to the behavioral health service delivery strategy and must include representatives of the local school system, the judicial system, county government, public and private Baker Act receiving facilities, and law enforcement agencies; a consumer of the public behavioral health system; and a family member of a consumer of the publicly funded system. This advisory body may be the community alliance established under section 20.19(6), Florida Statutes, or any other suitable established local group.

(e) The managing entity shall ensure that written cooperative agreements are developed among the judicial system, the criminal justice system, and the local behavioral health providers in the geographic area which define strategies and alternatives for diverting, from the criminal justice system to the civil system as provided under part I of chapter 394, Florida Statutes, or chapter 397, Florida Statutes, persons with behavioral health problems who are arrested for a misdemeanor. These agreements must also address the provision of appropriate services to persons with behavioral health problems who leave the criminal justice system.

(f) Managing entities must submit data to the Department of Children and Family Services and the Agency for Health Care Administration on the use of services and the outcomes for all enrolled clients. Managing entities must meet performance standards developed by the Agency for Health Care Administration and the Department of Children and Family Services related to:

1. The rate at which individuals in the community receive services, including persons who receive followup care after emergencies.

2. Clinical improvement of individuals served, clinically and functionally.

3. Reduction of jail admissions.

4. Consumer and family satisfaction.

5. Satisfaction of key community constituents such as law enforcement agencies, juvenile justice agencies, the courts, the schools, local government entities, and others as appropriate for the locality.

(g) The Agency for Health Care Administration may establish a certified match program, which must be voluntary. Under a certified match program, reimbursement is limited to the federal Medicaid share to Medicaid-enrolled strategy participants. The agency shall take no action to implement a certified match program without ensuring that the consultation provisions of chapter 216, Florida Statutes, have been met. The agency may seek federal waivers that are necessary to implement the behavioral health service delivery strategies.

(h)1. The Department of Children and Family Services, in consultation with the Agency for Health Care Administration, shall prepare an amendment by October 31, 2001, to the 2001 master state plan required under s. 394.75(1), Florida Statutes, which describes each service delivery strategy, including at least the following details:

a. Operational design;

b. Counties or service districts included in each strategy;

c. Expected outcomes; and

d. Timeframes.

2. The amendment shall specifically address the application of each service delivery strategy to substance abuse services, including:

a. The development of substance abuse service protocols;

b. Credentialing requirements for substance abuse services; and

c. The development of new service models for individuals with co-occurring mental health and substance abuse disorders.

3. The amendment must specifically address the application of each service delivery strategy to the child welfare system, including:

a. The development of service models that support working with both children and their families in a community-based care system and that are specific to the child welfare system.

b. A process for providing services to abused and neglected children and their families as indicated in court-ordered case plans.

(8) MONITORING AND EVALUATION.—The Department of Children and Family Services and the Agency for Health Care Administration shall provide routine monitoring and oversight of and technical assistance to the managing entities. The Louis de la Parte Florida Mental Health Institute shall conduct an ongoing formative evaluation of each strategy to identify the most effective methods and techniques used to manage, integrate, and deliver behavioral health services. The entity conducting the evaluation shall report to the Department of Children and Family Services, the Agency for Health Care Administration, the Executive Office of the Governor, and the Legislature every 12 months regarding the status of the implementation of the service delivery strategies. The report must include a summary of activities that have occurred during the past 12 months of implementation and any problems or obstacles that prevented, or may prevent in the future, the managing entity from achieving performance goals and measures. The first status report is due January 1, 2002. After the service delivery strategies have been operational for 1 year, the status report must include an analysis of administrative costs and the status of the achievement of performance outcomes. Upon receiving the annual report from the evaluator, the Department of Children and Family Services and the Agency for Health Care Administration shall jointly make any recommendations to the Executive Office of the Governor regarding changes in the service delivery strategies or in the implementation of the strategies, including timeframes.

Section 10. *Behavioral Health Services Integration Workgroup.—*

(1) The Secretary of Children and Family Services shall establish the Behavioral Health Services Integration Workgroup, which, at a minimum, shall include representatives from the following: Department of Juvenile Justice, the Department of Corrections, and the Department of Education; the Office of Drug Control Policy; the Agency for Health Care Administration; and county jails, homeless coalitions, county government, providers of behavioral health services, public and private Baker Act receiving facilities, providers of child protection services, assisted living facilities serving behavioral health clients, and consumers of behavioral health services and their families. The Behavioral Health Services Integration Workgroup shall assess barriers to the effective and efficient integration of mental health and substance abuse treatment services across various systems, propose solutions to these barriers, and ensure that plans for mental health and substance abuse treatment services which are required by statute consider these solutions. Under chapter 216, Florida Statutes, the Department of Children and Family Services may transfer up to $200,000 to support the Behavioral Health Services Integration Workgroup.

(2) The Behavioral Health Services Integration Workgroup shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2002, regarding the Workgroup's progress toward achieving the goals specified in subsection (1).

Section 11. This act shall take effect upon becoming a law.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to substance abuse and mental health services; creating s. 394.499, F.S.; authorizing the Department of Children and Family Services, in consultation with the Agency for Health Care Administration, to establish children's behavioral crisis unit demonstration models to provide integrated emergency mental health and substance abuse services to persons under 18 years of age at facilities licensed as children's crisis stabilization units; providing for standards, procedures, and requirements for services; providing eligibility criteria; requiring the department to report on the initial demonstration models; providing for expanding the demonstration models; providing for independent evaluation and report; providing rulemaking authority; amending s. 394.66, F.S.; providing legislative intent relating to the accreditation and cost-efficiency of substance abuse and mental health service providers; creating s. 394.741, F.S., relating to accreditation requirements for providers of behavioral health care services; defining the term "behavioral health care services"; requiring the accreditation of certain entities to be accepted in lieu of licensure, administrative, and program monitoring requirements; authorizing the adoption of rules; requiring that the Department of Children and Family Services and the Agency for Health Care Administration be allowed access to all accreditation reports, corrective action plans, and performance data submitted to accrediting organizations; authorizing followup monitoring by the department and the agency if major deficiencies are identified through the accreditation process; preserving the right of the department and agency to perform inspections, including contract monitoring; requiring the department and the agency to report to the Legislature on the viability of mandating accreditation and privatizing licensure and monitoring functions; specifying that the accreditation requirements of s. 394.741, F.S., apply to contracted organizations that are already accredited; amending s. 394.90, F.S., relating to substance abuse and mental health services; revising provisions relating to licensure, accreditation, and inspection of facilities, to conform; providing a cross reference; amending s. 397.411, F.S., relating to substance abuse service providers; revising provisions relating to licensure, accreditation, and inspection of facilities, to conform; providing a cross reference; amending ss. 397.403 and 409.1671, F.S.; revising the name of the Commission on Accreditation of Rehabilitation Facilities; providing legislative findings with respect to providing mental health and substance abuse treatment services; permitting the Department of Children and Family Services and the Agency for Health Care Administration to contract for the establishment of two behavioral health service delivery strategies to test methods and techniques for coordinating, integrating, and managing the delivery of mental health services and substance abuse treatment services for persons with emotional, mental, or addictive disorders; requiring a managing entity for each service delivery strategy; requiring that costs be shared by the Department of Children and Family Services and the Agency for Health Care Administration; specifying the goals of the service delivery strategies; specifying the target population of persons to be enrolled under each strategy; requiring a continuing care system; requiring an advisory body for each demonstration model; requiring certain cooperative agreements; providing reporting requirements; requiring an independent entity to evaluate the service delivery strategies; requiring annual reports; creating a Behavioral Health Services Integration Workgroup; requiring the Secretary of Children and Family Services to appoint members to the Workgroup; providing authority for a transfer of funds to support the Workgroup; requiring the Workgroup to report to the Governor and the Legislature; providing an effective date.

Rep. Murman moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 1895 was taken up. On motion by Rep. Farkas, the rules were waived and SB 782 was substituted for CS/HB 1895. Under Rule 5.15, the House bill was laid on the table and—

SB 782—A bill to be entitled An act relating to nursing education; amending ss. 240.4075, 240.4076, F.S.; including nursing homes, family practice teaching hospitals and specialty children's hospitals as facilities eligible under the program; exempting such hospitals from the fund-matching requirements of the program; transferring the program from the Board of Regents to the Department of Health; providing an effective date.

—was read the second time by title.

Representative(s) Farkas offered the following:

(Amendment Bar Code: 600753)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsection (1) of section 483.245, Florida Statutes, is amended to read:

483.245 Rebates prohibited; penalties.—

(1) It is unlawful for any person to pay or receive any commission, bonus, kickback, or rebate or engage in any split-fee arrangement in any form whatsoever with any *dialysis facility,* physician, surgeon, organization, agency, or person, either directly or indirectly, for patients referred to a clinical laboratory licensed under this part.

Section 2. Subsection (3) of section 232.435, Florida Statutes, is amended to read:

232.435 Extracurricular athletic activities; athletic trainers.—

(3)~~(a)~~ To the extent practicable, a school district program should include the following employment classification and advancement scheme:

1. *First responder - To qualify as a first responder, a person must possess a professional, temporary, part-time, adjunct, or substitute certificate pursuant to s. 231.17, be certified in cardiopulmonary resuscitation, first aid, and have 15 semester hours in courses such as care and prevention of athletic injuries, anatomy, physiology, nutrition, counseling, and other similar courses approved by the Commissioner of Education. This person may only administer first aid and similar care.*

~~1. Teacher apprentice trainer I.—To qualify as a teacher apprentice trainer I, a person must possess a professional, temporary, part-time, adjunct, or substitute certificate pursuant to s. 231.17, be certified in first aid and cardiopulmonary resuscitation, and have earned a minimum of 6 semester hours or the equivalent number of inservice education points in the basic prevention and care of athletic injuries.~~

~~2. Teacher apprentice trainer II.—To qualify as a teacher apprentice trainer II, a person must meet the requirements of teacher apprentice trainer I and also have earned a minimum of 15 additional semester hours or the equivalent number of inservice education points in such courses as anatomy, physiology, use of modalities, nutrition, counseling, and other courses approved by the Commissioner of Education.~~

2.~~3.~~ Teacher athletic trainer.—To qualify as a teacher athletic trainer, a person must *possess a professional, temporary, part-time, adjunct, or substitute certificate pursuant to s. 232.17, and be licensed as required by part XIII of chapter 468* ~~meet the requirements of teacher apprentice trainer II, be certified by the Department of Education or a nationally recognized athletic trainer association, and perform one or more of the following functions: preventing athletic injuries; recognizing, evaluating, managing, treating, and rehabilitating athletic injuries; administering an athletic training program; and educating and counseling athletes~~.

~~(b) If a school district uses the services of an athletic trainer who is not a teacher athletic trainer or a teacher apprentice trainer within the requirements of this section, such athletic trainer must be licensed as required by part XIII of chapter 468.~~

Section 3. Section 381.6021, Florida Statutes, is amended to read:

381.6021 Certification of organizations engaged in the practice of cadaveric organ and tissue procurement.—The Agency for Health Care Administration shall:

(1) Establish a program for the certification of organizations, agencies, or other entities engaged in the procurement of organs, tissues, and eyes for transplantation;

(2) Adopt rules that set forth appropriate standards and guidelines for the program. These standards and guidelines must be substantially based on the existing laws of the Federal Government and this state and the existing standards and guidelines of *the federal Food and Drug Administration (FDA),* the United Network for Organ Sharing (UNOS), the American Association of Tissue Banks (AATB), the South-Eastern Organ Procurement Foundation (SEOPF), the North American Transplant Coordinators Organization (NATCO), and the Eye Bank Association of America (EBAA). In addition, the Agency for Health Care Administration shall, before adopting these standards and guidelines, seek input from all organ procurement organizations, tissue banks, and eye banks based in this state. *However, notwithstanding any other provision of law to the contrary, rules adopted under this subsection shall not allow human cells or tissue from two or more donors to be pooled during retrieval, processing, preservation, or storage. For purposes of this subsection, "pooled" means placed in physical contact or mixed in a single receptacle*;

(3) Collect, keep, and make available to the Governor and the Legislature information regarding the numbers and disposition of organs and tissues procured by each certified entity;

(4) Monitor participating facilities and agencies for program compliance; and

(5) Provide for the administration of the Organ and Tissue Procurement and Transplantation Advisory Board.

Section 4. Paragraph (b) of subsection (1) of section 383.14, Florida Statutes, is amended to read:

383.14 Screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors.—

(1) SCREENING REQUIREMENTS.—To help ensure access to the maternal and child health care system, the Department of Health shall promote the screening of all infants born in Florida for phenylketonuria and other metabolic, hereditary, and congenital disorders known to result in significant impairment of health or intellect, as screening programs accepted by current medical practice become available and practical in the judgment of the department. The department shall also promote the identification and screening of all infants born in this state and their families for environmental risk factors such as low income, poor education, maternal and family stress, emotional instability, substance abuse, and other high-risk conditions associated with increased risk of infant mortality and morbidity to provide early intervention, remediation, and prevention services, including, but not limited to, parent support and training programs, home visitation, and case management. Identification, perinatal screening, and intervention efforts shall begin prior to and immediately following the birth of the child by the attending health care provider. Such efforts shall be conducted in hospitals, perinatal centers, county health departments, school health programs that provide prenatal care, and birthing centers, and reported to the Office of Vital Statistics.

(b) Postnatal screening.—A risk factor analysis using the department's designated risk assessment instrument shall also be conducted as part of the medical screening process upon the birth of a child and submitted to the department's Office of Vital Statistics for recording and other purposes provided for in this chapter. The department's screening process for risk assessment shall include a scoring mechanism and procedures that establish thresholds for notification, further assessment, referral, and eligibility for services by professionals or paraprofessionals consistent with the level of risk. Procedures for developing and using the screening instrument, notification, referral, and care coordination services, reporting requirements, management information, and maintenance of a computer-driven registry in the Office of Vital Statistics which ensures privacy safeguards must be consistent with the provisions and plans established under chapter 411, Pub. L. No. 99-457, and this chapter. Procedures established for reporting information and maintaining a confidential registry must include a mechanism for a centralized information depository at the state and county levels. The department shall coordinate with existing risk assessment systems and information registries. The department must ensure, to the maximum extent possible, that the screening information registry is integrated with the department's automated data systems, including the Florida On-line Recipient Integrated Data Access (FLORIDA) system. Tests and screenings must be performed *by the State Public Health Laboratory, in coordination with Children's Medical Services,* at such times and in such manner as is prescribed by the department after consultation with the Genetics and Infant Screening Advisory Council and the State Coordinating Council for School Readiness Programs.

Section 5. Section 395.0197, Florida Statutes, is amended to read:

395.0197 Internal risk management program.—

(1) Every licensed facility shall, as a part of its administrative functions, establish an internal risk management program that includes all of the following components:

(a) The investigation and analysis of the frequency and causes of general categories and specific types of adverse incidents to patients.

(b) The development of appropriate measures to minimize the risk of adverse incidents to patients, including, but not limited to:

1. Risk management and risk prevention education and training of all nonphysician personnel as follows:

a. Such education and training of all nonphysician personnel as part of their initial orientation; and

b. At least 1 hour of such education and training annually for all ~~nonphysician~~ personnel of the licensed facility working in clinical areas and providing patient care*, except those persons licensed as health care practitioners who are required to complete continuing education coursework pursuant to chapter 456 or the respective practice act*.

2. A prohibition, except when emergency circumstances require otherwise, against a staff member of the licensed facility attending a patient in the recovery room, unless the staff member is authorized to attend the patient in the recovery room and is in the company of at least one other person. However, a licensed facility is exempt from the two-person requirement if it has:

a. Live visual observation;

b. Electronic observation; or

c. Any other reasonable measure taken to ensure patient protection and privacy.

3. A prohibition against an unlicensed person from assisting or participating in any surgical procedure unless the facility has authorized the person to do so following a competency assessment, and such assistance or participation is done under the direct and immediate supervision of a licensed physician and is not otherwise an activity that may only be performed by a licensed health care practitioner.

4. Development, implementation, and ongoing evaluation of procedures, protocols, and systems to accurately identify patients, planned procedures, and the correct site of the planned procedure so as to minimize the performance of a surgical procedure on the wrong patient, a wrong surgical procedure, a wrong-site surgical procedure, or a surgical procedure otherwise unrelated to the patient's diagnosis or medical condition.

(c) The analysis of patient grievances that relate to patient care and the quality of medical services.

(d) The development and implementation of an incident reporting system based upon the affirmative duty of all health care providers and all agents and employees of the licensed health care facility to report adverse incidents to the risk manager, or to his or her designee, within 3 business days after their occurrence.

(2) The internal risk management program is the responsibility of the governing board of the health care facility. Each licensed facility shall hire a risk manager, licensed under *s. 395.10974* ~~part IX of chapter 626~~, who is responsible for implementation and oversight of such facility's internal risk management program as required by this section. A risk manager must not be made responsible for more than four internal risk management programs in separate licensed facilities, unless the facilities are under one corporate ownership or the risk management programs are in rural hospitals.

(3) In addition to the programs mandated by this section, other innovative approaches intended to reduce the frequency and severity of medical malpractice and patient injury claims shall be encouraged and their implementation and operation facilitated. Such additional approaches may include extending internal risk management programs to health care providers' offices and the assuming of provider liability by a licensed health care facility for acts or omissions occurring within the licensed facility.

(4) The agency shall~~, after consulting with the Department of Insurance,~~ adopt rules governing the establishment of internal risk management programs to meet the needs of individual licensed facilities. Each internal risk management program shall include the use of incident reports to be filed with an individual of responsibility who is competent in risk management techniques in the employ of each licensed facility, such as an insurance coordinator, or who is retained by the licensed facility as a consultant. The individual responsible for the risk management program shall have free access to all medical records of the licensed facility. The incident reports are part of the workpapers of the attorney defending the licensed facility in litigation relating to the licensed facility and are subject to discovery, but are not admissible as evidence in court. A person filing an incident report is not subject to civil suit by virtue of such incident report. As a part of each internal risk management program, the incident reports shall be used to develop categories of incidents which identify problem areas. Once identified, procedures shall be adjusted to correct the problem areas.

(5) For purposes of reporting to the agency pursuant to this section, the term "adverse incident" means an event over which health care personnel could exercise control and which is associated in whole or in part with medical intervention, rather than the condition for which such intervention occurred, and which:

(a) Results in one of the following injuries:

1. Death;

2. Brain or spinal damage;

3. Permanent disfigurement;

4. Fracture or dislocation of bones or joints;

5. A resulting limitation of neurological, physical, or sensory function which continues after discharge from the facility;

6. Any condition that required specialized medical attention or surgical intervention resulting from nonemergency medical intervention, other than an emergency medical condition, to which the patient has not given his or her informed consent; or

7. Any condition that required the transfer of the patient, within or outside the facility, to a unit providing a more acute level of care due to the adverse incident, rather than the patient's condition prior to the adverse incident;

(b) Was the performance of a surgical procedure on the wrong patient, a wrong surgical procedure, a wrong-site surgical procedure, or a surgical procedure otherwise unrelated to the patient's diagnosis or medical condition;

(c) Required the surgical repair of damage resulting to a patient from a planned surgical procedure, where the damage was not a recognized specific risk, as disclosed to the patient and documented through the informed-consent process; or

(d) Was a procedure to remove unplanned foreign objects remaining from a surgical procedure.

(6)(a) Each licensed facility subject to this section shall submit an annual report to the agency summarizing the incident reports that have been filed in the facility for that year. The report shall include:

1. The total number of adverse incidents.

2. A listing, by category, of the types of operations, diagnostic or treatment procedures, or other actions causing the injuries, and the number of incidents occurring within each category.

3. A listing, by category, of the types of injuries caused and the number of incidents occurring within each category.

4. A code number using the health care professional's licensure number and a separate code number identifying all other individuals

directly involved in adverse incidents to patients, the relationship of the individual to the licensed facility, and the number of incidents in which each individual has been directly involved. Each licensed facility shall maintain names of the health care professionals and individuals identified by code numbers for purposes of this section.

5. A description of all malpractice claims filed against the licensed facility, including the total number of pending and closed claims and the nature of the incident which led to, the persons involved in, and the status and disposition of each claim. Each report shall update status and disposition for all prior reports.

(b) The information reported to the agency pursuant to paragraph (a) which relates to persons licensed under chapter 458, chapter 459, chapter 461, or chapter 466 shall be reviewed by the agency. The agency shall determine whether any of the incidents potentially involved conduct by a health care professional who is subject to disciplinary action, in which case the provisions of s. 456.073 shall apply.

(c) The report submitted to the agency shall also contain the name and license number of the risk manager of the licensed facility, a copy of its policy and procedures which govern the measures taken by the facility and its risk manager to reduce the risk of injuries and adverse incidents, and the results of such measures. The annual report is confidential and is not available to the public pursuant to s. 119.07(1) or any other law providing access to public records. The annual report is not discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board. The annual report is not available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency or the appropriate regulatory board shall make available, upon written request by a health care professional against whom probable cause has been found, any such records which form the basis of the determination of probable cause.

(7) The licensed facility shall notify the agency no later than 1 business day after the risk manager or his or her designee has received a report pursuant to paragraph (1)(d) and can determine within 1 business day that any of the following adverse incidents has occurred, whether occurring in the licensed facility or arising from health care prior to admission in the licensed facility:

(a) The death of a patient;

(b) Brain or spinal damage to a patient;

(c) The performance of a surgical procedure on the wrong patient;

(d) The performance of a wrong-site surgical procedure; or

(e) The performance of a wrong surgical procedure.

The notification must be made in writing and be provided by facsimile device or overnight mail delivery. The notification must include information regarding the identity of the affected patient, the type of adverse incident, the initiation of an investigation by the facility, and whether the events causing or resulting in the adverse incident represent a potential risk to other patients.

(8) Any of the following adverse incidents, whether occurring in the licensed facility or arising from health care prior to admission in the licensed facility, shall be reported by the facility to the agency within 15 calendar days after its occurrence:

(a) The death of a patient;

(b) Brain or spinal damage to a patient;

(c) The performance of a surgical procedure on the wrong patient;

(d) The performance of a wrong-site surgical procedure;

(e) The performance of a wrong surgical procedure;

(f) The performance of a surgical procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition;

(g) The surgical repair of damage resulting to a patient from a planned surgical procedure, where the damage is not a recognized specific risk, as disclosed to the patient and documented through the informed-consent process; or

(h) The performance of procedures to remove unplanned foreign objects remaining from a surgical procedure.

The agency may grant extensions to this reporting requirement for more than 15 days upon justification submitted in writing by the facility administrator to the agency. The agency may require an additional, final report. These reports shall not be available to the public pursuant to s. 119.07(1) or any other law providing access to public records, nor be discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board, nor shall they be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency or the appropriate regulatory board shall make available, upon written request by a health care professional against whom probable cause has been found, any such records which form the basis of the determination of probable cause. The agency may investigate, as it deems appropriate, any such incident and prescribe measures that must or may be taken in response to the incident. The agency shall review each incident and determine whether it potentially involved conduct by the health care professional who is subject to disciplinary action, in which case the provisions of s. 456.073 shall apply.

(9) The agency shall publish on the agency's website, no less than quarterly, a summary and trend analysis of adverse incident reports received pursuant to this section, which shall not include information that would identify the patient, the reporting facility, or the health care practitioners involved. The agency shall publish on the agency's website an annual summary and trend analysis of all adverse incident reports and malpractice claims information provided by facilities in their annual reports, which shall not include information that would identify the patient, the reporting facility, or the practitioners involved. The purpose of the publication of the summary and trend analysis is to promote the rapid dissemination of information relating to adverse incidents and malpractice claims to assist in avoidance of similar incidents and reduce morbidity and mortality.

(10)~~(9)~~ The internal risk manager of each licensed facility shall:

(a) Investigate every allegation of sexual misconduct which is made against a member of the facility's personnel who has direct patient contact, when the allegation is that the sexual misconduct occurred at the facility or on the grounds of the facility.~~; and~~

(b) Report every allegation of sexual misconduct to the administrator of the licensed facility.

(c) Notify the family or guardian of the victim, if a minor, that an allegation of sexual misconduct has been made and that an investigation is being conducted.~~;~~

(d) Report to the Department of Health every allegation of sexual misconduct, as defined in chapter 456 and the respective practice act, by a licensed health care practitioner that involves a patient.

(11)~~(10)~~ Any witness who witnessed or who possesses actual knowledge of the act that is the basis of an allegation of sexual abuse shall:

(a) Notify the local police; and

(b) Notify the hospital risk manager and the administrator.

For purposes of this subsection, "sexual abuse" means acts of a sexual nature committed for the sexual gratification of anyone upon, or in the presence of, a vulnerable adult, without the vulnerable adult's informed consent, or a minor. "Sexual abuse" includes, but is not limited to, the acts defined in s. 794.011(1)(h), fondling, exposure of a vulnerable adult's or minor's sexual organs, or the use of the vulnerable adult or minor to solicit for or engage in prostitution or sexual performance.

"Sexual abuse" does not include any act intended for a valid medical purpose or any act which may reasonably be construed to be a normal caregiving action.

(12)~~(11)~~ A person who, with malice or with intent to discredit or harm a licensed facility or any person, makes a false allegation of sexual misconduct against a member of a licensed facility's personnel is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(13)~~(12)~~ In addition to any penalty imposed pursuant to this section, the agency shall require a written plan of correction from the facility. For a single incident or series of isolated incidents that are nonwillful violations of the reporting requirements of this section, the agency shall first seek to obtain corrective action by the facility. If the correction is not demonstrated within the timeframe established by the agency or if there is a pattern of nonwillful violations of this section, the agency may impose an administrative fine, not to exceed $5,000 for any violation of the reporting requirements of this section. The administrative fine for repeated nonwillful violations shall not exceed $10,000 for any violation. The administrative fine for each intentional and willful violation may not exceed $25,000 per violation, per day. The fine for an intentional and willful violation of this section may not exceed $250,000. In determining the amount of fine to be levied, the agency shall be guided by s. 395.1065(2)(b). This subsection does not apply to the notice requirements under subsection (7).

(14)~~(13)~~ The agency shall have access to all licensed facility records necessary to carry out the provisions of this section. The records obtained by the agency under subsection (6), subsection (8), or subsection *(10)* ~~(9)~~ are not available to the public under s. 119.07(1), nor shall they be discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board, nor shall records obtained pursuant to s. 456.071 be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency or the appropriate regulatory board shall make available, upon written request by a health care professional against whom probable cause has been found, any such records which form the basis of the determination of probable cause, except that, with respect to medical review committee records, s. 766.101 controls.

(15)~~(14)~~ The meetings of the committees and governing board of a licensed facility held solely for the purpose of achieving the objectives of risk management as provided by this section shall not be open to the public under the provisions of chapter 286. The records of such meetings are confidential and exempt from s. 119.07(1), except as provided in subsection *(14)* ~~(13)~~.

(16)~~(15)~~ The agency shall review, as part of its licensure inspection process, the internal risk management program at each licensed facility regulated by this section to determine whether the program meets standards established in statutes and rules, whether the program is being conducted in a manner designed to reduce adverse incidents, and whether the program is appropriately reporting incidents under *this section* ~~subsections (5), (6), (7), and (8)~~.

(17)~~(16)~~ There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any risk manager, licensed under *s. 395.10974* ~~part IX of chapter 626~~, for the implementation and oversight of the internal risk management program in a facility licensed under this chapter or chapter 390 as required by this section, for any act or proceeding undertaken or performed within the scope of the functions of such internal risk management program if the risk manager acts without intentional fraud.

(18) A privilege against civil liability is hereby granted to any licensed risk manager or licensed facility with regard to information furnished pursuant to this chapter, unless the licensed risk manager or facility acted in bad faith or with malice in providing such information.

(19)~~(17)~~ If the agency, through its receipt of *any reports required under this section* ~~the annual reports prescribed in subsection (6)~~ or through any investigation, has a reasonable belief that conduct by a staff member or employee of a licensed facility is grounds for disciplinary action by the appropriate regulatory board, the agency shall report this fact to such regulatory board.

~~(18) The agency shall annually publish a report summarizing the information contained in the annual incident reports submitted by licensed facilities pursuant to subsection (6) and disciplinary actions reported to the agency pursuant to s. 395.0193. The report must, at a minimum, summarize:~~

~~(a) Adverse incidents, by category of reported incident, and by type of professional involved.~~

~~(b) Types of malpractice claims filed, by type of professional involved.~~

~~(c) Disciplinary actions taken against professionals, by type of professional involved.~~

(20) It shall be unlawful for any person to coerce, intimidate, or preclude a risk manager from lawfully executing his or her reporting obligations pursuant to this chapter. Such unlawful action shall be subject to civil monetary penalties not to exceed $10,000 per violation.

Section 6. Section 395.10972, Florida Statutes, is amended to read:

395.10972 Health Care Risk Manager Advisory Council.—The Secretary of Health Care Administration may appoint a *seven-member* ~~five-member~~ advisory council to advise the agency on matters pertaining to health care risk managers. The members of the council shall serve at the pleasure of the secretary. The council shall designate a chair. The council shall meet at the call of the secretary or at those times as may be required by rule of the agency. The members of the advisory council shall receive no compensation for their services, but shall be reimbursed for travel expenses as provided in s. 112.061. The council shall consist of individuals representing the following areas:

(1) Two shall be active health care risk managers*, including one risk manager who is recommended by and a member of the Florida Society of Healthcare Risk Management*.

(2) One shall be an active hospital administrator.

(3) One shall be an employee of an insurer or self-insurer of medical malpractice coverage.

(4) One shall be a representative of the health-care-consuming public.

(5) Two shall be licensed health care practitioners, one of whom shall be licensed as a physician under chapter 458 or chapter 459.

Section 7. Paragraph (b) of subsection (2) of section 395.701, Florida Statutes, is amended to read:

395.701 Annual assessments on net operating revenues for inpatient *and outpatient* services to fund public medical assistance; administrative fines for failure to pay assessments when due; exemption.—

(2)

(b) There is imposed upon each hospital an assessment in an amount equal to 1 percent of the annual net operating revenue for outpatient services for each hospital, such revenue to be determined by the agency, based on the actual experience of the hospital as reported to the agency. *While prior year report worksheets may be reconciled to the hospital's audited financial statements, no additional audited financial components may be required for the purposes of determining the amount of the assessment imposed pursuant to this section other than those in effect on July 1, 2000.* Within 6 months after the end of each hospital fiscal year, the agency shall certify the amount of the assessment for each hospital. The assessment shall be payable to and collected by the agency in equal quarterly amounts, on or before the first day of each calendar quarter, beginning with the first full calendar quarter that occurs after the agency certifies the amount of the assessment for each

hospital. All moneys collected pursuant to this subsection shall be deposited into the Public Medical Assistance Trust Fund.

Section 8. Section 409.905, Florida Statutes, is amended to read:

409.905 Mandatory Medicaid services.—The agency may make payments for the following services, which are required of the state by Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be provided only when medically necessary and in accordance with state and federal law. *Mandatory services rendered by providers in mobile units to Medicaid recipients may be restricted by the agency.* Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, number of services, or any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216.

(1) ADVANCED REGISTERED NURSE PRACTITIONER SERVICES.—The agency shall pay for services provided to a recipient by a licensed advanced registered nurse practitioner who has a valid collaboration agreement with a licensed physician on file with the Department of Health or who provides anesthesia services in accordance with established protocol required by state law and approved by the medical staff of the facility in which the anesthetic service is performed. Reimbursement for such services must be provided in an amount that equals not less than 80 percent of the reimbursement to a physician who provides the same services, unless otherwise provided for in the General Appropriations Act.

(2) EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT SERVICES.—The agency shall pay for early and periodic screening and diagnosis of a recipient under age 21 to ascertain physical and mental problems and conditions and provide treatment to correct or ameliorate these problems and conditions. These services include all services determined by the agency to be medically necessary for the treatment, correction, or amelioration of these problems, including personal care, private duty nursing, durable medical equipment, physical therapy, occupational therapy, speech therapy, respiratory therapy, and immunizations.

(3) FAMILY PLANNING SERVICES.—The agency shall pay for services necessary to enable a recipient voluntarily to plan family size or to space children. These services include information; education; counseling regarding the availability, benefits, and risks of each method of pregnancy prevention; drugs and supplies; and necessary medical care and followup. Each recipient participating in the family planning portion of the Medicaid program must be provided freedom to choose any alternative method of family planning, as required by federal law.

(4) HOME HEALTH CARE SERVICES.—The agency shall pay for nursing and home health aide services, supplies, appliances, and durable medical equipment, necessary to assist a recipient living at home. An entity that provides services pursuant to this subsection shall be licensed under part IV of chapter 400 or part II of chapter 499, if appropriate. These services, equipment, and supplies, or reimbursement therefor, may be limited as provided in the General Appropriations Act and do not include services, equipment, or supplies provided to a person residing in a hospital or nursing facility. In providing home health care services, the agency may require prior authorization of care based on diagnosis.

(5) HOSPITAL INPATIENT SERVICES.—The agency shall pay for all covered services provided for the medical care and treatment of a recipient who is admitted as an inpatient by a licensed physician or dentist to a hospital licensed under part I of chapter 395. However, the agency shall limit the payment for inpatient hospital services for a Medicaid recipient 21 years of age or older to 45 days or the number of days necessary to comply with the General Appropriations Act.

(a) The agency is authorized to implement reimbursement and utilization management reforms in order to comply with any limitations or directions in the General Appropriations Act, which may include, but are not limited to: prior authorization for inpatient psychiatric days; enhanced utilization and concurrent review programs for highly utilized services; reduction or elimination of covered days of service; adjusting reimbursement ceilings for variable costs; adjusting reimbursement ceilings for fixed and property costs; and implementing target rates of increase.

(b) A licensed hospital maintained primarily for the care and treatment of patients having mental disorders or mental diseases is not eligible to participate in the hospital inpatient portion of the Medicaid program except as provided in federal law. However, the department shall apply for a waiver, within 9 months after June 5, 1991, designed to provide hospitalization services for mental health reasons to children and adults in the most cost-effective and lowest cost setting possible. Such waiver shall include a request for the opportunity to pay for care in hospitals known under federal law as "institutions for mental disease" or "IMD's." The waiver proposal shall propose no additional aggregate cost to the state or Federal Government, and shall be conducted in Hillsborough County, Highlands County, Hardee County, Manatee County, and Polk County. The waiver proposal may incorporate competitive bidding for hospital services, comprehensive brokering, prepaid capitated arrangements, or other mechanisms deemed by the department to show promise in reducing the cost of acute care and increasing the effectiveness of preventive care. When developing the waiver proposal, the department shall take into account price, quality, accessibility, linkages of the hospital to community services and family support programs, plans of the hospital to ensure the earliest discharge possible, and the comprehensiveness of the mental health and other health care services offered by participating providers.

(c) Agency for Health Care Administration shall adjust a hospital's current inpatient per diem rate to reflect the cost of serving the Medicaid population at that institution if:

1. The hospital experiences an increase in Medicaid caseload by more than 25 percent in any year, primarily resulting from the closure of a hospital in the same service area occurring after July 1, 1995; or

2. The hospital's Medicaid per diem rate is at least 25 percent below the Medicaid per patient cost for that year.

No later than November 1, 2000, the agency must provide estimated costs for any adjustment in a hospital inpatient per diem pursuant to this paragraph to the Executive Office of the Governor, the House of Representatives General Appropriations Committee, and the Senate Budget Committee. Before the agency implements a change in a hospital's inpatient per diem rate pursuant to this paragraph, the Legislature must have specifically appropriated sufficient funds in the 2001-2002 General Appropriations Act to support the increase in cost as estimated by the agency. This paragraph is repealed on July 1, 2001.

(6) HOSPITAL OUTPATIENT SERVICES.—The agency shall pay for preventive, diagnostic, therapeutic, or palliative care and other services provided to a recipient in the outpatient portion of a hospital licensed under part I of chapter 395, and provided under the direction of a licensed physician or licensed dentist, except that payment for such care and services is limited to $1,500 per state fiscal year per recipient, unless an exception has been made by the agency, and with the exception of a Medicaid recipient under age 21, in which case the only limitation is medical necessity.

(7) INDEPENDENT LABORATORY SERVICES.—The agency shall pay for medically necessary diagnostic laboratory procedures ordered by a licensed physician or other licensed practitioner of the healing arts which are provided for a recipient in a laboratory that meets the requirements for Medicare participation and is licensed under chapter 483, if required.

(8) NURSING FACILITY SERVICES.—The agency shall pay for 24-hour-a-day nursing and rehabilitative services for a recipient in a nursing facility licensed under part II of chapter 400 or in a rural hospital, as defined in s. 395.602, or in a Medicare certified skilled nursing facility operated by a hospital, as defined by s. 395.002(11), that

is licensed under part I of chapter 395, and in accordance with provisions set forth in s. 409.908(2)(a), which services are ordered by and provided under the direction of a licensed physician. However, if a nursing facility has been destroyed or otherwise made uninhabitable by natural disaster or other emergency and another nursing facility is not available, the agency must pay for similar services temporarily in a hospital licensed under part I of chapter 395 provided federal funding is approved and available.

(9) PHYSICIAN SERVICES.—The agency shall pay for covered services and procedures rendered to a recipient by, or under the personal supervision of, a person licensed under state law to practice medicine or osteopathic medicine. These services may be furnished in the physician's office, the Medicaid recipient's home, a hospital, a nursing facility, or elsewhere, but shall be medically necessary for the treatment of an injury, illness, or disease within the scope of the practice of medicine or osteopathic medicine as defined by state law. The agency shall not pay for services that are clinically unproven, experimental, or for purely cosmetic purposes.

(10) PORTABLE X-RAY SERVICES.—The agency shall pay for professional and technical portable radiological services ordered by a licensed physician or other licensed practitioner of the healing arts which are provided by a licensed professional in a setting other than a hospital, clinic, or office of a physician or practitioner of the healing arts, on behalf of a recipient.

(11) RURAL HEALTH CLINIC SERVICES.—The agency shall pay for outpatient primary health care services for a recipient provided by a clinic certified by and participating in the Medicare program which is located in a federally designated, rural, medically underserved area and has on its staff one or more licensed primary care nurse practitioners or physician assistants, and a licensed staff supervising physician or a consulting supervising physician.

(12) TRANSPORTATION SERVICES.—The agency shall ensure that appropriate transportation services are available for a Medicaid recipient in need of transport to a qualified Medicaid provider for medically necessary and Medicaid-compensable services, provided a client's ability to choose a specific transportation provider shall be limited to those options resulting from policies established by the agency to meet the fiscal limitations of the General Appropriations Act. The agency may pay for transportation and other related travel expenses as necessary only if these services are not otherwise available.

Section 9. Section 409.906, Florida Statutes, is amended to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. *Optional services rendered by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency.* Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as "Intermediate Care Facilities for the Developmentally Disabled." Optional services may include:

(1) ADULT DENTURE SERVICES.—The agency may pay for dentures, the procedures required to seat dentures, and the repair and reline of dentures, provided by or under the direction of a licensed dentist, for a recipient who is age 21 or older. *However, Medicaid will not provide reimbursement for dental services provided in a mobile dental unit, except for a mobile dental unit:*

(a) Owned by, operated by, or having a contractual agreement with the Department of Health and complying with Medicaid's county health department clinic services program specifications as a county health department clinic services provider.

(b) Owned by, operated by, or having a contractual arrangement with a federally qualified health center and complying with Medicaid's federally qualified health center specifications as a federally qualified health center provider.

(c) Rendering dental services to Medicaid recipients, 21 years of age and older, at nursing facilities.

(d) Owned by, operated by, or having a contractual agreement with a state-approved dental educational institution.

(2) ADULT HEALTH SCREENING SERVICES.—The agency may pay for an annual routine physical examination, conducted by or under the direction of a licensed physician, for a recipient age 21 or older, without regard to medical necessity, in order to detect and prevent disease, disability, or other health condition or its progression.

(3) AMBULATORY SURGICAL CENTER SERVICES.—The agency may pay for services provided to a recipient in an ambulatory surgical center licensed under part I of chapter 395, by or under the direction of a licensed physician or dentist.

(4) BIRTH CENTER SERVICES.—The agency may pay for examinations and delivery, recovery, and newborn assessment, and related services, provided in a licensed birth center staffed with licensed physicians, certified nurse midwives, and midwives licensed in accordance with chapter 467, to a recipient expected to experience a low-risk pregnancy and delivery.

(5) CASE MANAGEMENT SERVICES.—The agency may pay for primary care case management services rendered to a recipient pursuant to a federally approved waiver, and targeted case management services for specific groups of targeted recipients, for which funding has been provided and which are rendered pursuant to federal guidelines. The agency is authorized to limit reimbursement for targeted case management services in order to comply with any limitations or directions provided for in the General Appropriations Act. Notwithstanding s. 216.292, the Department of Children and Family Services may transfer general funds to the Agency for Health Care Administration to fund state match requirements exceeding the amount specified in the General Appropriations Act for targeted case management services.

(6) CHILDREN'S DENTAL SERVICES.—The agency may pay for diagnostic, preventive, or corrective procedures, including orthodontia in severe cases, provided to a recipient under age 21, by or under the supervision of a licensed dentist. Services provided under this program include treatment of the teeth and associated structures of the oral cavity, as well as treatment of disease, injury, or impairment that may affect the oral or general health of the individual. *However, Medicaid will not provide reimbursement for dental services provided in a mobile dental unit, except for a mobile dental unit:*

(a) Owned by, operated by, or having a contractual agreement with the Department of Health and complying with Medicaid's county health department clinic services program specifications as a county health department clinic services provider.

(b) Owned by, operated by, or having a contractual arrangement with a federally qualified health center and complying with Medicaid's federally qualified health center specifications as a federally qualified health center provider.

(c) Rendering dental services to Medicaid recipients, 21 years of age and older, at nursing facilities.

(d) Owned by, operated by, or having a contractual agreement with a state-approved dental educational institution.

(7) CHIROPRACTIC SERVICES.—The agency may pay for manual manipulation of the spine and initial services, screening, and X rays provided to a recipient by a licensed chiropractic physician.

(8) COMMUNITY MENTAL HEALTH SERVICES.—The agency may pay for rehabilitative services provided to a recipient by a mental health or substance abuse provider licensed by the agency and under contract with the agency or the Department of Children and Family Services to provide such services. Those services which are psychiatric in nature shall be rendered or recommended by a psychiatrist, and those services which are medical in nature shall be rendered or recommended by a physician or psychiatrist. The agency must develop a provider enrollment process for community mental health providers which bases provider enrollment on an assessment of service need. The provider enrollment process shall be designed to control costs, prevent fraud and abuse, consider provider expertise and capacity, and assess provider success in managing utilization of care and measuring treatment outcomes. Providers will be selected through a competitive procurement or selective contracting process. In addition to other community mental health providers, the agency shall consider for enrollment mental health programs licensed under chapter 395 and group practices licensed under chapter 458, chapter 459, chapter 490, or chapter 491. The agency is also authorized to continue operation of its behavioral health utilization management program and may develop new services if these actions are necessary to ensure savings from the implementation of the utilization management system. The agency shall coordinate the implementation of this enrollment process with the Department of Children and Family Services and the Department of Juvenile Justice. The agency is authorized to utilize diagnostic criteria in setting reimbursement rates, to preauthorize certain high-cost or highly utilized services, to limit or eliminate coverage for certain services, or to make any other adjustments necessary to comply with any limitations or directions provided for in the General Appropriations Act.

(9) DIALYSIS FACILITY SERVICES.—Subject to specific appropriations being provided for this purpose, the agency may pay a dialysis facility that is approved as a dialysis facility in accordance with Title XVIII of the Social Security Act, for dialysis services that are provided to a Medicaid recipient under the direction of a physician licensed to practice medicine or osteopathic medicine in this state, including dialysis services provided in the recipient's home by a hospital-based or freestanding dialysis facility.

(10) DURABLE MEDICAL EQUIPMENT.—The agency may authorize and pay for certain durable medical equipment and supplies provided to a Medicaid recipient as medically necessary.

(11) HEALTHY START SERVICES.—The agency may pay for a continuum of risk-appropriate medical and psychosocial services for the Healthy Start program in accordance with a federal waiver. The agency may not implement the federal waiver unless the waiver permits the state to limit enrollment or the amount, duration, and scope of services to ensure that expenditures will not exceed funds appropriated by the Legislature or available from local sources. If the Health Care Financing Administration does not approve a federal waiver for Healthy Start services, the agency, in consultation with the Department of Health and the Florida Association of Healthy Start Coalitions, is authorized to establish a Medicaid certified-match program for Healthy Start services. Participation in the Healthy Start certified-match program shall be voluntary, and reimbursement shall be limited to the federal Medicaid share to Medicaid-enrolled Healthy Start coalitions for services provided to Medicaid recipients. The agency shall take no action to implement a certified-match program without ensuring that the amendment and review requirements of ss. 216.177 and 216.181 have been met.

(12) HEARING SERVICES.—The agency may pay for hearing and related services, including hearing evaluations, hearing aid devices, dispensing of the hearing aid, and related repairs, if provided to a recipient by a licensed hearing aid specialist, otolaryngologist, otologist, audiologist, or physician.

(13) HOME AND COMMUNITY-BASED SERVICES.—The agency may pay for home-based or community-based services that are rendered to a recipient in accordance with a federally approved waiver program.

(14) HOSPICE CARE SERVICES.—The agency may pay for all reasonable and necessary services for the palliation or management of a recipient's terminal illness, if the services are provided by a hospice that is licensed under part VI of chapter 400 and meets Medicare certification requirements.

(15) INTERMEDIATE CARE FACILITY FOR THE DEVELOPMENTALLY DISABLED SERVICES.—The agency may pay for health-related care and services provided on a 24-hour-a-day basis by a facility licensed and certified as a Medicaid Intermediate Care Facility for the Developmentally Disabled, for a recipient who needs such care because of a developmental disability.

(16) INTERMEDIATE CARE SERVICES.—The agency may pay for 24-hour-a-day intermediate care nursing and rehabilitation services rendered to a recipient in a nursing facility licensed under part II of chapter 400, if the services are ordered by and provided under the direction of a physician.

(17) OPTOMETRIC SERVICES.—The agency may pay for services provided to a recipient, including examination, diagnosis, treatment, and management, related to ocular pathology, if the services are provided by a licensed optometrist or physician.

(18) PHYSICIAN ASSISTANT SERVICES.—The agency may pay for all services provided to a recipient by a physician assistant licensed under s. 458.347 or s. 459.022. Reimbursement for such services must be not less than 80 percent of the reimbursement that would be paid to a physician who provided the same services.

(19) PODIATRIC SERVICES.—The agency may pay for services, including diagnosis and medical, surgical, palliative, and mechanical treatment, related to ailments of the human foot and lower leg, if provided to a recipient by a podiatric physician licensed under state law.

(20) PRESCRIBED DRUG SERVICES.—The agency may pay for medications that are prescribed for a recipient by a physician or other licensed practitioner of the healing arts authorized to prescribe medications and that are dispensed to the recipient by a licensed pharmacist or physician in accordance with applicable state and federal law.

(21) REGISTERED NURSE FIRST ASSISTANT SERVICES.—The agency may pay for all services provided to a recipient by a registered nurse first assistant as described in s. 464.027. Reimbursement for such services may not be less than 80 percent of the reimbursement that would be paid to a physician providing the same services.

(22) STATE HOSPITAL SERVICES.—The agency may pay for all-inclusive psychiatric inpatient hospital care provided to a recipient age 65 or older in a state mental hospital.

(23) VISUAL SERVICES.—The agency may pay for visual examinations, eyeglasses, and eyeglass repairs for a recipient, if they are prescribed by a licensed physician specializing in diseases of the eye or by a licensed optometrist.

(24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.—The Agency for Health Care Administration, in consultation with the Department of Children and Family Services, may establish a targeted case-management pilot project in those counties identified by the Department of Children and Family Services and for the community-based child welfare project in Sarasota and Manatee counties, as authorized under s. 409.1671. These projects shall be established for the purpose of determining the impact of targeted case management on the child welfare program and the earnings from the child welfare program. Results of the pilot projects shall be reported to the Child Welfare Estimating Conference and the Social Services Estimating Conference established under s. 216.136. The number of projects may not be increased until requested by the Department of Children and Family Services, recommended by the Child Welfare Estimating Conference and the Social Services Estimating Conference, and approved by the Legislature. The covered group of individuals who are eligible to receive targeted case management include children who are eligible for Medicaid; who are between the ages of birth through 21; and who are under protective supervision or postplacement supervision, under foster-care supervision, or in shelter care or foster care. The number of

individuals who are eligible to receive targeted case management shall be limited to the number for whom the Department of Children and Family Services has available matching funds to cover the costs. The general revenue funds required to match the funds for services provided by the community-based child welfare projects are limited to funds available for services described under s. 409.1671. The Department of Children and Family Services may transfer the general revenue matching funds as billed by the Agency for Health Care Administration.

Section 10. Subsections (7) through (11) of section 456.013, Florida Statutes, are renumbered as subsections (8) through (12), respectively, and a new subsection (7) is added to said section to read:

456.013 Department; general licensing provisions.—

(7) The boards, or the department when there is no board, shall require the completion of a 2-hour course relating to prevention of medical errors as part of the licensure and renewal process. The 2-hour course shall count towards the total number of continuing education hours required for the profession. The course shall be approved by the board or department, as appropriate, and shall include a study of root-cause analysis, error reduction and prevention, and patient safety. If the course is being offered by a facility licensed pursuant to chapter 395 for its employees, the board may approve up to 1 hour of the 2-hour course to be specifically related to error reduction and prevention methods used in that facility.

Section 11. Subsection (19) is added to section 456.057, Florida Statutes, to read:

456.057 Ownership and control of patient records; report or copies of records to be furnished.—

(19) The board, or department when there is no board, may temporarily or permanently appoint a person or entity as a custodian of medical records in the event of the death of a practitioner, the mental or physical incapacitation of the practitioner, or the abandonment of medical records by a practitioner. The custodian appointed shall comply with all provisions of this section, including the release of patient records.

Section 12. Subsection (3) is added to section 456.063, Florida Statutes, to read:

456.063 Sexual misconduct; disqualification for license, certificate, or registration*; reports of allegation of sexual misconduct*.—

(3) Licensed health care practitioners shall report allegations of sexual misconduct to the department, regardless of the practice setting in which the alleged sexual misconduct occurred.

Section 13. Paragraph (c) of subsection (1) of section 456.072, Florida Statutes, is amended, paragraphs (aa) and (bb) are added to said subsection, paragraphs (c) and (d) of subsection (2) and subsection (4) are amended, and paragraphs (i) and (j) are added to subsection (2) of said section, to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(c) Being convicted or found guilty of, or entering a plea of *guilty or* nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

(aa) Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

(bb) Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures. For the purposes of this paragraph, it shall be legally presumed that retention of a foreign body is not in the best interest of the patient and is not within the standard of care of the profession, regardless of the intent of the professional.

(2) When the board, or the department when there is no board, finds any person guilty of the grounds set forth in subsection (1) or of any grounds set forth in the applicable practice act, including conduct constituting a substantial violation of subsection (1) or a violation of the applicable practice act which occurred prior to obtaining a license, it may enter an order imposing one or more of the following penalties:

(c) Restriction of practice or license*, including, but not limited to, restricting the licensee from practicing in certain settings, restricting the licensee to work only under designated conditions or in certain settings, restricting the licensee from performing or providing designated clinical and administrative services, restricting the licensee from practicing more than a designated number of hours, or any other restriction found to be necessary for the protection of the public health, safety, and welfare*.

(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense. *If the violation is for fraud or making a false or fraudulent representation, the board, or the department if there is no board, must impose a fine of $10,000 per count or offense.*

(i) Refund of fees billed and collected from the patient or a third party on behalf of the patient.

(j) Requirement that the practitioner undergo remedial education.

In determining what action is appropriate, the board, or department when there is no board, must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the practitioner. All costs associated with compliance with orders issued under this subsection are the obligation of the practitioner.

(4) 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, *shall* ~~may~~ assess costs related to the investigation and prosecution of the case. In any case where the board or the department imposes a fine or assessment and the fine or assessment is not paid within a reasonable time, such reasonable time to be prescribed in the rules of the board, or the department when there is no board, or in the order assessing such fines or costs, the department or the Department of Legal Affairs may contract for the collection of, or bring a civil action to recover, the fine or assessment.

Section 14. Paragraphs (a) and (c) of subsection (9) of section 456.073, Florida Statutes, are amended, and, effective upon this act becoming a law, subsection (13) is added to said section, to read:

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(9)(a) The department shall periodically notify the person who filed the complaint*, as well as the patient or the patient's legal representative,* of the status of the investigation, indicating whether probable cause has been found and the status of any civil action or administrative proceeding or appeal.

(c) In any disciplinary case for which probable cause is not found, the department shall so inform the person who filed the complaint and notify that person that he or she may, within 60 days, provide any additional information to the *department* ~~probable cause panel~~ which may be relevant to the decision. *To facilitate the provision of additional information, the person who filed the complaint may receive, upon request, a copy of the department's expert report that supported the recommendation for closure, if such a report was relied upon by the department. In no way does this require the department to procure an expert opinion or report if none was used. Additionally, the identity of the expert shall remain confidential.* In any administrative proceeding under s. 120.57, the person who filed the disciplinary complaint shall have the right to present oral or written communication relating to the alleged disciplinary violations or to the appropriate penalty.

(13) Notwithstanding any provision of law to the contrary, an administrative complaint against a licensee shall be filed within 6 years after the time of the incident or occurrence giving rise to the complaint against the licensee. If such incident or occurrence involved criminal actions, diversion of controlled substances, sexual misconduct, or impairment by the licensee, this subsection does not apply to bar initiation of an investigation or filing of an administrative complaint beyond the 6-year timeframe. In those cases covered by this subsection in which it can be shown that fraud, concealment, or intentional misrepresentation of fact prevented the discovery of the violation of law, the period of limitations is extended forward, but in no event to exceed 12 years after the time of the incident or occurrence.

Section 15. Subsection (1) of section 456.074, Florida Statutes, is amended to read:

456.074 Certain health care practitioners; immediate suspension of license.—

(1) The department shall issue an emergency order suspending the license of any person licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, chapter 466, or chapter 484 who pleads guilty to, is convicted or found guilty of, or who enters a plea of nolo contendere to, regardless of adjudication, a felony under chapter 409*, chapter 817,* or chapter 893 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C. ss. 1395-1396.

Section 16. Subsections (2) and (6) of section 456.077, Florida Statutes, are amended to read:

456.077 Authority to issue citations.—

(2) The board, or the department if there is no board, shall adopt rules designating violations for which a citation may be issued. Such rules shall designate as citation violations those violations for which there is no substantial threat to the public health, safety, and welfare. *Violations for which a citation may be issued shall include violations of continuing education requirements, failure to timely pay required fees and fines, failure to comply with the requirements of ss. 381.026 and 381.0261 regarding the dissemination of information regarding patient rights, failure to comply with advertising requirements, failure to timely update practitioner profile and credentialing files, failure to display signs, licenses, and permits, failure to have required reference books available, and all other violations that do not pose a direct and serious threat to the health and safety of the patient.*

(6) A board ~~created on or after January 1, 1992,~~ has 6 months in which to enact rules designating violations and penalties appropriate for citation offenses. Failure to enact such rules gives the department exclusive authority to adopt rules as required for implementing this section. A board has continuous authority to amend its rules adopted pursuant to this section.

Section 17. Section 456.081, Florida Statutes, is amended to read:

456.081 Publication of information.—The department and the boards shall have the authority to advise licensees periodically, through the publication of a newsletter, about information that the department or the board determines is of interest to the industry. *The department and the boards shall maintain a website which contains copies of the newsletter; information relating to adverse incident reports without identifying the patient, practitioner, or facility in which the adverse incident occurred until 10 days after probable cause is found, at which time the name of the practitioner and facility shall become public as part of the investigative file; information about error prevention and safety strategies; and information concerning best practices.* Unless otherwise prohibited by law, the department and the boards shall publish *on the website* a summary of final orders *entered after July 1, 2001,* resulting in *disciplinary action* ~~fines, suspensions, or revocations~~, and any other information the department or the board determines is of interest to the public. *In order to provide useful and timely information at minimal cost, the department and boards may consult with, and include information provided by, professional associations and national organizations.*

Section 18. Section 458.3147, Florida Statutes, is created to read:

458.3147 Medical school eligibility of military academy students or graduates.—Any Florida resident who is a student at or a graduate of any of the United States military academies who qualifies for assignment to the Medical Corps of the United States military shall be considered eligible for admission to any medical school in the State University System. All application fees shall be waived or refunded.

Section 19. Subsection (9) of section 458.331, Florida Statutes, is amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(9) When an investigation of a physician is undertaken, the department shall promptly furnish to the physician or the physician's attorney a copy of the complaint or document which resulted in the initiation of the investigation. For purposes of this subsection, such documents include, but are not limited to: the pertinent portions of an annual report submitted to the department pursuant to s. 395.0197(6); a report of an adverse incident which is provided to the department pursuant to s. 395.0197~~(8)~~; a report of peer review disciplinary action submitted to the department pursuant to s. 395.0193(4) or s. 458.337, providing that the investigations, proceedings, and records relating to such peer review disciplinary action shall continue to retain their privileged status even as to the licensee who is the subject of the investigation, as provided by ss. 395.0193(8) and 458.337(3); a report of a closed claim submitted pursuant to s. 627.912; a presuit notice submitted pursuant to s. 766.106(2); and a petition brought under the Florida Birth-Related Neurological Injury Compensation Plan, pursuant to s. 766.305(2). The physician may submit a written response to the information contained in the complaint or document which resulted in the initiation of the investigation within 45 days after service to the physician of the complaint or document. The physician's written response shall be considered by the probable cause panel.

Section 20. Subsection (9) of section 459.015, Florida Statutes, is amended to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(9) When an investigation of an osteopathic physician is undertaken, the department shall promptly furnish to the osteopathic physician or his or her attorney a copy of the complaint or document which resulted in the initiation of the investigation. For purposes of this subsection, such documents include, but are not limited to: the pertinent portions of an annual report submitted to the department pursuant to s. 395.0197(6); a report of an adverse incident which is provided to the department pursuant to s. 395.0197~~(8)~~; a report of peer review disciplinary action submitted to the department pursuant to s. 395.0193(4) or s. 459.016, provided that the investigations, proceedings, and records relating to such peer review disciplinary action shall continue to retain their privileged status even as to the licensee who is the subject of the investigation, as provided by ss. 395.0193(8) and 459.016(3); a report of a closed claim submitted pursuant to s. 627.912; a presuit notice submitted pursuant to s. 766.106(2); and a petition brought under the Florida Birth-Related Neurological Injury Compensation Plan, pursuant to s. 766.305(2). The osteopathic physician may submit a written response to the information contained in the complaint or document which resulted in the initiation of the investigation within 45 days after service to the osteopathic physician of the complaint or document. The osteopathic physician's written response shall be considered by the probable cause panel.

Section 21. Effective January 1, 2002, subsection (4) of section 641.51, Florida Statutes, is amended to read:

641.51 Quality assurance program; second medical opinion requirement.—

(4) The organization shall ensure that only a physician *with an active, unencumbered license* ~~licensed~~ under chapter 458 or chapter 459~~, or an allopathic or osteopathic physician with an active, unencumbered~~

~~license in another state with similar licensing requirements~~ may render an adverse determination regarding a service provided by a physician licensed in this state. The organization shall submit to the treating provider and the subscriber written notification regarding the organization's adverse determination within 2 working days after the subscriber or provider is notified of the adverse determination. The written notification must include the utilization review criteria or benefits provisions used in the adverse determination, identify the physician who rendered the adverse determination, and be signed by an authorized representative of the organization or the physician who rendered the adverse determination. The organization must include with the notification of an adverse determination information concerning the appeal process for adverse determinations. *This provision does not create authority for the Board of Medicine or Board of Osteopathic Medicine to regulate the organization; however, the Board of Medicine and the Board of Osteopathic Medicine continue to have jurisdiction over licensees of their respective boards.*

Section 22. Subsection (5) of section 465.019, Florida Statutes, is amended to read:

465.019 Institutional pharmacies; permits.—

(5) All institutional pharmacies shall be under the professional supervision of a consultant pharmacist, and the compounding and dispensing of medicinal drugs shall be done only by a licensed pharmacist. *Every institutional pharmacy that employs or otherwise utilizes pharmacy technicians shall have a written policy and procedures manual specifying those duties, tasks, and functions which a pharmacy technician is allowed to perform.*

Section 23. Section 465.0196, Florida Statutes, is amended to read:

465.0196 Special pharmacy permits.—Any person desiring a permit to operate a pharmacy which does not fall within the definitions set forth in s. 465.003(11)(a)1., 2., and 3. shall apply to the department for a special pharmacy permit. If the board certifies that the application complies with the applicable laws and rules of the board governing the practice of the profession of pharmacy, the department shall issue the permit. No permit shall be issued unless a licensed pharmacist is designated to undertake the professional supervision of the compounding and dispensing of all drugs dispensed by the pharmacy. The licensed pharmacist shall be responsible for maintaining all drug records and for providing for the security of the area in the facility in which the compounding, storing, and dispensing of medicinal drugs occurs. The permittee shall notify the department within 10 days of any change of the licensed pharmacist responsible for such duties. *Every permittee that employs or otherwise utilizes pharmacy technicians shall have a written policy and procedures manual specifying those duties, tasks, and functions which a pharmacy technician is allowed to perform.*

Section 24. *The Department of Health and the Agency for Health Care Administration shall conduct a review of all statutorily imposed reporting requirements for health care practitioners and health facilities. The department and the agency shall report back to the Legislature on or before November 1, 2001, with recommendations and suggested statutory changes to streamline reporting requirements to avoid duplicative, overlapping, and unnecessary reports or data elements.*

Section 25. Paragraph (r) is added to subsection (1) of section 468.1755, Florida Statutes, and, for the purpose of incorporating the amendment to section 456.072(1), Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of said section is reenacted, to read:

468.1755 Disciplinary proceedings.—

(1) The following acts shall constitute grounds for which the disciplinary actions in subsection (2) may be taken:

(a) Violation of any provision of s. 456.072(1) or s. 468.1745(1).

(r) Failing to implement an ongoing quality assurance program directed by an interdisciplinary team that meets at least every other month.

(2) When the board finds any nursing home administrator guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.

(d) Issuance of a reprimand.

(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education courses or to work under the supervision of another licensee.

(f) Restriction of the authorized scope of practice.

Section 26. For the purpose of incorporating the amendment to section 468.1755(1), Florida Statutes, in reference thereto, subsection (3) of section 468.1695, Florida Statutes, and section 468.1735, Florida Statutes, are reenacted to read:

468.1695 Licensure by examination.—

(3) The department shall issue a license to practice nursing home administration to any applicant who successfully completes the examination in accordance with this section and otherwise meets the requirements of this part. The department shall not issue a license to any applicant who is under investigation in this state or another jurisdiction for an offense which would constitute a violation of s. 468.1745 or s. 468.1755. Upon completion of the investigation, the provisions of s. 468.1755 shall apply.

468.1735 Provisional license.—The board may establish by rule requirements for issuance of a provisional license. A provisional license shall be issued only to fill a position of nursing home administrator that unexpectedly becomes vacant due to illness, sudden death of the administrator, or abandonment of position and shall be issued for one single period as provided by rule not to exceed 6 months. The department shall not issue a provisional license to any applicant who is under investigation in this state or another jurisdiction for an offense which would constitute a violation of s. 468.1745 or s. 468.1755. Upon completion of the investigation, the provisions of s. 468.1755 shall apply. The provisional license may be issued to a person who does not meet all of the licensing requirements established by this part, but the board shall by rule establish minimal requirements to ensure protection of the public health, safety, and welfare. The provisional license shall be issued to the person who is designated as the responsible person next in command in the event of the administrator's departure. The board may set an application fee not to exceed $500 for a provisional license.

Section 27. For the purpose of incorporating the amendment to section 456.072(1), Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 484.056, Florida Statutes, is reenacted to read:

484.056 Disciplinary proceedings.—

(1) The following acts relating to the practice of dispensing hearing aids shall be grounds for both disciplinary action against a hearing aid specialist as set forth in this section and cease and desist or other related action by the department as set forth in s. 456.065 against any person owning or operating a hearing aid establishment who engages in, aids, or abets any such violation:

(a) Violation of any provision of s. 456.072(1), s. 484.0512, or s. 484.053.

Section 28. Paragraph (a) of subsection (1), paragraph (a) of subsection (7), and subsection (8) of section 766.101, Florida Statutes, are amended to read:

766.101 Medical review committee, immunity from liability.—

(1) As used in this section:

(a) The term "medical review committee" or "committee" means:

1.a. A committee of a hospital or ambulatory surgical center licensed under chapter 395 or a health maintenance organization certificated under part I of chapter 641,

b. A committee of a physician-hospital organization, a provider-sponsored organization, or an integrated delivery system,

c. A committee of a state or local professional society of health care providers,

d. A committee of a medical staff of a licensed hospital or nursing home, provided the medical staff operates pursuant to written bylaws that have been approved by the governing board of the hospital or nursing home,

e. A committee of the Department of Corrections or the Correctional Medical Authority as created under s. 945.602, or employees, agents, or consultants of either the department or the authority or both,

f. A committee of a professional service corporation formed under chapter 621 or a corporation organized under chapter 607 or chapter 617, which is formed and operated for the practice of medicine as defined in s. 458.305(3), and which has at least 25 health care providers who routinely provide health care services directly to patients,

g. A committee of a mental health treatment facility licensed under chapter 394 or a community mental health center as defined in s. 394.907, provided the quality assurance program operates pursuant to the guidelines which have been approved by the governing board of the agency,

h. A committee of a substance abuse treatment and education prevention program licensed under chapter 397 provided the quality assurance program operates pursuant to the guidelines which have been approved by the governing board of the agency,

i. A peer review or utilization review committee organized under chapter 440, ~~or~~

j. A committee of the Department of Health, a county health department, healthy start coalition, or certified rural health network, when reviewing quality of care, or employees of these entities when reviewing mortality records, *or*

k. A continuous quality improvement committee of a pharmacy licensed pursuant to chapter 465,

which committee is formed to evaluate and improve the quality of health care rendered by providers of health service or to determine that health services rendered were professionally indicated or were performed in compliance with the applicable standard of care or that the cost of health care rendered was considered reasonable by the providers of professional health services in the area; or

2. A committee of an insurer, self-insurer, or joint underwriting association of medical malpractice insurance, or other persons conducting review under s. 766.106.

(7)(a) It is the intent of the Legislature to encourage medical review committees to contribute further to the quality of health care in this state by reviewing complaints against physicians in the manner described in this paragraph. Accordingly, the Department of *Health* ~~Business and Professional Regulation~~ may enter into a letter of agreement with a professional society of physicians licensed under chapter 458 or chapter 459, under which agreement the medical or peer review committees of the professional society will conduct a review of any complaint or case referred to the society by the department which involves a question as to whether a physician's actions represented a breach of the prevailing professional standard of care. The prevailing professional standard of care is that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers. The letter of agreement must specify that the professional society will submit an advisory report to the department within a reasonable time following the department's written and appropriately supported request to the professional society. The advisory report, which is not binding upon the department, constitutes the professional opinion of the medical review committee and must include:

1. A statement of relevant factual findings.

2. The judgment of the committee as to whether the physician's actions represented a breach of the prevailing professional standard of care.

(8) No cause of action of any nature by a person licensed pursuant to chapter 458, chapter 459, chapter 461, chapter 463, part I of chapter 464, chapter 465, or chapter 466 shall arise against another person licensed pursuant to chapter 458, chapter 459, chapter 461, chapter 463, part I of chapter 464, chapter 465, or chapter 466 for furnishing information to a duly appointed medical review committee, to an internal risk management program established under s. 395.0197, to the Department of *Health or the Agency for Health Care Administration* ~~Business and Professional Regulation~~, or to the appropriate regulatory board if the information furnished concerns patient care at a facility licensed pursuant to part I of chapter 395 where both persons provide health care services, if the information is not intentionally fraudulent, and if the information is within the scope of the functions of the committee, department, or board. However, if such information is otherwise available from original sources, it is not immune from discovery or use in a civil action merely because it was presented during a proceeding of the committee, department, or board.

Section 29. For the purpose of incorporating the amendment to section 766.101(1)(a), Florida Statutes, in references thereto, paragraph (a) of subsection (1) of section 440.105, Florida Statutes, and subsection (6) of section 626.989, Florida Statutes, are reenacted to read:

440.105 Prohibited activities; reports; penalties; limitations.—

(1)(a) Any insurance carrier, any individual self-insured, any commercial or group self-insurance fund, any professional practitioner licensed or regulated by the Department of Business and Professional Regulation, except as otherwise provided by law, any medical review committee as defined in s. 766.101, any private medical review committee, and any insurer, agent, or other person licensed under the insurance code, or any employee thereof, having knowledge or who believes that a fraudulent act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under this chapter is being or has been committed shall send to the Division of Insurance Fraud, Bureau of Workers' Compensation Fraud, a report or information pertinent to such knowledge or belief and such additional information relative thereto as the bureau may require. The bureau shall review such information or reports and select such information or reports as, in its judgment, may require further investigation. It shall then cause an independent examination of the facts surrounding such information or report to be made to determine the extent, if any, to which a fraudulent act or any other act or practice which, upon conviction, constitutes a felony or a misdemeanor under this chapter is being committed. The bureau shall report any alleged violations of law which its investigations disclose to the appropriate licensing agency and state attorney or other prosecuting agency having jurisdiction with respect to any such violations of this chapter. If prosecution by the state attorney or other prosecuting agency having jurisdiction with respect to such violation is not begun within 60 days of the bureau's report, the state attorney or other prosecuting agency having jurisdiction with respect to such violation shall inform the bureau of the reasons for the lack of prosecution.

626.989 Investigation by department or Division of Insurance Fraud; compliance; immunity; confidential information; reports to division; division investigator's power of arrest.—

(6) Any person, other than an insurer, agent, or other person licensed under the code, or an employee thereof, having knowledge or who believes that a fraudulent insurance act or any other act or practice

which, upon conviction, constitutes a felony or a misdemeanor under the code, or under s. 817.234, is being or has been committed may send to the Division of Insurance Fraud a report or information pertinent to such knowledge or belief and such additional information relative thereto as the department may request. Any professional practitioner licensed or regulated by the Department of Business and Professional Regulation, except as otherwise provided by law, any medical review committee as defined in s. 766.101, any private medical review committee, and any insurer, agent, or other person licensed under the code, or an employee thereof, having knowledge or who believes that a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or a misdemeanor under the code, or under s. 817.234, is being or has been committed shall send to the Division of Insurance Fraud a report or information pertinent to such knowledge or belief and such additional information relative thereto as the department may require. The Division of Insurance Fraud shall review such information or reports and select such information or reports as, in its judgment, may require further investigation. It shall then cause an independent examination of the facts surrounding such information or report to be made to determine the extent, if any, to which a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or a misdemeanor under the code, or under s. 817.234, is being committed. The Division of Insurance Fraud shall report any alleged violations of law which its investigations disclose to the appropriate licensing agency and state attorney or other prosecuting agency having jurisdiction with respect to any such violation, as provided in s. 624.310. If prosecution by the state attorney or other prosecuting agency having jurisdiction with respect to such violation is not begun within 60 days of the division's report, the state attorney or other prosecuting agency having jurisdiction with respect to such violation shall inform the division of the reasons for the lack of prosecution.

Section 30. Effective on July 1, 2001 and applicable to all contracts entered into or renewed on or after July 1, 2001, section 627.6474, Florida Statutes, is created to read:

627.6474 Provider contracts.—A health insurer shall not require a contracted health care practitioner as defined in s. 456.001(4) to accept the terms of other health care practitioner contracts with the insurer or any other insurer, or health maintenance organization, under common management and control with the insurer, including Medicare and Medicaid practitioner contracts and those authorized by s. 627.6471, s. 627.6472, or s. 641.315, except for a practitioner in a group practice as defined in s. 456.053 who must accept the terms of a contract negotiated for the practitioner by the group, as a condition of continuation or renewal of the contract. Any contract provision that violates this section is void. A violation of this section is not subject to the criminal penalty specified in s. 624.15.

Section 31. Effective on July 1, 2001 and applicable to all contracts entered into or renewed on or after July 1, 2001, subsection (11) is added to section 627.662, Florida Statutes, to read:

627.662 Other provisions applicable.—The following provisions apply to group health insurance, blanket health insurance, and franchise health insurance:

(11) Section 627.6474, relating to provider contracts.

Section 32. Effective on July 1, 2001 and applicable to all contracts entered into or renewed on or after July 1, 2001, subsection (10) is added to section 641.315, Florida Statutes, to read:

641.315 Provider contracts.—

(10) A health maintenance organization shall not require a contracted health care practitioner as defined in s. 456.001(4) to accept the terms of other health care practitioner contracts with the health maintenance organization or any insurer, or other health maintenance organization, under common management and control with the health maintenance organization, including Medicare and Medicaid practitioner contracts and those authorized by s. 627.6471, s. 627.6472, or s. 641.315, except for a practitioner in a group practice as defined in s. 456.053 who must accept the terms of a contract negotiated for the practitioner by the group, as a condition of continuation or renewal of the contract. Any contract provision that violates this section is void. A violation of this section is not subject to the criminal penalty specified in s. 624.15.

Section 33. Paragraph (c) of subsection (4) of section 766.1115, Florida Statutes, is amended to read:

766.1115 Health care providers; creation of agency relationship with governmental contractors.—

(4) CONTRACT REQUIREMENTS.—A health care provider that executes a contract with a governmental contractor to deliver health care services on or after April 17, 1992, as an agent of the governmental contractor is an agent for purposes of s. 768.28(9), while acting within the scope of duties pursuant to the contract, if the contract complies with the requirements of this section and regardless of whether the individual treated is later found to be ineligible. A health care provider under contract with the state may not be named as a defendant in any action arising out of the medical care or treatment provided on or after April 17, 1992, pursuant to contracts entered into under this section. The contract must provide that:

(c) Adverse incidents and information on treatment outcomes must be reported by any health care provider to the governmental contractor if such incidents and information pertain to a patient treated pursuant to the contract. The health care provider shall *submit the reports required by s. 395.0197* ~~annually submit an adverse incident report that includes all information required by s. 395.0197(6)(a), unless the adverse incident involves a result described by s. 395.0197(8), in which case it shall be reported within 15 days after the occurrence of such incident~~. If an incident involves a professional licensed by the Department of Health or a facility licensed by the Agency for Health Care Administration, the governmental contractor shall submit such incident reports to the appropriate department or agency, which shall review each incident and determine whether it involves conduct by the licensee that is subject to disciplinary action. All patient medical records and any identifying information contained in adverse incident reports and treatment outcomes which are obtained by governmental entities pursuant to this paragraph are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

Section 34. Section 456.047, Florida Statutes, is amended to read:

456.047 Standardized credentialing for health care practitioners.—

(1) INTENT.—The Legislature recognizes that an efficient and effective health care practitioner credentialing program helps to ensure access to quality health care and also recognizes that health care practitioner credentialing activities have increased significantly as a result of health care reform and recent changes in health care delivery and reimbursement systems. Moreover, the resulting duplication of health care practitioner credentialing activities is unnecessarily costly and cumbersome for both the practitioner and the entity granting practice privileges. Therefore, it is the intent of this section that a credentials collection program be established which provides that, once a health care practitioner's core credentials data are collected, they need not be collected again, except for corrections, updates, and modifications thereto. *Furthermore, it is the intent of the Legislature that the department and all entities and practitioners work cooperatively to ensure the integrity and accuracy of the program.* Participation under this section shall include those individuals licensed under chapter 458, chapter 459, chapter 460, chapter 461, or s. 464.012. However, the department shall, with the approval of the applicable board, include other professions under the jurisdiction of the Division of Medical Quality Assurance in this program, provided they meet the requirements of s. 456.039 or s. 456.0391.

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

(a) "Certified" or "accredited," as applicable, means approved by a quality assessment program, from the National Committee for Quality Assurance, the Joint Commission on Accreditation of Healthcare

Organizations, the American Accreditation HealthCare Commission/URAC, or any such other nationally recognized and accepted organization authorized by the department, used to assess and certify any credentials verification program, entity, or organization that verifies the credentials of any health care practitioner.

(b) "Core credentials data" means *data that is primary source verified and includes* ~~the following data: current name, any former name, and any alias, any~~ professional education, professional training, licensure, current Drug Enforcement Administration certification, ~~social security number,~~ specialty board certification, Educational Commission for Foreign Medical Graduates certification, *and* ~~hospital or other institutional affiliations, evidence of professional liability coverage or evidence of financial responsibility as required by s. 458.320, s. 459.0085, or s. 456.048, history of claims, suits, judgments, or settlements,~~ final disciplinary action reported pursuant to s. 456.039(1)(a)8. or s. 456.0391(1)(a)8. *The department may by rule designate additional core credentials data elements*~~, and Medicare or Medicaid sanctions~~.

(c) "Credential" or "credentialing" means the process of assessing and verifying the qualifications of a licensed health care practitioner or applicant for licensure as a health care practitioner.

(d) "Credentials verification organization" means any organization certified or accredited as a credentials verification organization.

(e) "Department" means the Department of Health, Division of Medical Quality Assurance.

(f) "Designated credentials verification organization" means the credentials verification organization which is selected by the health care practitioner, if the health care practitioner chooses to make such a designation.

(g) "Drug Enforcement Administration certification" means certification issued by the Drug Enforcement Administration for purposes of administration or prescription of controlled substances. Submission of such certification under this section must include evidence that the certification is current and must also include all current addresses to which the certificate is issued.

(h) "Health care entity" means:

1. Any health care facility or other health care organization licensed or certified to provide approved medical and allied health services in this state;

2. Any entity licensed by the Department of Insurance as a prepaid health care plan or health maintenance organization or as an insurer to provide coverage for health care services through a network of providers *or similar organization licensed under chapter 627, chapter 636, chapter 641, or chapter 651*; or

3. Any accredited medical school in this state.

(i) "Health care practitioner" means any person licensed, or, for credentialing purposes only, any person applying for licensure, under chapter 458, chapter 459, chapter 460, chapter 461, or s. 464.012 or any person licensed or applying for licensure under a chapter subsequently made subject to this section by the department with the approval of the applicable board, except a person registered or applying for registration pursuant to s. 458.345 or s. 459.021.

~~(j) "Hospital or other institutional affiliations" means each hospital or other institution for which the health care practitioner or applicant has provided medical services. Submission of such information under this section must include, for each hospital or other institution, the name and address of the hospital or institution, the staff status of the health care practitioner or applicant at that hospital or institution, and the dates of affiliation with that hospital or institution.~~

(j)~~(k)~~ "National accrediting organization" means an organization that awards accreditation or certification to hospitals, managed care organizations, credentials verification organizations, or other health care organizations, including, but not limited to, the Joint Commission on Accreditation of Healthcare Organizations, the American Accreditation HealthCare Commission/URAC, and the National Committee for Quality Assurance.

(k) "Primary source verification" means verification of professional qualifications based on evidence obtained directly from the issuing source of the applicable qualification or from any other source deemed as a primary source for such verification by the department or an accrediting body approved by the department.

(l) "Professional training" means any internship, residency, or fellowship relating to the profession for which the health care practitioner is licensed or seeking licensure.

(m) "Specialty board certification" means certification in a specialty issued by a specialty board recognized by the board in this state that regulates the profession for which the health care practitioner is licensed or seeking licensure.

(3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.—

(a) Every health care practitioner shall:

1. Report all core credentials data to the department which is not already on file with the department, either by designating a credentials verification organization to submit the data or by submitting the data directly.

2. Notify the department within 45 days of any corrections, updates, or modifications to the core credentials data either through his or her designated credentials verification organization or by submitting the data directly. Corrections, updates, and modifications to the core credentials data provided the department under this section shall comply with the updating requirements of s. 456.039(3) or s. 456.0391(3) related to profiling.

(b) The department shall:

1. Maintain a complete, current file of *applicable* core credentials data on each health care practitioner, which shall include *data provided in accordance with subparagraph (a)1. and* all updates provided in accordance with subparagraph (a)2.

2. Release the core credentials data that is otherwise confidential or exempt from the provisions of chapter 119 and s. 24(a), Art. I of the State Constitution and any corrections, updates, and modifications thereto, if authorized by the health care practitioner.

3. Charge a fee to access the core credentials data, which may not exceed the actual cost, including prorated setup and operating costs, pursuant to the requirements of chapter 119.

4. Develop standardized forms to be used by the health care practitioner or designated credentials verification organization for the initial reporting of core credentials data, for the health care practitioner to authorize the release of core credentials data, and for the subsequent reporting of corrections, updates, and modifications thereto.

(c) A registered credentials verification organization may be designated by a health care practitioner to assist the health care practitioner to comply with the requirements of subparagraph (a)2. A designated credentials verification organization shall:

1. Timely comply with the requirements of subparagraph (a)2., pursuant to rules adopted by the department.

2. Not provide the health care practitioner's core *credentials* data, including all corrections, updates, and modifications, without the authorization of the practitioner.

(d) This section shall not be construed to restrict in any way the authority of the health care entity to credential and to approve or deny an application for hospital staff membership, clinical privileges, or managed care network participation.

(4) DUPLICATION OF DATA PROHIBITED.—

(a) A health care entity or credentials verification organization is prohibited from collecting or attempting to collect duplicate core credentials data from any health care practitioner if the information is available from the department. This section shall not be construed to restrict the right of any health care entity or credentials verification organization to collect additional information from the health care practitioner which is not included in the core credentials data file. This section shall not be construed to prohibit a health care entity or credentials verification organization from obtaining all necessary attestation and release form signatures and dates.

(b) Effective July 1, 2002, a state agency in this state which credentials health care practitioners may not collect or attempt to collect duplicate core credentials data from any individual health care practitioner if the information is already available from the department. This section shall not be construed to restrict the right of any such state agency to request additional information not included in the core *credentials* ~~credential~~ data file, but which is deemed necessary for the agency's specific credentialing purposes.

(5) STANDARDS AND REGISTRATION.—Any credentials verification organization that does business in this state must be fully accredited or certified as a credentials verification organization by a national accrediting organization as specified in paragraph (2)(a) and must register with the department. The department may charge a reasonable registration fee, not to exceed an amount sufficient to cover its actual expenses in providing and enforcing such registration. The department shall establish by rule for biennial renewal of such registration. Failure by a registered credentials verification organization to maintain full accreditation or certification, to provide data as authorized by the health care practitioner, to report to the department changes, updates, and modifications to a health care practitioner's records within the time period specified in subparagraph (3)(a)2., or to comply with the prohibition against collection of duplicate core credentials data from a practitioner may result in denial of an application for renewal of registration or in revocation or suspension of a registration.

(6) PRIMARY SOURCE VERIFIED DATA.—Health care entities and credentials verification organizations may rely upon any data that has been primary source verified by the department or its designee to meet primary source verification requirements of national accrediting organizations.

(7)~~(6)~~ LIABILITY.—No civil, criminal, or administrative action may be instituted, and there shall be no liability, against any registered credentials verification organization or health care entity on account of its reliance on any data obtained directly from the department.

(8)~~(7)~~ LIABILITY INSURANCE REQUIREMENTS.—Each credentials verification organization doing business in this state shall maintain liability insurance appropriate to meet the certification or accreditation requirements established in this section.

(9)~~(8)~~ RULES.—The department shall adopt rules necessary to develop and implement the standardized core credentials data collection program established by this section.

Section 35. Section 232.61, Florida Statutes, is amended to read:

232.61 Governing organization for athletics; adoption of bylaws.—

(1) The organization shall adopt bylaws that, unless specifically provided by statute, establish eligibility requirements for all students who participate in high school athletic competition in its member schools. The bylaws governing residence and transfer shall allow the student to be eligible in the school in which he or she first enrolls each school year, or makes himself or herself a candidate for an athletic team by engaging in a practice prior to enrolling in any member school. The student shall be eligible in that school so long as he or she remains enrolled in that school. Subsequent eligibility shall be determined and enforced through the organization's bylaws.

(2) The organization shall ~~also~~ adopt bylaws that specifically prohibit the recruiting of students for athletic purposes. The bylaws shall prescribe penalties and an appeals process for athletic recruiting violations.

(3) The organization shall adopt bylaws that require all students participating in interscholastic athletic competition or who are candidates for an interscholastic athletic team to satisfactorily pass a medical evaluation each year prior to participating in interscholastic athletic competition or engaging in any practice, tryout, workout, or other physical activity associated with the student's candidacy for an interscholastic athletic team. Such medical evaluation can only be administered by a physician licensed under the provisions of chapter 458, chapter 459, or chapter 460, and in good standing with the physician's regulatory board. The bylaws shall establish requirements for eliciting a student's medical history and performing the medical evaluation required under this subsection, which shall include minimum standards for the physical capabilities necessary for participation in interscholastic athletic competition as contained in a uniform preparticipation physical evaluation form. The evaluation form shall provide place for the signature of the physician performing the evaluation with an attestation that each examination procedure listed on the form was performed by the physician or by someone under the direct supervision of the physician. The form shall also contain a place for the physician to indicate if a referral to another physician was made in lieu of completion of a certain examination procedure. The form shall provide a place for the physician to whom the student was referred to complete the remaining sections and attest to that portion of the examination. Physicians administering medical evaluations pursuant to this section must know the minimum standards established by the organization and certify that the student meets the standards. If the physician determines that there are any abnormal findings in the cardiovascular system, the student may not participate unless a subsequent EKG or other cardiovascular assessment indicates that the abnormality will not place the student at risk during such participation. Results of such medical evaluation must be provided to the school. No student shall be eligible to participate in any interscholastic athletic competition or engage in any practice, tryout, workout, or other physical activity associated with the student's candidacy for an interscholastic athletic team until the results of the medical evaluation verifying that the student has satisfactorily passed the evaluation have been received and approved by the school.

(4) Notwithstanding the provisions of subsection (3), a student may participate in interscholastic athletic competition or be a candidate for an interscholastic athletic team if the parent or guardian of the student objects in writing to the student undergoing a medical evaluation because such evaluation is contrary to his or her religious tenets or practices, provided that no person shall be held liable for any injury or other damages suffered by such student resulting from his or her participation in interscholastic athletic competition or in any practice, tryout, workout, or other physical activity associated with his or her candidacy for an interscholastic athletic team.

Section 36. Section 240.4075, Florida Statutes, is amended to read:

240.4075 Nursing Student Loan Forgiveness Program.—

(1) To encourage qualified personnel to seek employment in areas of this state in which critical nursing shortages exist, there is established the Nursing Student Loan Forgiveness Program. The primary function of the program is to increase employment and retention of registered nurses and licensed practical nurses in nursing homes and hospitals in the state and in state-operated medical and health care facilities, *public schools,* birth centers, *and* federally sponsored community health centers ~~and teaching hospitals~~ by making repayments toward loans received by students from federal or state programs or commercial lending institutions for the support of postsecondary study in accredited or approved nursing programs.

(2) To be eligible, a candidate must have graduated from an accredited or approved nursing program and have received a Florida license as a licensed practical nurse or a registered nurse or a Florida certificate as an advanced registered nurse practitioner.

(3) Only loans to pay the costs of tuition, books, and living expenses shall be covered, at an amount not to exceed $4,000 for each year of education towards the degree obtained.

(4) Receipt of funds pursuant to this program shall be contingent upon continued proof of employment in the designated facilities in this state. Loan principal payments shall be made by the Department of *Health* ~~Education~~ directly to the federal or state programs or commercial lending institutions holding the loan as follows:

(a) Twenty-five percent of the loan principal and accrued interest shall be retired after the first year of nursing;

(b) Fifty percent of the loan principal and accrued interest shall be retired after the second year of nursing;

(c) Seventy-five percent of the loan principal and accrued interest shall be retired after the third year of nursing; and

(d) The remaining loan principal and accrued interest shall be retired after the fourth year of nursing.

In no case may payment for any nurse exceed $4,000 in any 12-month period.

(5) There is created the Nursing Student Loan Forgiveness Trust Fund to be administered by the Department of *Health* ~~Education~~ pursuant to this section and s. 240.4076 and department rules. The Comptroller shall authorize expenditures from the trust fund upon receipt of vouchers approved by the Department of *Health* ~~Education~~. All moneys collected from the private health care industry and other private sources for the purposes of this section shall be deposited into the Nursing Student Loan Forgiveness 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 this section and s. 240.4076.

(6) In addition to licensing fees imposed under part I of chapter 464, there is hereby levied and imposed an additional fee of $5, which fee shall be paid upon licensure or renewal of nursing licensure. Revenues collected from the fee imposed in this subsection shall be deposited in the Nursing Student Loan Forgiveness Trust Fund of the Department of *Health* ~~Education~~ and will be used solely for the purpose of carrying out the provisions of this section and s. 240.4076. Up to 50 percent of the revenues appropriated to implement this subsection may be used for the nursing scholarship program established pursuant to s. 240.4076.

(7)(a) Funds contained in the Nursing Student Loan Forgiveness Trust Fund which are to be used for loan forgiveness for those nurses employed by hospitals, birth centers, and nursing homes must be matched on a dollar-for-dollar basis by contributions from the employing institutions, except that this provision shall not apply to state-operated medical and health care facilities, *public schools,* county health departments, federally sponsored community health centers, ~~or~~ teaching hospitals as defined in s. 408.07*, family practice teaching hospitals as defined in s. 395.805, or specialty hospitals for children as used in s. 409.9119. If in any given fiscal quarter there are insufficient funds in the trust fund to grant all eligible applicant requests, awards shall be based on the following priority of employer: county health departments; federally sponsored community health centers; state-operated medical and health care facilities; public schools; teaching hospitals as defined in s. 408.07; family practice teaching hospitals as defined in s. 395.805; specialty hospitals for children as used in s. 409.9119; and other hospitals, birth centers, and nursing homes*.

(b) All Nursing Student Loan Forgiveness Trust Fund moneys shall be invested pursuant to s. 18.125. Interest income accruing to that portion of the trust fund not matched shall increase the total funds available for loan forgiveness and scholarships. Pledged contributions shall not be eligible for matching prior to the actual collection of the total private contribution for the year.

(8) The Department of *Health* ~~Education~~ may solicit technical assistance relating to the conduct of this program from the Department of *Education* ~~Health~~.

(9) The Department of *Health* ~~Education~~ is authorized to recover from the Nursing Student Loan Forgiveness Trust Fund its costs for administering the Nursing Student Loan Forgiveness Program.

(10) The Department of *Health* ~~Education~~ may adopt rules necessary to administer this program.

(11) This section shall be implemented only as specifically funded.

Section 37. Section 240.4076, Florida Statutes, is amended to read:

240.4076 Nursing scholarship program.—

(1) There is established within the Department of *Health* ~~Education~~ a scholarship program for the purpose of attracting capable and promising students to the nursing profession.

(2) A scholarship applicant shall be enrolled as a full-time or part-time student in the upper division of an approved nursing program leading to the award of a baccalaureate *degree or graduate degree to qualify for a nursing faculty position or as an* ~~or any~~ advanced registered nurse practitioner ~~degree~~ or be enrolled as a full-time or part-time student in an approved program leading to the award of an associate degree in nursing ~~or a diploma in nursing~~.

(3) A scholarship may be awarded for no more than 2 years, in an amount not to exceed $8,000 per year. However, registered nurses pursuing *a graduate degree for a faculty position or to practice as* an advanced registered nurse practitioner ~~degree~~ may receive up to $12,000 per year. Beginning July 1, 1998, these amounts shall be adjusted by the amount of increase or decrease in the consumer price index for urban consumers published by the United States Department of Commerce.

(4) Credit for repayment of a scholarship shall be as follows:

(a) For each full year of scholarship assistance, the recipient agrees to work for 12 months *in a faculty position in a college of nursing or community college nursing program in this state or* at a health care facility in a medically underserved area as approved by the Department of *Health* ~~Education~~. Scholarship recipients who attend school on a part-time basis shall have their employment service obligation prorated in proportion to the amount of scholarship payments received.

(b) Eligible health care facilities include *nursing homes and hospitals in this state,* state-operated medical or health care facilities, *public schools,* county health departments, federally sponsored community health centers, *colleges of nursing in universities in this state, and community college nursing programs in this state* ~~or teaching hospitals as defined in s. 408.07~~. The recipient shall be encouraged to complete the service obligation at a single employment site. If continuous employment at the same site is not feasible, the recipient may apply to the department for a transfer to another approved health care facility.

(c) Any recipient who does not complete an appropriate program of studies or who does not become licensed shall repay to the Department of *Health* ~~Education~~, on a schedule to be determined by the department, the entire amount of the scholarship plus 18 percent interest accruing from the date of the scholarship payment. Moneys repaid shall be deposited into the Nursing Student Loan Forgiveness Trust Fund established in s. 240.4075. However, the department may provide additional time for repayment if the department finds that circumstances beyond the control of the recipient caused or contributed to the default.

(d) Any recipient who does not accept employment as a nurse at an approved health care facility or who does not complete 12 months of approved employment for each year of scholarship assistance received shall repay to the Department of *Health* ~~Education~~ an amount equal to two times the entire amount of the scholarship plus interest accruing from the date of the scholarship payment at the maximum allowable interest rate permitted by law. Repayment shall be made within 1 year of notice that the recipient is considered to be in default. However, the department may provide additional time for repayment if the department finds that circumstances beyond the control of the recipient caused or contributed to the default.

(5) Scholarship payments shall be transmitted to the recipient upon receipt of documentation that the recipient is enrolled in an approved

nursing program. The Department of *Health* ~~Education~~ shall develop a formula to prorate payments to scholarship recipients so as not to exceed the maximum amount per academic year.

(6) The Department of *Health* ~~Education~~ shall adopt rules, including rules to address extraordinary circumstances that may cause a recipient to default on either the school enrollment or employment contractual agreement, to implement this section and may solicit technical assistance relating to the conduct of this program from the Department of Health.

(7) The Department of *Health* ~~Education~~ is authorized to recover from the Nursing Student Loan Forgiveness Trust Fund its costs for administering the nursing scholarship program.

Section 38. *All powers, duties, and functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Department of Education relating to the Nursing Student Loan Forgiveness Program and the nursing scholarship program are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Department of Health.*

Section 39. Effective July 1, 2003, section 464.005, Florida Statutes, is amended to read:

464.005 Board headquarters.—The board shall maintain its official headquarters in *Tallahassee* ~~the city in which it has been domiciled for the past 5 years~~.

Section 40. Subsections (1) and (2) of section 464.008, Florida Statutes, are amended to read:

464.008 Licensure by examination.—

(1) Any person desiring to be licensed as a registered nurse or licensed practical nurse shall apply to the department to take the licensure examination. The department shall examine each applicant who:

(a) Has completed the application form and remitted a fee set by the board not to exceed $150 and has remitted an examination fee set by the board not to exceed $75 plus the actual per applicant cost to the department for purchase of the examination from the National Council of State Boards of Nursing or a similar national organization.

(b) Has provided sufficient information on or after October 1, 1989, which must be submitted by the department for a statewide criminal records correspondence check through the Department of Law Enforcement.

(c) Is in good mental and physical health, is a recipient of a high school diploma or the equivalent, and has completed the requirements for graduation from an approved program*, or its equivalent as determined by the board,* for the preparation of registered nurses or licensed practical nurses, whichever is applicable. Courses successfully completed in a professional nursing program which are at least equivalent to a practical nursing program may be used to satisfy the education requirements for licensure as a licensed practical nurse.

(d) Has the ability to communicate in the English language, which may be determined by an examination given by the department.

(2) Each applicant who passes the examination and provides proof of *meeting the educational requirements specified in subsection (1)* ~~graduation from an approved nursing program~~ shall, unless denied pursuant to s. 464.018, be entitled to licensure as a registered professional nurse or a licensed practical nurse, whichever is applicable.

Section 41. Section 464.009, Florida Statutes, is amended to read:

464.009 Licensure by endorsement.—

(1) The department shall issue the appropriate license by endorsement to practice professional or practical nursing to an applicant who, upon applying to the department and remitting a fee set by the board not to exceed $100, demonstrates to the board that he or she:

(a) Holds a valid license to practice professional or practical nursing in another state of the United States, provided that, when the applicant secured his or her original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in Florida at that time; or

(b) Meets the qualifications for licensure in s. 464.008 and has successfully completed a state, regional, or national examination which is substantially equivalent to or more stringent than the examination given by the department.

(2) Such examinations and requirements from other states shall be presumed to be substantially equivalent to or more stringent than those in this state. Such presumption shall not arise until January 1, 1980. However, the board may, by rule, specify states the examinations and requirements of which shall not be presumed to be substantially equivalent to those of this state.

(3) The applicant must submit to the department a set of fingerprints on a form and under procedures specified by the department, along with a payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant. The Department of Health shall submit the fingerprints provided by the applicant 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 of the applicant. The Department of Health shall review the results of the criminal history check, issue a license to an applicant who has met all of the other requirements for licensure and has no criminal history, and shall refer all applicants with criminal histories back to the board for determination as to whether a license should be issued and under what conditions.

(4)~~(3)~~ The department shall not issue a license by endorsement to any applicant who is under investigation in another state for an act which would constitute a violation of this part *or chapter 456* until such time as the investigation is complete, at which time the provisions of s. 464.018 shall apply.

(5) The department shall develop an electronic applicant notification process and provide electronic notification when the application has been received and when background screenings have been completed, and shall issue a license within 30 days after completion of all required data collection and verification. This 30-day period to issue a license shall be tolled if the applicant must appear before the board due to information provided on the application or obtained through screening and data collection and verification procedures.

Section 42. Section 464.0195, Florida Statutes, is created to read:

464.0195 Florida Center for Nursing; goals.—There is established the Florida Center for Nursing to address issues of supply and demand for nursing, including issues of recruitment, retention, and utilization of nurse workforce resources. The Legislature finds that the center will repay the state's investment by providing an ongoing strategy for the allocation of the state's resources directed towards nursing. The primary goals for the center shall be to:

(1) Develop a strategic statewide plan for nursing manpower in this state by:

(a) Establishing and maintaining a database on nursing supply and demand in the state, to include current supply and demand, and future projections; and

(b) Selecting from the plan priorities to be addressed.

(2) Convene various groups representative of nurses, other health care providers, business and industry, consumers, legislators, and educators to:

(a) Review and comment on data analysis prepared for the center;

(b) Recommend systemic changes, including strategies for implementation of recommended changes; and

(c) Evaluate and report the results of these efforts to the Legislature and others.

(3) Enhance and promote recognition, reward, and renewal activities for nurses in the state by:

(a) Promoting nursing excellence programs such as magnet recognition by the American Nurses Credentialing Center;

(b) Proposing and creating additional reward, recognition, and renewal activities for nurses; and

(c) Promoting media and positive image-building efforts for nursing.

Section 43. Section 464.0196, Florida Statutes, is created to read:

464.0196 Florida Center for Nursing; board of directors.—

(1) The Florida Center for Nursing shall be governed by a policy-setting board of directors. The board shall consist of 16 members, with a simple majority of the board being nurses representative of various practice areas. Other members shall include representatives of other health care professions, business and industry, health care providers, and consumers. The members of the board shall be appointed by the Governor as follows:

(a) Four members recommended by the President of the Senate, at least one of whom shall be a registered nurse recommended by the Florida Organization of Nurse Executives and at least one other representative of the hospital industry recommended by the Florida Hospital Association;

(b) Four members recommended by the Speaker of the House of Representatives, at least one of whom shall be a registered nurse recommended by the Florida Nurses Association and at least one other representative of the long-term care industry;

(c) Four members recommended by the Governor, two of whom shall be registered nurses; and

(d) Four nurse educators recommended by the State Board of Education, one of whom shall be a dean of a College of Nursing at a state university, one other shall be a director of a nursing program in a state community college.

(2) The initial terms of the members shall be as follows:

(a) Of the members appointed pursuant to paragraph (1)(a), two shall be appointed for terms expiring June 30, 2005, one for a term expiring June 30, 2004, and one for a term expiring June 30, 2003.

(b) Of the members appointed pursuant to paragraph (1)(b), one shall be appointed for a term expiring June 30, 2005, two for terms expiring June 30, 2004, and one for a term expiring June 20, 2003.

(c) Of the members appointed pursuant to paragraph (1)(c), one shall be appointed for a term expiring June 30, 2005, one for a term expiring June 30, 2004, and two for terms expiring June 30, 2003.

(d) Of the members appointed pursuant to paragraph (1)(d), the terms of two members recommended by the State Board of Education shall expire June 30, 2005; the term of the member who is a dean of a College of Nursing at a state university shall expire June 30, 2004; and the term of the member who is a director of a state community college nursing program shall expire June 30, 2003.

After the initial appointments expire, the terms of all the members shall be for 3 years, with no member serving more than two consecutive terms.

(3) The board shall have the following powers and duties:

(a) To employ an executive director.

(b) To determine operational policy.

(c) To elect a chair and officers, to serve 2-year terms. The chair and officers may not succeed themselves.

(d) To establish committees of the board as needed.

(e) To appoint a multidisciplinary advisory council for input and advice on policy matters.

(f) To implement the major functions of the center as established in the goals set out in s. 464.0195.

(g) To seek and accept nonstate funds for sustaining the center and carrying out center policy.

(4) The members of the board are entitled to receive per diem and allowances prescribed by law for state boards and commissions.

Section 44. Section 464.0197, Florida Statutes, is created to read:

464.0197 Florida Center for Nursing; state budget support.—The Legislature finds that it is imperative that the state protect its investment and progress made in nursing efforts to date. The Legislature finds that the Florida Center for Nursing is the appropriate means to do so. The center shall have state budget support for its operations so that it may have adequate resources for the tasks the Legislature has set out in s. 464.0195.

Section 45. *The Board of Nursing within the Department of Health shall hold in abeyance until July 1, 2002, the development of any rule pursuant to s. 464.019(2), Florida Statutes, which relates to the establishment of faculty/student clinical ratios. The Board of Nursing and the Department of Education shall submit to the President of the Senate and the Speaker of the House of Representatives by December 31, 2001, an implementation plan that details both the impact and the cost of any such proposed rule change.*

Section 46. Subsection (1) of section 464.0205, Florida Statutes, is amended to read:

464.0205 Retired volunteer nurse certificate.—

(1) Any retired practical or registered nurse desiring to serve indigent, underserved, or critical need populations in this state may apply to the department for a retired volunteer nurse certificate by providing:

(a) A complete application.

~~(b) An application and processing fee of $25.~~

(b)~~(c)~~ Verification that the applicant had been licensed to practice nursing in any jurisdiction in the United States for at least 10 years, had retired or plans to retire, intends to practice nursing only pursuant to the limitations provided by the retired volunteer nurse certificate, and has not committed any act that would constitute a violation under s. 464.018(1).

(c)~~(d)~~ Proof that the applicant meets the requirements for licensure under s. 464.008 or s. 464.009.

Section 47. *The Florida Legislature's Office of Program Policy Analysis and Government Accountability shall study the feasibility of maintaining the entire Medical Quality Assurance function, including enforcement, within one department, as recommended by the Auditor General in Operational Report Number 01-063. The study shall be completed and a report issued to the Legislature on or before November 30, 2001.*

Section 48. Effective October 1, 2001, section 456.0375, Florida Statutes, is created to read:

456.0375 Registration of certain clinics; requirements; discipline; exemptions.—

(1)(a) As used in this section, the term "clinic" means a business operating in a single structure or facility or group of adjacent structures or facilities operating under the same business name or management at which health care services are provided to individuals and which tenders charges for reimbursement for such services.

(b) For purposes of this section, the term "clinic" does not include and the registration requirements in this section do not apply to:

1. Entities licensed or registered by the state pursuant to chapter 390, chapter 394, chapter 395, chapter 397, chapter 400, chapter 463, chapter 465, chapter 466, chapter 478, chapter 480, or chapter 484.

2. Entities exempt from federal taxation under 26 U.S.C. s. 501(c)(3).

3. Sole proprietorships, group practices, partnerships, or corporations which provide health care services by licensed health care practitioners pursuant to chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 466, chapter 467, chapter 484, chapter 486, chapter 490, or chapter 491; part I, part III, part X, part XIII, or part XIV of chapter 468; or s. 464.012, which are wholly owned by licensed health care practitioners or wholly owned by licensed health care practitioners and the spouse, parent, or child of a licensed health care practitioner, so long as one of the owners who is a licensed health care practitioner is supervising the services performed therein and is legally responsible for the entity's compliance with all federal and state laws. However, no health care practitioner may supervise services beyond the scope of the practitioner's license.

(2)(a) Every clinic, as defined in paragraph (1)(a), must register, and at all times maintain a valid registration, with the department. Each clinic location must be registered separately even though operated under the same business name or management, and each clinic must appoint a medical director or clinic director.

(b) The department shall adopt rules necessary to administer the registration program, including rules establishing the specific registration procedures, forms, and fees. Registration may be conducted electronically. Registration fees must be calculated to reasonably cover the cost of registration and must be of such amount that the total fees collected do not exceed the cost of administering and enforcing compliance with this section. The registration program must require:

1. The clinic to file the registration form with the department within 60 days after the effective date of this section or prior to the inception of operation. The registration expires automatically 2 years after its date of issuance and must be renewed biennially thereafter.

2. The registration form to contain the name, residence, and business address, phone number, and license number of the medical director or clinic director for the clinic.

3. The clinic to display the registration certificate in a conspicuous location within the clinic which is readily visible to all patients.

(3)(a) Each clinic must employ or contract with a physician maintaining a full and unencumbered physician license in accordance with chapter 458, chapter 459, chapter 460, or chapter 461 to serve as the medical director. However, if the clinic is limited to providing health care services pursuant to chapter 457, chapter 484, chapter 486, chapter 490, or chapter 491 or part I, part III, part X, part XIII, or part XIV of chapter 468, the clinic may appoint a health care practitioner licensed under that chapter to serve as the clinic director who is responsible for the clinic's activities. A health care practitioner may not serve as the clinic director if the services provided at the clinic are beyond the scope of that practitioner's license.

(b) The medical director or clinic director must agree in writing to accept responsibility for the following activities on behalf of the clinic. The medical director or the clinic director shall:

1. Have signs identifying the medical director or clinic director posted in a conspicuous location within the clinic which is readily visible to all patients.

2. Ensure that all practitioners providing health care services or supplies to patients maintain a current, active, and unencumbered Florida license.

3. Review any patient-referral contracts or agreements executed by the clinic.

4. Ensure that all health care practitioners at the clinic have active appropriate certification or licensure for the level of care being provided.

5. Serve as the clinic records owner as defined in s. 456.057.

6. Ensure compliance with the recordkeeping, office surgery, and adverse incident reporting requirements of chapter 456, the respective practice acts, and the rules adopted thereunder.

7. Conduct systematic reviews of clinic billings to ensure that the billings are not fraudulent or unlawful. Upon discovery of an unlawful charge, the medical director or clinic director must take immediate corrective action.

(c) Any contract to serve as a medical director or clinic director entered into or renewed by a physician or licensed health care practitioner in violation of this section is void as contrary to public policy. This section applies to contracts entered into or renewed on or after the effective date of this section.

(d) The department, in consultation with the boards, shall adopt rules specifying limitations on the number of registered clinics and licensees for which a medical director or clinic director may assume responsibility for purposes of this section. In determining the quality of supervision a medical director or clinic director can provide, the department shall consider the number of clinic employees, the clinic location, and the services provided by the clinic.

(4)(a) All charges or reimbursement claims made by or on behalf of a clinic that is required to be registered under this section but that is not so registered are unlawful charges and therefore are noncompensable and unenforceable.

(b) Any person establishing, operating, or managing an unregistered clinic otherwise required to be registered under this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any licensed health care practitioner who violates this section is subject to discipline in accordance with this chapter and the respective practice act.

(d) The department shall revoke the registration of any clinic registered under this section for operating in violation of the requirements of this section or the rules adopted pursuant to this section.

(e) The department shall investigate allegations of noncompliance with this section and the rules adopted pursuant to this section.

Section 49. *The sum of $100,000 is appropriated from the registration fees collected from clinics pursuant to s. 456.0375, Florida Statutes, and one-half of one full-time equivalent position is authorized, to the Department of Health for the purposes of regulating medical clinics pursuant to s. 456.0375, Florida Statutes. The appropriated funds shall be deposited into the Medical Quality Assurance Trust Fund.*

Section 50. Subsection (3) of section 456.031, Florida Statutes, is amended to read:

456.031 Requirement for instruction on domestic violence.—

(3)*(a)* In lieu of completing a course as required in subsection (1), a licensee or certificateholder may complete a course in end-of-life care and palliative health care, if the licensee or certificateholder has completed an approved domestic violence course in the immediately preceding biennium.

(b) In lieu of completing a course as required by subsection (1), a person licensed under chapter 466 who has completed an approved domestic-violence education course in the immediately preceding 2 years may complete a course approved by the Board of Dentistry.

Section 51. Subsection (9) of section 456.033, Florida Statutes, is amended to read:

456.033 Requirement for instruction for certain licensees on human immunodeficiency virus and acquired immune deficiency syndrome.—

(9)*(a)* In lieu of completing a course as required in subsection (1), the licensee may complete a course in end-of-life care and palliative health

care, so long as the licensee completed an approved AIDS/HIV course in the immediately preceding biennium.

(b) In lieu of completing a course as required by subsection (1), a person licensed under chapter 466 who has completed an approved AIDS/HIV course in the immediately preceding 2 years may complete a course approved by the Board of Dentistry.

Section 52. (1) Subsection (9) is added to section 627.419, Florida Statutes, to read:

627.419 Construction of policies.—

(9) With respect to any group or individual insurer covering dental services, each claimant, or dentist acting for a claimant, who has had a claim denied as not medically or dentally necessary or who has had a claim payment based on an alternate dental service in accordance with accepted dental standards for adequate and appropriate care must be provided an opportunity for an appeal to the insurer's licensed dentist who is responsible for the medical necessity reviews under the plan or is a member of the plan's peer review group. The appeal may be by telephone, and the insurer's dentist must respond within a reasonable time, not to exceed 15 business days.

(2) This section shall apply to policies issued or renewed on or after July 1, 2001.

Section 53. Paragraph (c) of subsection (6) of section 468.302, Florida Statutes, is amended to read:

468.302 Use of radiation; identification of certified persons; limitations; exceptions.—

(6) Requirement for certification does not apply to:

(c) A person who is trained and skilled in *invasive cardiovascular* ~~cardiopulmonary~~ technology*, including the radiologic technology duties associated with these procedures,* and who provides *invasive cardiovascular* ~~cardiopulmonary~~ technology services at the direction, and under the direct supervision, of a licensed practitioner *who is trained and skilled in performing invasive cardiovascular procedures. Such persons must have successfully completed a didactic and clinical training program in the following areas before performing radiologic technology duties:*

1. Principles of X-ray production and equipment operation.

2. Biological effects of radiation.

3. Radiation exposure and monitoring.

4. Radiation safety and protection.

5. Evaluation of radiographic equipment and accessories.

6. Radiographic exposure and technique factors.

7. Film processing.

8. Image quality assurance.

9. Patient positioning.

10. Administration and complications of contrast media.

11. Specific fluoroscopic and digital X-ray imaging procedures related to invasive cardiovascular technology.

Section 54. Subsections (8) and (9) of section 468.352, Florida Statutes, are amended to read:

468.352 Definitions.—As used in this part, unless the context otherwise requires, the term:

(8) "*Registered* respiratory therapist" means any person licensed pursuant to this part who is employed to deliver respiratory care services under the order of a physician licensed pursuant to chapter 458 or chapter 459, and in accordance with protocols established by a hospital, other health care provider, or the board, and who functions in situations of unsupervised patient contact requiring individual judgment.

(9) *"Certified respiratory therapist" or* "respiratory care practitioner" means any person licensed pursuant to this part who is employed to deliver respiratory care services under the order of a physician licensed pursuant to chapter 458 or chapter 459, and in accordance with protocols established by a hospital, other health care provider, or the board.

Section 55. Subsections (1) and (2) of section 468.355, Florida Statutes, are amended to read:

468.355 Eligibility for licensure; temporary licensure.—

(1) To be eligible for licensure by the board as a *certified respiratory therapist* ~~respiratory care practitioner~~, an applicant must:

(a) Be at least 18 years old.

(b) Possess a high school diploma or a graduate equivalency diploma.

(c) Meet at least one of the following criteria:

1. The applicant has successfully completed a training program for respiratory therapy technicians or respiratory therapists approved by the Commission on Accreditation of Allied Health Education Programs, or the equivalent thereof, as accepted by the board.

2. The applicant is currently a "Certified Respiratory *Therapist* ~~Therapy Technician~~" certified by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

3. The applicant is currently a "Registered Respiratory Therapist" registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

The criteria set forth in subparagraphs 2. and 3. notwithstanding, the board shall periodically review the examinations and standards of the National Board for Respiratory Care and may reject those examinations and standards if they are deemed inappropriate.

(2) To be eligible for licensure by the board as a *registered* respiratory therapist, an applicant must:

(a) Be at least 18 years old.

(b) Possess a high school diploma or a graduate equivalency diploma.

(c) Meet at least one of the following criteria:

1. The applicant has successfully completed a training program for *registered* respiratory therapists approved by the Commission on Accreditation of Allied Health Education Programs, or the equivalent thereof, as accepted by the board.

2. The applicant is currently a "Registered Respiratory Therapist" registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

The criteria set forth in subparagraphs 1. and 2. notwithstanding, the board shall periodically review the examinations and standards of the National Board for Respiratory Care and may reject those examinations and standards if they are deemed inappropriate.

Section 56. Section 468.357, Florida Statutes, is amended to read:

468.357 Licensure by examination.—

(1) A person who desires to be licensed as a *certified respiratory therapist* ~~respiratory care practitioner~~ may submit an application to take the examination, in accordance with board rule.

(a) Each applicant may take the examination who is determined by the board to have:

1. Completed the application form and remitted the applicable fee set by the board;

2. Submitted required documentation as required in s. 468.355; and

3. Remitted an examination fee set by the examination provider.

(b) Examinations for licensure of *certified respiratory therapist* ~~respiratory care practitioners~~ must be conducted no less than two times a year in such geographical locations or by such methods as are deemed advantageous to the majority of the applicants.

(c) The examination given for *certified respiratory therapist* ~~respiratory care practitioners~~ shall be the same as that given by the National Board for Respiratory Care for entry-level certification of respiratory *therapists* ~~therapy technicians~~. However, an equivalent examination may be accepted by the board in lieu of that examination.

(2) Each applicant who passes the examination shall be entitled to licensure as a *certified respiratory therapist* ~~respiratory care practitioner~~, and the department shall issue a license pursuant to this part to any applicant who successfully completes the examination in accordance with this section. However, the department shall not issue a license to any applicant who is under investigation in another jurisdiction for an offense which would constitute a violation of this part. Upon completion of such an investigation, if the applicant is found guilty of such an offense, the applicable provisions of s. 468.365 will apply.

Section 57. Subsections (1) and (2) of section 468.358, Florida Statutes, are amended to read:

468.358 Licensure by endorsement.—

(1) Licensure as a *certified respiratory therapist* ~~respiratory care practitioner~~ shall be granted by endorsement to an individual who holds the "Certified Respiratory *Therapist* ~~Therapy Technician~~" credential issued by the National Board for Respiratory Care or an equivalent credential acceptable to the board. Licensure by this mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is held.

(2) Licensure as a *registered* respiratory therapist shall be granted by endorsement to an individual who holds the "Registered Respiratory Therapist" credential issued by the National Board for Respiratory Care or an equivalent credential acceptable to the board. Licensure by this mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is held.

Section 58. Section 468.359, Florida Statutes, is amended to read:

468.359 Assumption of title and use of abbreviations.—

(1) Only persons who are licensed pursuant to this part as respiratory care practitioners have the right to use the title "Respiratory Care Practitioner" and the abbreviation "RCP."

(2) Only persons who are licensed pursuant to this part as *registered* respiratory therapists have the right to use the title "Registered Respiratory Therapist" and the abbreviation "RRT," *when delivering services pursuant to this part* ~~provided such persons have passed the Registry Examination for Respiratory Therapists given by the National Board for Respiratory Care~~.

(3) Only persons who are *licensed pursuant to this part as certified respiratory therapists have the right to use the title "Certified Respiratory Therapist" and the abbreviation "CRT" when delivering services pursuant to this part.* ~~graduates of board-approved programs for respiratory care practitioners may use the term "Graduate Respiratory Therapy Technician" and the abbreviation "GRTT."~~

~~(4) Only persons who are graduates of board-approved programs for respiratory therapists may use the term "Graduate Respiratory Therapist" and the abbreviation "GRT."~~

(4)~~(5)~~ No person in this state shall deliver respiratory care services; advertise as, or assume the title of, respiratory care practitioner*, certified respiratory therapist,* or *registered* respiratory therapist; or use the abbreviation "RCP*," "CRT," or "RRT" that would lead the public to believe that such person is licensed pursuant to this part unless such person is so licensed;* or take any other action that would lead the public to believe that such person is licensed pursuant to this part unless such person is so licensed.

Section 59. Subsections (2), (3), and (4) of section 468.1155, Florida Statutes, are amended to read:

468.1155 Provisional license; requirements.—

(2) The department shall issue a provisional license to practice speech-language pathology to each applicant who the board certifies has:

(a) Completed the application form and remitted the required fees, including a nonrefundable application fee.

(b) Received a master's degree or *is currently enrolled in a* doctoral degree *program* with a major emphasis in speech-language pathology from an institution of higher learning which *is*, *or* at the time the applicant was enrolled and graduated~~,~~ was*,* accredited by an accrediting agency recognized by the *Council for Higher Education* ~~Commission on Recognition of Postsecondary~~ Accreditation or from an institution which is ~~publicly recognized as~~ a member in good standing with the Association of Universities and Colleges of Canada. An applicant who graduated from *or is currently enrolled in* a program at a university or college outside the United States or Canada must present documentation of the determination of equivalency to standards established by the *Council for Higher Education* ~~Commission on Recognition of Postsecondary~~ Accreditation in order to qualify. The applicant must have completed 60 semester hours that include:

1. Fundamental information applicable to the normal development and use of speech, hearing, and language; information about training in management of speech, hearing, and language disorders; and information supplementary to these fields.

2. Six semester hours in audiology.

3. Thirty of the required 60 semester hours in courses acceptable toward a graduate degree by the college or university in which these courses were taken, of which 24 semester hours must be in speech-language pathology.

(c) Completed 300 supervised clinical clock hours with 200 clock hours in the area of speech-language pathology *or completed the number of clock hours required by an accredited institution meeting national certification standards*. The supervised clinical clock hours shall be completed within the training institution or one of its cooperating programs.

(3) The department shall issue a provisional license to practice audiology to each applicant who the board certifies has:

(a) Completed the application form and remitted the required fees, including a nonrefundable application fee.

(b) Received a master's degree or *is currently enrolled in a* doctoral degree *program* with a major emphasis in audiology from an institution of higher learning which *is, or* at the time the applicant was enrolled and graduated was*,* accredited by an accrediting agency recognized by the *Council for Higher Education* ~~Commission on Recognition of Postsecondary~~ Accreditation or from an institution which is ~~publicly recognized as~~ a member in good standing with the Association of Universities and Colleges of Canada. An applicant who graduated from *or is currently enrolled in* a program at a university or college outside the United States or Canada must present documentation of the determination of equivalency to standards established by the *Council for Higher Education* ~~Commission on Recognition of Postsecondary~~ Accreditation in order to qualify. The applicant must have completed 60 semester hours that include:

1. Fundamental information applicable to the normal development and use of speech, hearing, and language; information about training in management of speech, hearing, and language disorders; and information supplementary to these fields.

2. Six semester hours in speech-language pathology.

3. Thirty of the required 60 semester hours in courses acceptable toward a graduate degree by the college or university in which these courses were taken, of which 24 semester hours must be in audiology.

(c) Completed 300 supervised clinical clock hours with 200 clock hours in the area of audiology *or completed the number of clock hours required by an accredited institution meeting national certification standards*. The supervised clinical clock hours shall be completed within the training institution or one of its cooperating programs.

(4) An applicant ~~for a provisional license~~ who has received a master's degree or *is currently enrolled in a* doctoral degree *program* with a major emphasis in speech-language pathology as provided in subsection (2), or audiology as provided in subsection (3), and who seeks licensure in the area in which the applicant is not currently licensed, must have completed 30 semester hours in courses acceptable toward a graduate degree and 200 supervised clinical clock hours in the second discipline from an accredited institution.

Section 60. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 468.1215, Florida Statutes, are amended to read:

468.1215 Speech-language pathology assistant and audiology assistant; certification.—

(1) The department shall issue a certificate as a speech-language pathology assistant to each applicant who the board certifies has:

(b) Earned a bachelor's degree from a college or university accredited by a regional association of colleges and schools recognized by the Department of Education which includes at least 24 semester hours of coursework as approved by the board at an institution accredited by an accrediting agency recognized by the *Council for Higher Education* ~~Commission on Recognition of Postsecondary~~ Accreditation.

(2) The department shall issue a certificate as an audiology assistant to each applicant who the board certifies has:

(b) Completed at least 24 semester hours of coursework as approved by the board at an institution accredited by an accrediting agency recognized by the *Council for Higher Education* ~~Commission on Recognition of Postsecondary~~ Accreditation.

Section 61. Subsection (3) of section 480.033, Florida Statutes, is amended to read:

480.033 Definitions.—As used in this act:

(3) "Massage" means the manipulation of the *soft* ~~superficial~~ tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.

Section 62. Subsection (3) of section 484.002, Florida Statutes, is amended, and subsection (8) is added to that section, to read:

484.002 Definitions.—As used in this part:

(3) "Opticianry" means the preparation and dispensing of lenses, spectacles, eyeglasses, contact lenses, and other optical devices to the intended user or agent thereof, upon the written prescription of a *licensed allopathic or osteopathic physician* ~~medical doctor~~ or optometrist who is duly licensed to practice or upon presentation of a duplicate prescription. The selection of frame designs, the actual sales transaction, and the transfer of physical possession of lenses, spectacles, eyeglasses, contact lenses, and other optical devices subsequent to performance of all services of the optician shall not be considered the practice of opticianry; however, such physical possession shall not be transferred until the optician has completed the fitting of the optical device upon the customer. The practice of opticianry also includes the duplication of lenses accurately as to power, without prescription. A board-certified optician qualified and operating under rules established by the board may fill, fit, adapt, or dispense any soft contact lens prescription. Such optician may fill, fit, adapt, or dispense any extended wear or hard contact lens prescription to the extent authorized to do so by the prescribing *allopathic or osteopathic physician* ~~medical doctor~~ or optometrist.

(8) "Contact lenses" means a prescribed medical device intended to be worn directly against the cornea of the eye to correct vision conditions, act as a therapeutic device, or provide a cosmetic effect.

(9) "Optical Dispensing" means interpreting but not altering a prescription of a licensed physician or optometrist and designing, adapting, fitting, or replacing the prescribed optical aids, pursuant to such prescription, to or for the intended wearer, duplicating lenses, accurately as to power without a prescription and duplicating nonprescription eyewear and parts of eyewear. "Optical Dispensing" does not include selecting frames, transferring an optical aid to the wearer after an optician has completed fitting it, or providing instruction in the general care and use of an optical aid, including placement, removal, hygiene, or cleaning.

Section 63. Subsection (2) of section 484.006, Florida Statutes, is amended to read:

484.006 Certain rules prohibited.—

(2) No rule or policy of the board shall prohibit any optician from practicing jointly with optometrists or *allopathic or osteopathic physicians* ~~medical doctors~~ licensed in this state.

Section 64. Subsections (1) and (2) of section 484.012, Florida Statutes, are amended to read:

484.012 Prescriptions; filing; duplication of prescriptions; duplication of lenses.—

(1) Any prescription written by a duly licensed *allopathic or osteopathic physician* ~~medical doctor~~ or optometrist for any lenses, spectacles, eyeglasses, contact lenses, or other optical devices shall be kept on file for a period of 2 years with the optical establishment that fills such prescription. However, the licensed optician may maintain a copy of the prescription.

(2) Upon request by the intended user of the prescribed lenses, spectacles, eyeglasses, contact lenses, or other optical devices, or by an agent of the intended user, the optician who fills the original prescription shall duplicate, on a form prescribed by rule of the board, the original prescription. However, for medical reasons only, the prescribing *allopathic or osteopathic physician* ~~medical doctor~~ or optometrist may, upon the original prescription, prohibit its duplication. Any duplication shall be considered a valid prescription to be filled for a period of 5 years from the date of the original prescription, except that a contact lens prescription shall be considered a valid prescription to be filled for a period of 2 years from the date of the original prescription.

Section 65. Section 484.013, Florida Statutes, is amended to read:

484.013 Violations and penalties.—

(1) It is unlawful for any person:

(a) To *intentionally* make a false or fraudulent statement, either for herself or himself or for another person, in any application, affidavit, or statement presented to the board or in any proceeding before the board.

(b) To prepare or dispense lenses, spectacles, eyeglasses, contact lenses, or other optical devices when such person is not licensed as an optician in this state.

(c) To prepare or dispense lenses, spectacles, eyeglasses, contact lenses, or other optical devices without first being furnished with a prescription as provided for in s. 484.012.

(2) It is unlawful for any person other than an optician licensed under this part to use the title "optician" or otherwise lead the public to believe that she or he is engaged in the practice of opticianry.

(3) It is unlawful for any optician to engage in the diagnosis of the human eyes, attempt to determine the refractive powers of the human

eyes, or, in any manner, attempt to prescribe for or treat diseases or ailments of human beings.

(4) It is unlawful for any person to open or operate, either alone or with any other person or persons, an optical establishment which does not have the permit required by this part.

(5) *A* ~~Any~~ person who *knowingly* violates *any* ~~a~~ provision of this section commits a *felony* ~~misdemeanor~~ of the *third* ~~second~~ degree, punishable as provided in s. 775.082*,* ~~or~~ s. 775.083*, or s. 775.084*.

Section 66. Section 484.015, Florida Statutes, is amended to read:

484.015 Authority to inspect.—Duly authorized agents and employees of the department shall have the power to inspect in a lawful manner at all reasonable hours *an* ~~any~~ establishment *of any kind* in the state in which lenses, spectacles, eyeglasses, contact lenses, and any other optical devices are prepared *or* ~~and~~ dispensed, for the purposes of:

(1) Determining if any provision of this part, or any rule promulgated under its authority, is being violated;

(2) Securing samples or specimens of any lenses, spectacles, eyeglasses, contact lenses, or other optical devices, after paying or offering to pay for such sample or specimen; or

(3) Securing such other evidence as may be needed for prosecution under this part.

Section 67. Paragraph (g) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920(2)	3rd	Medicaid provider fraud.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.
462.17	3rd	Practicing naturopathy without a license.
463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(9)	3rd	Practicing medical physics without a license.
484.013	*3rd*	*Practicing opticianry without a license.*
484.053	3rd	Dispensing hearing aids without a license.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $300 but less than $20,000 by money transmitter.
560.125(5)(a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.
655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less than $20,000 by financial institution.
782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	2nd	Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
784.083(1)	1st	Aggravated battery on code inspector.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.

Florida Statute	Felony Degree	Description
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
812.014(2)(a)	1st	Property stolen, valued at $100,000 or more; property stolen while causing other property damage; 1st degree grand theft.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $20,000 or more, but less than $100,000.
827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
872.06	2nd	Abuse of a dead human body.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility or school.
893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 50 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135 (1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less then 5 kilograms.
893.135 (1)(j)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.

Section 68. Subsection (1) of section 484.0445, Florida Statutes, is amended to read:

484.0445 Training program.—

(1) The board shall establish by rule a training program *for a minimum* ~~not to exceed~~ 6 months in length, which may include a board-approved home study course. ~~Upon submitting to the department the registration fee, the applicant may register and enter the training program. Upon completion of the training program, the trainee shall take the first available written and practical examinations offered by the department. The department shall administer the written and practical examinations as prescribed by board rule. If the trainee fails either the written or the practical examination, she or he may repeat the training program one time and retake the failed examination, provided she or he takes the next available examination. No person may remain in trainee status or further perform any services authorized for a trainee if she or he fails either the written or the practical examination twice; but, a trainee may continue to function as a trainee until she or he has received the results of the examinations. Any applicant who has failed an examination twice and is no longer functioning as a trainee shall be eligible for reexamination as provided in s. 484.045(2).~~

Section 69. Section 484.045, Florida Statutes, is amended to read:

484.045 Licensure by examination.—

(1) Any person desiring to be licensed as a hearing aid specialist shall apply to the department *on a form approved by the department* ~~to take the licensure examination, which shall include a clinical practical component~~.

(2) The department shall *license* ~~examine~~ each applicant who the board certifies:

(a) Has completed the application form and remitted the *required fees* ~~applicable fee to the board and has paid the examination fee~~;

(b) Is of good moral character;

(c) Is 18 years of age or older;

(d) Is a graduate of an accredited high school or its equivalent; ~~and~~

(e)1. Has met the requirements *of the training program* ~~set forth in s. 484.0445~~; or

2.a. Has a valid, current license as a hearing aid specialist or its equivalent from another state and has been actively practicing in such capacity for at least 12 months; or

b. Is currently certified by the National Board for Certification in Hearing Instrument Sciences and has been actively practicing for at least 12 months. ~~Persons qualifying under this sub-subparagraph need not take the written or practical examination, but must take and pass a test on Florida laws and rules relating to the fitting and dispensing of hearing aids.~~

(f) Has passed an examination, as prescribed by board rule; and

(g) Has demonstrated, in a manner designated by rule of the board, knowledge of state laws and rules relating to the fitting and dispensing of hearing aids.

(3) A person who fails the examination may make application for reexamination to the appropriate examining entity, as prescribed by board rule.

~~(2) On or after October 1, 1990, every applicant who is qualified to take the examination shall be allowed to take the examination three times. If, after October 1, 1990, an applicant fails the examination three times, the applicant shall no longer be eligible to take the examination.~~

~~(3) The department shall issue a license to practice dispensing hearing aids to any applicant who successfully completes the examination in accordance with this section.~~

Section 70. Effective January 1, 2002, subsection (1) of section 490.012, Florida Statutes, is amended to read:

490.012 Violations; penalties; injunction.—

(1)(a) No person shall hold herself or himself out by any professional title, name, or description incorporating the word "psychologist" unless such person holds a valid, active license as a psychologist under this chapter.

(b) No person shall hold herself or himself out by any professional title, name, or description incorporating the words "school psychologist" unless such person holds a valid, active license as a school psychologist under this chapter or is certified as a school psychologist by the Department of Education.

(c)~~(1)(a)~~ No person shall hold herself or himself out by any title or description incorporating the words, or permutations of them, ~~"psychologist,"~~ "psychology," "psychological," "psychodiagnostic," ~~or "school psychologist,"~~ or describe any test or report as psychological, unless such person holds a valid, active license under this chapter or is exempt from the provisions of this chapter.

(d)~~(b)~~ No person shall hold herself or himself out by any title or description incorporating the word, or a permutation of the word, "psychotherapy" unless such person holds a valid, active license under chapter 458, chapter 459, chapter 490, or chapter 491, or such person is certified as an advanced registered nurse practitioner, pursuant to s. 464.012, who has been determined by the Board of Nursing as a specialist in psychiatric mental health.

(e)~~(c)~~ No person licensed or provisionally licensed pursuant to this chapter shall hold herself or himself out by any title or description which indicates licensure other than that which has been granted to her or him.

Section 71. Effective January 1, 2002, Florida Statutes, is amended to read:

490.014 Exemptions.—

(1)(a) No provision of this chapter shall be construed to limit the practice of physicians licensed pursuant to chapter 458 or chapter 459 so long as they do not hold themselves out to the public as psychologists or use a professional title protected by this chapter.

(b) No provision of this chapter shall be construed to limit the practice of nursing, clinical social work, marriage and family therapy, mental health counseling, or other recognized businesses or professions, or to prevent qualified members of other professions from doing work of a nature consistent with their training, so long as they do not hold themselves out to the public as psychologists or use a title *or description* protected by this chapter. Nothing in this subsection shall be construed to exempt any person from the provisions of s. 490.012.

(2) No person shall be required to be licensed or provisionally licensed under this chapter who:

(a) Is a salaried employee of a government agency; developmental services program, mental health, alcohol, or drug abuse facility operating pursuant to chapter 393, chapter 394, or chapter 397; subsidized child care program, subsidized child care case management program, or child care resource and referral program operating pursuant to chapter 402; child-placing or child-caring agency licensed pursuant to chapter 409; domestic violence center certified pursuant to chapter 39; accredited academic institution; or research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution*, so long as the employee is not held out to the public as a psychologist pursuant to s. 490.012(1)(a)* .

(b) Is a salaried employee of a private, nonprofit organization providing counseling services to children, youth, and families, if such services are provided for no charge, if such employee is performing duties for which he or she was trained and hired*, so long as the employee is not held out to the public as a psychologist pursuant to s. 490.012(1)(a)*.

(c) Is a student who is pursuing a course of study which leads to a degree in medicine or a profession regulated by this chapter who is providing services in a training setting, provided such activities or services constitute part of a supervised course of study, or is a graduate accumulating the experience required for any licensure under this chapter, provided such graduate or student is designated by a title such as "intern" or "trainee" which clearly indicates the in-training status of the student.

(d) Is certified in school psychology by the Department of Education and is performing psychological services as an employee of a public or private educational institution. Such exemption shall not be construed to authorize any unlicensed practice which is not performed as a direct employee of an educational institution.

(e) Is not a resident of the state but offers services in this state, provided:

1. Such services are performed for no more than 5 days in any month and no more than 15 days in any calendar year; and

2. Such nonresident is licensed or certified by a state or territory of the United States, or by a foreign country or province, the standards of which were, at the date of his or her licensure or certification, equivalent to or higher than the requirements of this chapter in the opinion of the department or, in the case of psychologists, in the opinion of the board.

(f) Is a rabbi, priest, minister, or member of the clergy of any religious denomination or sect when engaging in activities which are within the scope of the performance of his or her regular or specialized ministerial duties and for which no separate charge is made, or when such activities are performed, with or without charge, for or under the auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination, or sect, and when the person rendering service remains accountable to the established authority thereof.

(3) No provision of this chapter shall be construed to limit the practice of any individual who solely engages in behavior analysis so long as he or she does not hold himself or herself out to the public as possessing a license issued pursuant to this chapter or use a title *or description* protected by this chapter.

(4) Nothing in this section shall exempt any person from the *provisions* ~~provision~~ of s. 490.012(1)*(a)-(d)* ~~(a)-(b)~~.

(5) Except as stipulated by the board, the exemptions contained in this section do not apply to any person licensed under this chapter whose license has been suspended or revoked by the board or another jurisdiction.

Section 72. Effective January 1, 2002, paragraphs (i), (j), and (k) of subsection (1) of section 491.012, Florida Statutes, are amended to read:

491.012 Violations; penalty; injunction.—

(1) It is unlawful and a violation of this chapter for any person to:

(i) Practice clinical social work in this state~~, as the practice is defined in s. 491.003(7),~~ for compensation, unless the person holds a valid, active license to practice clinical social work issued pursuant to this chapter *or is an intern registered pursuant to s. 491.0045*.

(j) Practice marriage and family therapy in this state, ~~as the practice is defined in s. 491.003(8),~~ for compensation, unless the person holds a valid, active license to practice marriage and family therapy issued pursuant to this chapter *or is an intern registered pursuant to s. 491.0045*.

(k) Practice mental health counseling in this state, ~~as the practice is defined in s. 491.003(9),~~ for compensation, unless the person holds a valid, active license to practice mental health counseling issued pursuant to this chapter *or is an intern registered pursuant to s. 491.0045*.

Section 73. Effective January 1, 2002, paragraphs (a) and (b) of subsection (4) of section 491.014, Florida Statutes, are amended to read:

491.014 Exemptions.—

(4) No person shall be required to be licensed, provisionally licensed, registered, or certified under this chapter who:

(a) Is a salaried employee of a government agency; developmental services program, mental health, alcohol, or drug abuse facility operating pursuant to chapter 393, chapter 394, or chapter 397; subsidized child care program, subsidized child care case management program, or child care resource and referral program operating pursuant to chapter 402; child-placing or child-caring agency licensed pursuant to chapter 409; domestic violence center certified pursuant to chapter 39; accredited academic institution; or research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution*, so long as the employee is not held out to the public as a clinical social worker, mental health counselor, or marriage and family therapist*.

(b) Is a salaried employee of a private, nonprofit organization providing counseling services to children, youth, and families, if such services are provided for no charge, if such employee is performing duties for which he or she was trained and hired*, so long as the employee is not held out to the public as a clinical social worker, mental health counselor, or marriage and family therapist*.

Section 74. Subsection (4) of section 458.319, Florida Statutes, is amended to read:

458.319 Renewal of license.—

(4) Notwithstanding the provisions of s. 456.033, a physician may complete continuing education on end-of-life care and palliative ~~health~~ care in lieu of continuing education in AIDS/HIV, if that physician has completed the AIDS/HIV continuing education in the immediately preceding biennium.

Section 75. Subsection (5) of section 459.008, Florida Statutes, is amended to read:

459.008 Renewal of licenses and certificates.—

(5) Notwithstanding the provisions of s. 456.033, an osteopathic physician may complete continuing education on end-of-life and palliative ~~health~~ care in lieu of continuing education in AIDS/HIV, if that physician has completed the AIDS/HIV continuing education in the immediately preceding biennium.

Section 76. Subsection (4) of section 765.101, Florida Statutes, is amended to read:

765.101 Definitions.—As used in this chapter:

(4) "End-stage condition" means *an irreversible* ~~a~~ condition that is caused by injury, disease, or illness which has resulted in *progressively* severe and permanent deterioration, ~~indicated by incapacity and complete physical dependency~~ and ~~for~~ which, to a reasonable degree of medical *probability* ~~certainty~~, treatment of the ~~irreversible~~ condition would be ~~medically~~ ineffective.

Section 77. Subsection (4) of section 765.102, Florida Statutes, is amended to read:

765.102 Legislative findings and intent.—

(4) The Legislature recognizes the need for all health care professionals to rapidly increase their understanding of end-of-life and palliative ~~health~~ care. Therefore, the Legislature encourages the professional regulatory boards to adopt appropriate standards and guidelines regarding end-of-life care and pain management and encourages educational institutions established to train health care professionals and allied health professionals to implement curricula to train such professionals to provide end-of-life care, including pain management and palliative care.

Section 78. Section 765.1025, Florida Statutes, is created to read:

765.1025 Palliative care.—For purposes of this chapter:

(1) Palliative care is the comprehensive management of the physical, psychological, social, spiritual, and existential needs of patients. Palliative care is especially suited to the care of persons who have incurable, progressive illness.

(2) Palliative care must include:

(a) An opportunity to discuss and plan for end-of-life care.

(b) Assurance that physical and mental suffering will be carefully attended to.

(c) Assurance that preferences for withholding and withdrawing life-sustaining interventions will be honored.

(d) Assurance that the personal goals of the dying person will be addressed.

(e) Assurance that the dignity of the dying person will be a priority.

(f) Assurance that health care providers will not abandon the dying person.

(g) Assurance that the burden to family and others will be addressed.

(h) Assurance that advance directives for care will be respected regardless of the location of care.

(i) Assurance that organizational mechanisms are in place to evaluate the availability and quality of end-of-life and palliative care services, including the removal of administrative and regulatory barriers.

(j) Assurance that necessary health care services will be provided and that relevant reimbursement policies are available.

(k) Assurance that the goals expressed in paragraphs (a)-(j) will be accomplished in a culturally appropriate manner.

Section 79. Subsection (2) of section 765.1103, Florida Statutes, is amended to read:

765.1103 Pain management and palliative care.—

(2) *Health care providers and practitioners regulated under chapter 458, chapter 459, or chapter 464 must, as appropriate, comply with a request for pain management or palliative care from a patient under their care or, for an incapacitated patient under their care, from a surrogate, proxy, guardian, or other representative permitted to make health care decisions for the incapacitated patient. Facilities regulated under chapter 400 or chapter 395 must comply with the pain management or palliative care measures ordered by the patient's physician.* ~~When the patient is receiving care as an admitted patient of a facility or a provider or is a subscriber of a health care facility, health care provider, or health care practitioner regulated under chapter 395, chapter 400, chapter 458, chapter 459, chapter 464, or chapter 641, such facility, provider, or practitioner must, when appropriate, comply with a request for pain management or palliative care from a capacitated patient or an incapacitated patient's health care surrogate or proxy, court-appointed guardian as provided in chapter 744, or attorney in fact as provided in chapter 709. The court-appointed guardian or attorney in fact must have been delegated authority to make health care decisions on behalf of the patient.~~

Section 80. Paragraph (b) of subsection (1) of section 765.205, Florida Statutes, is amended to read:

765.205 Responsibility of the surrogate.—

(1) The surrogate, in accordance with the principal's instructions, unless such authority has been expressly limited by the principal, shall:

(b) Consult expeditiously with appropriate health care providers to provide informed consent, and make only health care decisions for the principal which he or she believes the principal would have made under the circumstances if the principal were capable of making such decisions. *This substituted-judgment standard is the preferred standard of decisionmaking to be used by health care surrogates, persons who have durable powers of attorney for health care, and proxy decisionmakers. However, if there is no indication of what the principal would have chosen, the surrogate may consider the patient's best interest in deciding that proposed treatments are to be withheld or that treatments currently in effect are to be withdrawn.*

Section 81. Subsections (2) and (3) of section 765.401, Florida Statutes, are amended to read:

765.401 The proxy.—

(2) Any health care decision made under this part must be based on the proxy's informed consent and on the decision the proxy reasonably believes the patient would have made under the circumstances. *This substituted-judgment standard is the preferred standard of decisionmaking to be used by a proxy. However, if there is no indication of what the patient would have chosen, the proxy may consider the patient's best interest in deciding that proposed treatments are to be withheld or that treatments currently in effect are to be withdrawn.*

(3) Before exercising the incapacitated patient's rights to select or decline health care, the proxy must comply with the provisions of ss. 765.205 and 765.305, except that a proxy's decision to withhold or withdraw life-prolonging procedures must be supported by clear and convincing evidence that the decision would have been the one the patient would have chosen had the patient been competent *or, if there is no indication of what the patient would have chosen, that the decision is in the patient's best interest*.

Section 82. *The Legislature finds that the area of physician specialty training is of great importance to the citizens of this state and that specialty training and certification creates a higher level of proficiency for the physician and improves the delivery of health care to Floridians. Because much confusion exists among the patient population and physicians as to the requirements for board certification, the Legislature directs the Department of Health to conduct an interim study of the area of specialty certification for the Board of Medicine and the Board of Osteopathic Medicine. The study should review current Florida Statutes and board rules to determine if any barriers exist in board recognition of certifying and physician-certifying organizations and if restrictions placed on a licensee's speech both target an identifiable harm and mitigate against such harm in a direct and effective manner. A final report shall be provided no later than January 1, 2002, to the President of the Senate and the Speaker of the House of Representatives for distribution to the chairs of the health-care-related committees.*

Section 83. Paragraph (d) of subsection (2) of section 499.012, Florida Statutes, is amended to read:

499.012 Wholesale distribution; definitions; permits; general requirements.—

(2) The following types of wholesaler permits are established:

(d) A retail pharmacy wholesaler's permit. A retail pharmacy wholesaler is a retail pharmacy engaged in wholesale distribution of prescription drugs within this state under the following conditions:

1. The pharmacy must obtain a retail pharmacy wholesaler's permit pursuant to ss. 499.001-499.081 and the rules adopted under those sections.

2. The wholesale distribution activity does not exceed 30 percent of the total annual purchases of prescription drugs. If the wholesale distribution activity exceeds the 30-percent maximum, the pharmacy must obtain a prescription drug wholesaler's permit.

3. The transfer of prescription drugs that appear in any schedule contained in chapter 893 is subject to chapter 893 and the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

4. The transfer is between a retail pharmacy and another retail pharmacy*, a Modified Class II institutional pharmacy,* or a health care practitioner licensed in this state and authorized by law to dispense or prescribe prescription drugs.

5. All records of sales of prescription drugs subject to this section must be maintained separate and distinct from other records and comply with the recordkeeping requirements of ss. 499.001-499.081.

Section 84. Section 627.613, Florida Statutes, is amended to read:

627.613 Time of payment of claims.—

(1) The contract shall include the following provision:

"Time of Payment of Claims: After receiving written proof of loss, the insurer will pay monthly all benefits then due for . . .(type of benefit). . .. Benefits for any other loss covered by this policy will be paid as soon as the insurer receives proper written proof."

(2)(a) As used in this section, the term "clean claim" for a noninstitutional provider means a claim submitted on a HCFA 1500 form which has no defect or impropriety, including lack of required substantialing documentation for noncontracted providers and suppliers, or particular circumstances requiring special treatment which prevent timely payment from being made on the claim. A claim may not be considered not clean solely because a health insurer refers the claim to a medical specialist within the insurer for examination. If additional substantialing documentation, such as the medical record or encounter data, is required from a source outside the insurer, the claim is considered not clean. This definition of "clean claim" is repealed on the effective date of rules adopted by the department which define the term "clean claim."

(b) Absent a written definition that is agreed upon through contract, the term "clean claim" for an institutional claim is a properly and accurately completed paper or electronic billing instrument that consists of the UB-92 data set or its successor with entries stated as mandatory by the National Uniform Billing Committee.

(3)(a) A health insurer shall pay any clean claim or any portion of a clean claim made by a contract provider for services or goods provided

under a contract with the health insurer, or a clean claim made by a noncontracted provider which the insurer does not contest or deny, within 45 days after receipt of the claim by the health insurer which is mailed or electronically transferred by the provider.

(b) A health insurer that denies or contests a provider's claim or any portion of a claim must notify the provider, in writing, within 45 days after the health insurer receives the claim that the claim is contested or denied. The notice that the claim is denied or contested must identify the contested portion of the claim and the specific reason for contesting or denying the claim, and, if contested, must include a request for additional medical information. If the provider submits additional information, the provider must, within 30 days after receipt of the request, mail or electronically transfer the information to the health insurer. The health insurer shall pay or deny the claim or portion of the claim within 45 days after receipt of the information.

(4) Payment of a claim is considered made on the date the payment was received, electronically transferred, or otherwise delivered. An overdue payment of a claim bears simple interest at the rate of 10 percent per year. Interest on an overdue payment for a clean claim, or for any uncontested portion of a clean claim, begins to accrue on the 46th day after the date the claim is received. The interest is payable with the payment of the claim.

(5) A health insurer must pay or deny a claim not later than 120 days after receiving the claim. Failure to do so creates an uncontestable obligation for the health insurer to pay the claim to the provider.

(6) If the claim has been electronically transmitted to the health insurer, a provider's claim for payment shall be considered received by the health insurer on the date receipt is verified electronically or, if the claim is mailed to the address provided by the insurer, on the date indicated on the return receipt. A provider may not submit a duplicate claim until 45 days following submission of the original claim.

(7) A provider, or the provider's designee, who bills electronically must be provided with an electronic acknowledgment of the receipt of a claim within 72 hours.

(8) A health insurer may not retroactively deny a claim because of an insured's ineligibility more than 1 year after the date of payment of a clean claim.

(9) The department shall adopt rules to establish claim-filing standards that are consistent with federal claim-filing standards required by the United States Secretary of Health and Human Services. The department shall adopt rules to require the code sets that are consistent with those adopted by the United States Secretary of Health and Human Services. These code sets shall apply to both electronic and paper claims. A code set, as defined by the Secretary, includes both the codes and the descriptors of the codes.

(10) Contracted and noncontracted health care providers who have a claims dispute that is not resolved by the health insurer and provider may submit the claims dispute to statewide provider and managed care organization claim dispute resolution program created by s. 408.7057 to have the claims dispute reviewed and considered by the resolution organization.

~~(2) Health insurers shall reimburse all claims or any portion of any claim from an insured or an insured's assignees, for payment under a health insurance policy, within 45 days after receipt of the claim by the health insurer. If a claim or a portion of a claim is contested by the health insurer, the insured or the insured's assignees shall be notified, in writing, that the claim is contested or denied, within 45 days after receipt of the claim by the health insurer. The notice that a claim is contested shall identify the contested portion of the claim and the reasons for contesting the claim.~~

~~(3) A health insurer, upon receipt of the additional information requested from the insured or the insured's assignees shall pay or deny the contested claim or portion of the contested claim, within 60 days.~~

~~(4) An insurer shall pay or deny any claim no later than 120 days after receiving the claim.~~

~~(5) Payment shall be treated as being made on the date a draft or other valid instrument which is equivalent to payment was placed in the United States mail in a properly addressed, postpaid envelope or, if not so posted, on the date of delivery.~~

~~(6) All overdue payments shall bear simple interest at the rate of 10 percent per year.~~

(11)~~(7)~~ Upon written notification by an insured, an insurer shall investigate any claim of improper billing by a physician, hospital, or other health care provider. The insurer shall determine if the insured was properly billed for only those procedures and services that the insured actually received. If the insurer determines that the insured has been improperly billed, the insurer shall notify the insured and the provider of its findings and shall reduce the amount of payment to the provider by the amount determined to be improperly billed. If a reduction is made due to such notification by the insured, the insurer shall pay to the insured 20 percent of the amount of the reduction up to $500.

Section 85. Except as otherwise provided herein, this act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, lines 2 through 10,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to health care regulation; amending s. 483.245, F.S.; prohibiting rebate or split-fee arrangements with dialysis facilities for patient referrals to clinical laboratories; providing penalties; amending s. 232.435, F.S.; providing training requirements for a first responder and teacher athletic trainer; amending s. 381.6021, F.S.; prohibiting rules that establish standards and guidelines for organ and tissue procurement from allowing the pooling of human cells or tissue; amending s. 383.14, F.S.; amending screening requirements for postnatal screening; amending s. 395.0197, F.S.; revising provisions relating to hospital and ambulatory surgical center internal risk management programs; modifying requirements for risk management and prevention education and training; restricting participation of unlicensed persons in surgical procedures; requiring ongoing evaluation of surgical procedures and protocols; eliminating an annual report summarizing facility incident reports and disciplinary actions; requiring the Agency for Health Care Administration to publish website summaries of adverse incident reports; requiring facility reporting of allegations of sexual misconduct by health care practitioners; providing certain civil liability for licensed risk managers; prohibiting intimidation of a risk manager; providing a penalty; amending s. 395.10972, F.S.; increasing membership on the Health Care Risk Management Advisory Council; amending s. 395.701, F.S.; limiting the financial information the agency may require to determine the amount of hospital annual assessments; amending s. 409.905, F.S.; providing that the Agency for Health Care Administration may restrict the provision of mandatory services by mobile providers; amending s. 409.906, F.S.; providing that the agency may restrict or prohibit the provision of services by mobile providers; providing that Medicaid will not provide reimbursement for dental services provided in mobile dental units, except for certain units; amending s. 456.013, F.S.; providing a professional continuing education requirement relating to prevention of medical errors; amending s. 456.057, F.S.; providing for appointment of a records custodian under certain circumstances; amending s. 456.063, F.S.; requiring licensed health care practitioners to report to the Department of Health any allegations of sexual misconduct; amending s. 456.072, F.S.; providing additional grounds for disciplinary actions; clarifying a penalty involving restriction of professional practice or license; providing additional penalties; requiring assessment of costs related to investigation and prosecution; amending s. 456.073, F.S.; requiring the Department of Health to notify the patient or legal representative of the status of a disciplinary case; requiring the department to provide certain information to the complainant; providing time limitations on the filing of administrative complaints against licensees of the department; amending s. 456.074, F.S.; providing for an emergency order suspending the license of any practitioner for fraud; amending s. 456.077, F.S.; specifying violations

for which the Department of Health or a regulatory board may issue citations; amending s. 456.081, F.S.; requiring the Department of Health and regulatory boards to maintain a website containing specified information; creating s. 458.3147, F.S.; providing automatic eligibility for admission to any medical school in the State University System for military academy students or graduates who qualify for the Medical Corps of the United States military; providing for waiver or refund of application fees; amending ss. 458.331 and 459.015, F.S.; conforming language and cross references to changes made by the act; amending s. 641.51, F.S.; revising adverse determination provisions; amending ss. 465.019 and 465.0196, F.S.; requiring institutional pharmacies and special pharmacy permittees that use pharmacy technicians to have a written policy and procedures manual; directing the Department of Health and the Agency for Health Care Administration to review health care practitioner and facility reporting requirements; requiring a report to the Legislature; amending s. 468.1755, F.S.; providing an additional ground for disciplinary action against a nursing home administrator; reenacting ss. 468.1695(3) and 468.1735, F.S., to incorporate said amendment in references; reenacting s. 484.056(1)(a), F.S., relating to disciplinary action against hearing aid specialists, to incorporate the amendment to s. 456.072(1), in a reference; amending s. 766.101, F.S.; providing that a continuous quality improvement committee of a licensed pharmacy is a medical review committee for purposes of immunity from liability, and reenacting ss. 440.105(1)(a) and 626.989(6), F.S., to incorporate said amendment in references; creating s. 627.6474, F.S.; prohibiting health insurers from requiring certain contracted health care practitioners to accept the terms of other health care contractsas a condition of continuation or renewal; providing exceptions; amending s. 627.662, F.S.; applying this prohibition to group health insurance, blanket health insurance, and franchise health insurance; amending s. 641.315, F.S.; applying this prohibition to health maintenance organizations; amending s. 766.1115, F.S.; conforming language and cross references to changes made by the act; amending s. 456.047, F.S.; providing intent; revising and providing definitions; revising duties of the Department of Health relating to file maintenance; providing that primary source data verified by the department or its designee may be relied upon to meet accreditation purposes; amending s. 232.61, F.S.; requiring the Florida High School Activities Association to adopt bylaws which require students participating in interscholastic athletic competition or who are candidates for an interscholastic athletic team to satisfactorily pass a medical evaluation prior to participating in interscholastic athletic competition or engaging in practice with an interscholastic athletic team; providing requirements with respect to such evaluation; amending s. 240.4075, F.S.; transferring the Nursing Student Loan Forgiveness Program from the Department of Education to the Department of Health; including public schools, family practice teaching hospitals, and specialty hospitals for children as eligible facilities under the program; exempting such facilities from the fund-matching requirements of the program; amending s. 240.4076, F.S.; transferring the nursing scholarship program from the Department of Education to the Department of Health; providing requirements under the program for students seeking to qualify for a nursing faculty position and receive credit for work in such a position; including nursing homes, hospitals, public schools, colleges of nursing, and community college nursing programs as eligible facilities under the program; transferring powers, duties, functions, rules, records, personnel, property, and appropriations and other funds relating to the Nursing Student Loan Forgiveness Program and the nursing scholarship program from the Department of Education to the Department of Health; amending s. 464.005, F.S.; providing for future relocation of the headquarters of the Board of Nursing; amending s. 464.008, F.S.; revising education requirements for licensure by examination; amending s. 464.009, F.S.; revising requirements for licensure by endorsement; requiring submission of fingerprints for a criminal history check and a fee to cover the costs of such check; providing for an electronic applicant notification process; creating s. 464.0195, F.S.; creating the Florida Center for Nursing and providing its goals; creating s. 464.0196, F.S.; providing for a board of directors; providing for appointment of board members; providing for staggered terms; providing powers and duties; authorizing per diem and travel expenses; creating s. 464.0197, F.S.; declaring state budget support for the center; prohibiting the Board of Nursing from developing any rule relating to faculty/student clinical ratios until a specified time; requiring the Board of Nursing and the Department of Education to submit to the Legislature an implementation plan detailing the impact and cost of any such proposed rule change; amending s. 464.0205, F.S.; deleting the application and processing fee for applicants for a retired volunteer nurse certificate; requiring study by Office of Program Policy Analysis and Government Accountability of the feasibility of maintaining all of Medical Quality Assurance in one state agency; creating s. 456.0375, F.S.; requiring registration of certain clinics; providing requirements, including fees; providing rulemaking authority; requiring medical directors or clinic directors for such clinics and providing their duties and responsibilities; providing an appropriation; amending s. 456.031, F.S.; providing an alternative by which licensees under ch. 466, F.S., relating to dentistry, may comply with a general requirement that they take domestic-violence education courses; amending s. 456.033, F.S.; providing an alternative by which such licensees may comply with a general requirement that they take AIDS/HIV education courses; amending s. 627.419, F.S.; providing for appeals from certain adverse determinations relating to dental service claims; providing applicability; amending s. 468.302, F.S.; revising a provision relating to exemption from certification to use radiation on human beings; amending ss. 468.352, 468.355, 468.357, 468.358, and 468.359, F.S.; revising definitions and provisions relating to licensure and use of titles and abbreviations to correct and conform terminology with respect to respiratory therapists and respiratory care practitioners; amending ss. 468.1155 and 468.1215, F.S.; revising requirements for licensure to practice speech-language pathology or audiology and for certification of speech-language pathology or audiology assistants; amending s. 480.033, F.S.; correcting terminology in the definition of "massage"; amending s. 484.002, F.S.; amending and creating definitions; amending ss. 484.002, 484.006, 484.012, F.S.; replacing references to the term "medical doctor" with the term "allopathic or osteopathic physician"; amending s. 484.013, F.S.; revising provisions prescribing violations and penalties applicable to the practice of opticianry; amending s. 484.015, F.S.; revising inspection authority; amending s. 921.0022, F.S., relating to the Criminal Punishment Code; providing an offense severity ranking for the offense of practicing opticianry without a license; amending s. 484.0445, F.S.; removing certain provisions relating to the training program for hearing aid specialists; amending s. 484.045, F.S.; revising requirements for licensure as a hearing aid specialist by examination; amending s. 490.012, F.S.; prohibiting the use of certain titles or descriptions relating to the practice of psychology or school psychology unless properly licensed; providing penalties; amending s. 490.014, F.S.; revising exemptions from regulation under ch. 490, F.S., relating to psychology; correcting a cross reference; amending s. 491.012, F.S.; revising prohibitions against unlicensed practice of clinical social work, marriage and family therapy, and mental health counseling to provide that practice by registered interns is lawful; amending s. 491.014, F.S.; revising exemptions from licensure under ch. 491, F.S., relating to clinical, counseling, and psychotherapy services, to prohibit the use by certain employees of titles, names, or descriptions protected by the chapter; amending ss. 458.319, 459.008, and 765.102, F.S.; conforming terminology relating to palliative care; amending s. 765.101, F.S.; redefining the term "end-stage condition" with respect to health care advance directives; creating s. 765.1025, F.S.; prescribing the content and suitability of palliative care; amending s. 765.1103, F.S.; revising provisions relating to compliance with requests for pain management and palliative care; amending s. 765.205, F.S.; prescribing the standards of decisionmaking to be used in certain circumstances by health care surrogates, persons who have durable powers of attorney for health care, and proxy decisionmakers; amending s. 765.401, F.S.; prescribing the standards of decisionmaking to be used in certain circumstances by proxy decisionmakers; requiring the Department of Health to conduct an interim study on specialty certification and provide a report to the Legislature; amending s. 499.012, F.S.; authorizing transfer of prescription drugs between a retail pharmacy and a Modified Class II institutional pharmacy under a retail pharmacy wholesaler's permit; amending s. 627.613, F.S.; amending time of payment of claims; providing effective dates.

Rep. Farkas moved the adoption of the amendment.

Representative(s) Fasano offered the following:

(Amendment Bar Code: 565181)

Amendment 1 to Amendment 1 (with title amendment)—On page 1, between lines 16 & 17,

insert: Subsections (6) is added to section 456.003, Florida Statutes, to read:

456.003 Legislative intent; requirements.—

(6) Unless expressly and specifically granted in statute, the duties conferred on the boards do not include the assessment of the lawful scope of practice of the profession regulated by the boards.

And the title is amended as follows:

On page 129, line 16, of the amendment after the semicolon

insert: amending s. 456.003, F.S.; providing a limitation on the duties of certain boards;

Rep. Fasano moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Farkas offered the following:

(Amendment Bar Code: 732863)

Amendment 2 to Amendment 1 (with title amendment)—On page 3, line 13 through page 4, line 16,
remove from the amendment: all of said lines

And the title is amended as follows:

On page 129, line 23 through line 27, of the amendment
remove: all of said lines

and insert in lieu thereof: trainer; amending s. 383.14, F.S.; amending

Rep. Farkas moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Farkas offered the following:

(Amendment Bar Code: 105561)

Amendment 3 to Amendment 1—On page 67, line 22, through page 69, line 1,
remove from the amendment: all of said lines

and insert in lieu thereof: *evaluation can only be administered by a practitioner licensed under the provisions of chapter 458, chapter 459, chapter 460, or s. 464.012, and in good standing with the practitioner's regulatory board. The bylaws shall establish requirements for eliciting a student's medical history and performing the medical evaluation required under this subsection, which shall include minimum standards for the physical capabilities necessary for participation in interscholastic athletic competition as contained in a uniform preparticipation physical evaluation form. The evaluation form shall provide place for the signature of the practitioner performing the evaluation with an attestation that each examination procedure listed on the form was performed by the practitioner or by someone under the direct supervision of the practitioner. The form shall also contain a place for the practitioner to indicate if a referral to another practitioner was made in lieu of completion of a certain examination procedure. The form shall provide a place for the practitioner to whom the student was referred to complete the remaining sections and attest to that portion of the examination. Practitioners administering medical evaluations pursuant to this section must know the minimum standards established by the organization and certify that the student meets the standards. If the practitioner determines that there are any abnormal findings in the cardiovascular system, the student may not participate unless a subsequent EKG or other cardiovascular assessment indicates that the abnormality will not place the student at risk during such participation. Results of such medical evaluation must be provided to the school. No student shall be eligible to participate in any interscholastic athletic competition or engage in any practice, tryout, workout, or other physical activity associated with the student's candidacy for an interscholastic athletic team until the results of the medical evaluation verifying that the student has satisfactorily passed the evaluation have been received and approved by the school.*

(4) Notwithstanding the provisions of subsection (3), a student may participate in interscholastic athletic competition or be a candidate for an interscholastic athletic team if the parent or guardian of the student objects in writing to the student undergoing a medical evaluation because such evaluation is contrary to his or her religious tenets or practices, provided that no person or entity shall be held liable for

Rep. Farkas moved the adoption of the amendment to the amendment, which was adopted.

On motion by Rep. Harrell, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Harrell offered the following:

(Amendment Bar Code: 602795)

Amendment 4 to Amendment 1—On page 116, line 29,
remove from the amendment: *(a)-(d)*

and insert in lieu thereof: *(a)-(b)*

Rep. Harrell moved the adoption of the amendment to the amendment, which was adopted.

On motion by Rep. Farkas, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Farkas offered the following:

(Amendment Bar Code: 433747)

Amendment 5 to Amendment 1—On page 120, lines 27-30,
remove from the amendment: all of said lines

and insert in lieu thereof:

(i) Assurance that organizational mechanisms are in place to evaluate the availability and quality of end-of-life, palliative, and hospice care services, including the evaluation of administrative and regulatory barriers.

Rep. Farkas moved the adoption of the amendment to the amendment, which was adopted.

On motion by Rep. Farkas, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Farkas offered the following:

(Amendment Bar Code: 135895)

Amendment 6 to Amendment 1—On page 122, line 11 through line 19,
remove from the amendment: all of said lines

and insert in lieu thereof:

principal were capable of making such decisions. *If there is no indication of what the principal would have chosen, the surrogate may consider the patient's best interest in deciding that proposed treatments are to be withheld or that treatments currently in effect are to be withdrawn.*

Rep. Farkas moved the adoption of the amendment to the amendment, which was adopted.

On motion by Rep. Farkas, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Farkas offered the following:

(Amendment Bar Code: 631511)

Amendment 7 to Amendment 1—On page 122, lines 26 through page 123, line 1,
remove from the amendment: all of said lines

and insert in lieu thereof:

under the circumstances. *If there is no indication of what the patient would have chosen, the proxy may consider the patient's best interest in deciding that proposed treatments are to be withheld or that treatments currently in effect are to be withdrawn.*

Rep. Farkas moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Farkas offered the following:

(Amendment Bar Code: 521621)

Amendment 8 to Amendment 1 (with title amendment)—On page 124, line 31, through page 129, line 5,
remove from the amendment: all of said lines

And the title is amended as follows:

On page 138, line 28 through line 30, of the amendment
remove: all of said lines

and insert in lieu thereof: pharmacy wholesaler's permit; providing effective dates.

Rep. Benson moved the adoption of the amendment to the amendment, which was adopted.

On motion by Rep. Justice, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Justice offered the following:

(Amendment Bar Code: 442231)

Amendment 9 to Amendment 1 (with title amendment)—On page 129, between lines 5 and 6, of the amendment

insert:

Section 85. *The Legislature finds that personal identifying information, name, age, diagnosis, address, bank account numbers, and debit and credit card numbers contained in the records relating to an individual's personal health or eligibility for health-related services made or received by the individual's physician and public or private health facility should be held confidential. Furthermore, the Legislature finds that every person has an expectation of and a right to privacy in all matters concerning her or his personal health when medical services are provided. Matters of personal health are traditionally private and confidential concerns between the patient and the health care provider. The private and confidential nature of personal health matters pervades both the public and private sectors. For these reasons, it is the express intent of the Legislature to protect confidential information and the individual's expectations of the right to privacy in all matters regarding her or his personal health and not to have such information exploited for purposes of solicitation or marketing the sale of goods and services.*

Section 86. Subsection (5) of section 456.057, Florida Statutes, is amended to read:

456.057 Ownership and control of patient records; report or copies of records to be furnished.—

(5)*(a)* Except as otherwise provided in this section and in s. 440.13(4)(c), such records may not be furnished to, and the medical condition of a patient may not be discussed with, any person other than the patient or the patient's legal representative or other health care practitioners and providers involved in the care or treatment of the patient, except upon written authorization of the patient. However, such records may be furnished without written authorization under the following circumstances:

1.~~(a)~~ To any person, firm, or corporation that has procured or furnished such examination or treatment with the patient's consent.

2.~~(b)~~ When compulsory physical examination is made pursuant to Rule 1.360, Florida Rules of Civil Procedure, in which case copies of the medical records shall be furnished to both the defendant and the plaintiff.

3.~~(c)~~ 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 patient or the patient's legal representative by the party seeking such records.

4.~~(d)~~ For statistical and scientific research, provided the information is abstracted in such a way as to protect the identity of the patient or provided written permission is received from the patient or the patient's legal representative.

(b) Absent a specific written release or authorization permitting utilization of patient information for solicitation or marketing the sale of goods or services, any use of that information for those purposes is prohibited.

(14) Licensees in violation of the provisions of this section shall be disciplined by the appropriate licensing authority.

(15) The Attorney General is authorized to enforce the provisions of this section for records owners not otherwise licensed by the state, through injunctive relief and fines not to exceed $5,000 per violation.

Section 87. Subsection (7) of section 395.3025, Florida Statutes is amended to read:

395.3025 Patient and personnel records; copies; examination.—

(7)*(a)* If the content of any record of patient treatment is provided under this section, the recipient, if other than the patient or the patient's representative, may use such information only for the purpose provided and may not further disclose any information to any other person or entity, unless expressly permitted by the written consent of the patient. A general authorization for the release of medical information is not sufficient for this purpose. The content of such patient treatment record is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Absent a specific written release or authorization permitting utilization of patient information for solicitation or marketing the sale of goods or services, any use of that information for those purposes is prohibited.

Section 88. Subsection (1) of section 400.1415, Florida Statutes, is amended to read:

400.1415 Patient records; penalties for alteration.—

(1) Any person who fraudulently alters, defaces, or falsifies any medical *record or releases medical records for the purposes of solicitation or marketing the sale of goods or services absent a specific written release or authorization permitting utilization of patient information,* or other nursing home record, or causes or procures any of these offenses to be committed, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 89. Section 626.9651, Florida Statutes, is created to read:

626.9651 Privacy.—The department shall adopt rules consistent with other provisions of the Florida Insurance Code to govern the use of a consumer's nonpublic personal financial and health information. These rules must be based on, consistent with, and not more restrictive than the Privacy of Consumer Financial and Health Information Regulation, adopted September 26, 2000, by the National Association of Insurance Commissioners; however, the rules must permit the use and disclosure of nonpublic personal health information for scientific, medical, or public policy research, in accordance with federal law. In addition, these rules must be consistent with, and not more restrictive than, the standards contained in Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102. If the department determines that a health

insurer or health maintenance organization is in compliance with, or is actively undertaking compliance with, the consumer privacy protection rules adopted by the United States Department of Health and Human Services, in conformance with the Health Insurance Portability and Affordability Act, that health insurer or health maintenance organization is in compliance with this section.

And the title is amended as follows:

On page 138, line 30, of the amendment

after the semicolon insert: providing legislative intent; amending ss. 395.3025, 400.1415, and 456.057, F.S.; prohibiting the use of a patient's medical records for purposes of solicitation and marketing absent a specific written release or authorization; providing penalties; creating s. 626.9651, F.S.; requiring the Department of Insurance to adopt rules governing the use of a consumer's nonpublic personal financial and health information; providing standards for the rules;

Rep. Justice moved the adoption of the amendment to the amendment, which was adopted.

On motion by Rep. Harrell, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Harrell offered the following:

(Amendment Bar Code: 791197)

Amendment 10 to Amendment 1 (with title amendment)—On page 1, between lines 16 & 17, of the amendment

insert:

Section 1. *(1)(a) The Agency for Health Care Administration shall create an Organ Transplant Task Force within the Agency for Health Care Administration, which task force must be funded by existing agency funds.*

(b) Task force participants shall be responsible for only the expenses that they generate individually through participation. The agency shall be responsible for expenses incidental to the production of any required data or reports.

(2) The task force shall consist of up to 15 members. The task force chairperson shall be selected by majority vote of a quorum present. Eight members shall constitute a quorum. The membership shall include, but not be limited to, a balance of members representing the Agency for Health Care Administration, health care facilities that have existing organ transplantation programs, individual organ transplant health care practitioners, pediatric organ transplantation programs, organ procurement agencies, and organ transplant recipients or family members.

(3) The task force shall meet for the purpose of studying and making recommendations regarding current and future supply of organs in relation to the number of existing organ transplantation programs and the future necessity of the issuance of a certificate of need for proposed organ transplantation programs. At a minimum, the task force shall submit a report to the Legislature which includes a summary of the method of allocation and distribution of organs; a list of facilities performing multiple organ transplants and the number being performed; the number of Medicaid and charity care patients who have received organ transplants by existing organ transplant programs; suggested mechanisms for funding organ transplants, which shall include, but need not limited to, an organ transplant trust fund for the treatment of Medicaid and charity patients; the impact of trends in health care delivery and financing on organ transplantation; and the number of certificates of need applications reviewed by the Agency for Health Care Administration in the last 5 years, including the number approved or denied and the number litigated.

(4) The task force shall meet at the call of the chairperson. The task force shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 15, 2002. The task force is abolished effective December 31, 2002.

And the title is amended as follows:

On page 129, line 16, of the amendment

after the semicolon insert: providing for the Agency for Health Care Administration to create the Organ Transplant Task Force to study organ transplantation programs; requiring the task force to study and make recommendations on the necessity of the issuance of certificates of need for such programs and funding for organ transplantation; providing a date for the task force to report to the Governor and the Legislature;

Rep. Harrell moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Representative(s) Argenziano offered the following:

(Amendment Bar Code: 771863)

Amendment 2 (with title amendment)—On page 3, between lines 13 & 14,

insert:

Section 4. Section 409.9205, Florida Statutes, is amended to read:

409.9205 Medicaid Fraud Control Unit~~; law enforcement officers~~.—

(1) Except as provided in s. 110.205, all positions in the Medicaid Fraud Control Unit of the Department of Legal Affairs are hereby transferred to the Career Service System.

(2) All investigators employed by the Medicaid Fraud Control Unit who have been certified under s. 943.1395 are law enforcement officers of the state. Such investigators have the authority to conduct criminal investigations, bear arms, make arrests, and apply for, serve, and execute search warrants, arrest warrants, capias, and other process throughout the state pertaining to Medicaid fraud as described in this chapter. The Attorney General shall provide reasonable notice of criminal investigations conducted by the Medicaid Fraud Control Unit to, and coordinate those investigations with, the sheriffs of the respective counties. ~~Investigators employed by the Medicaid Fraud Control Unit are not eligible for membership in the Special Risk Class of the Florida Retirement System under s. 121.0515.~~

And the title is amended as follows:

On page 1, line 10, after the semicolon

insert: amending 409.9205, F.S.; transferring positions in the Medicaid Fraud Control Unit of the Department of Legal Affairs to Career Service;

Rep. Argenziano moved the adoption of the amendment.

On motion by Rep. Farkas, further consideration of **SB 782**, with pending amendment, was temporarily postponed under Rule 11.10.

HB 1867—A bill to be entitled An act relating to health care practitioner regulation; providing legislative intent and findings with respect to the Medical Quality Assurance Trust Fund and function administered by the Department of Health; requiring the Auditor General to do a followup Medical Quality Assurance audit and issue a report to the Legislature; requiring the Office of Program Policy Analysis and Government Accountability to study the feasibility of maintaining the Medical Quality Assurance function within a single department and issue a report to the Legislature; capping indirect costs allowable under contracts the department has with private entity vendors or other state agencies; exempting the Medical Quality Assurance Trust Fund from the general revenue service charge for a specified period; amending s. 456.004, F.S.; providing requirements for rules relating to biennial renewal of licenses; amending s. 456.025, F.S.; revising requirements relating to the setting and use of fees for the regulation of health care professions and practitioners, including continuing education fees; providing for an electronic continuing

education tracking system; amending s. 456.065, F.S.; requiring the unlicensed activity fee to be in addition to all other fees collected from each licensee; amending ss. 456.015, 457.105, 457.107, 457.108, 458.311, 458.313, 458.3135, 458.314, 458.3145, 458.315, 458.316, 458.3165, 458.317, 458.319, 458.345, 458.347, 459.009, 459.0092, 459.021, 459.022, 460.406, 460.407, 460.4165, 460.4166, 461.006, 461.007, 461.008, 462.08, 462.16, 462.19, 463.0057, 463.006, 463.007, 463.008, 464.008, 464.009, 464.012, 464.014, 464.019, 464.0205, 465.007, 465.008, 465.012, 465.0125, 465.0126, 465.0156, 465.022, 465.0276, 466.004, 466.006, 466.007, 466.008, 466.009, 466.013, 466.015, 466.017, 466.032, 467.0125, 467.0135, 468.1145, 468.1695, 468.1705, 468.1725, 468.1735, 468.209, 468.211, 468.221, 468.357, 468.361, 468.364, 468.508, 468.509, 468.513, 468.705, 468.709, 468.803, 468.805, 468.806, 478.45, 478.47, 478.50, 478.51, 478.55, 480.043, 480.044, 483.807, 483.819, 483.901, 484.002, 484.007, 484.008, 484.009, 484.0447, 486.041, 486.061, 486.081, 486.085, 486.103, 486.106, 486.107, 486.108, 490.005, 490.0051, 490.007, 491.0045, 491.0046, 491.005, 491.007, 491.008, and 491.0145, F.S.; conforming provisions relating to fees; repealing s. 458.31151, F.S., relating to development of the examination for foreign-trained physicians and the fees therefor; amending s. 456.011, F.S.; requiring board meetings to be conducted through teleconferencing or other technological means except under certain circumstances; amending s. 456.013, F.S.; requiring the department to charge initial license fees; amending s. 456.017, F.S.; providing for administration of national examinations and termination of state-administered written examinations; providing for administration of state-administered practical or clinical examinations if paid for in advance by the examination candidates; providing legislative intent with respect to the use of national examinations and the removal of state-administered examinations as a barrier to licensure; providing for electronic access to and posting of examination scores under certain conditions; providing for the sharing of examinations or examination item banks with certain entities; providing for review of questions by legal counsel under certain circumstances; providing for electronic administration of all laws and rules examinations; amending s. 456.035, F.S.; providing for electronic notification of a licensee's current mailing address and place of practice; amending s. 456.036, F.S.; conforming fee provisions; amending s. 456.037, F.S.; including optical establishments and optometry branch offices among provisions relating to active status requirements of business establishments; amending s. 456.073, F.S.; authorizing a letter of guidance in lieu of a finding of probable cause under certain conditions; amending s. 456.081, F.S.; providing for the posting of newsletters on the department's website; amending s. 456.072, F.S.; revising and providing grounds for discipline of licensees; revising and providing disciplinary actions; amending s. 456.079, F.S.; requiring mitigating or aggravating circumstances to be in the final order to be considered in the imposition of penalties; amending ss. 457.109, 458.320, 458.331, 459.0085, 459.015, 460.413, 461.013, 462.14, 463.016, 464.018, 465.016, 466.028, 466.037, 467.203, 468.1295, 468.1755, 468.217, 468.365, 468.518, 468.719, 468.811, 478.52, 480.046, 483.825, 483.901, 484.014, 484.056, 486.125, 490.009, and 491.009, F.S.; conforming provisions relating to disciplinary actions; repealing s. 483.827, F.S., relating to administrative penalties applicable to clinical laboratory personnel; amending s. 456.074, F.S.; providing for immediate suspension of license for violations relating to fraudulent practices; amending s. 464.005, F.S.; providing for future relocation of the headquarters of the Board of Nursing; providing effective dates.

—was read the second time by title.

The Council for Healthy Communities offered the following:

(Amendment Bar Code: 183531)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *It is the intent of the Legislature that the Medical Quality Assurance Trust Fund should be administered in a fiscally responsible manner. It is also the intent of the Legislature that the Department of Health reduce expenses wherever possible to ensure that the cost of regulation is reasonable and fair and does not serve as a barrier to licensure in this state. The Legislature adopts findings 1, 2, 4, 5, and 8 and the recommendations of the Auditor General's Medical Quality Assurance Operational Audit Report Number 01-063. In addition, the Legislature adopts recommendations 1, 2, 4, 5, and 7 of the Florida Senate Committee on Fiscal Policy Interim Project Report 2001-016.*

Section 2. *The Auditor General shall conduct a followup audit to the Medical Quality Assurance Operational Audit Report Number 01-063 to determine if the Department of Health has implemented the recommendations of that report. The Auditor General shall complete the followup audit and issue a report to the President of the Senate and the Speaker of the House of Representatives no later than January 31, 2002.*

Section 3. *The Office of Program Policy Analysis and Government Accountability shall study the feasibility of maintaining the entire Medical Quality Assurance function, including enforcement, within a single department. The study shall be completed and a report issued to the President of the Senate and the Speaker of the House of Representatives no later than November 30, 2001.*

Section 4. Subsection (1) of section 456.004, Florida Statutes, is amended, and subsection (10) is added to that section, to read:

456.004 Department; powers and duties.—The department, for the professions under its jurisdiction, shall:

(1) Adopt rules establishing a procedure for the biennial renewal of licenses; however, the department may issue up to a 4-year license to selected licensees notwithstanding any other provisions of law to the contrary. *The rules shall specify the expiration dates of licenses and the process for tracking compliance with continuing education requirements, financial responsibility requirements, and any other conditions of renewal set forth in statute or rule.* Fees for such renewal shall not exceed the fee caps for individual professions on an annualized basis as authorized by law.

(10) Set an examination fee that includes all costs to develop, purchase, validate, administer, and defend the examination and is an amount certain to cover all administrative costs plus the actual per-applicant cost of the examination.

Section 5. Section 456.025, Florida Statutes, is amended to read:

456.025 Fees; receipts; disposition.—

(1) It is the intent of the Legislature that all costs of regulating health care professions and practitioners shall be borne solely by licensees and licensure applicants. It is also the intent of the Legislature that fees should be reasonable and not serve as a barrier to licensure. Moreover, it is the intent of the Legislature that the department operate as efficiently as possible and regularly report to the Legislature additional methods to streamline operational costs. Therefore, the boards in consultation with the department, or the department if there is no board, shall, by rule, set renewal fees which:

(a) Shall be based on revenue projections prepared using generally accepted accounting procedures;

(b) Shall be adequate to cover all expenses relating to that board identified in the department's long-range policy plan, as required by s. 456.005;

(c) Shall be reasonable, fair, and not serve as a barrier to licensure;

(d) Shall be based on potential earnings from working under the scope of the license;

(e) Shall be similar to fees imposed on similar licensure types;

(f) Shall not be more than 10% greater than the fee imposed for the previous biennium;

(g) Shall not be more than 10% greater than the actual cost to regulate that profession for the previous biennium; and

(h) Shall be subject to challenge pursuant to chapter 120.

(2) The chairpersons of the boards and councils listed in s. 20.43(3)(g), shall meet annually at division headquarters to review the long-range policy plan required by s. 456.005 and current and proposed fee schedules. The chairpersons shall make recommendations for any necessary statutory changes relating to fees and fee caps. Such recommendations shall be compiled by the Department of Health and be included in the annual report to the Legislature required by s. 456.026 as well as be included in the long-range policy plan required by s. 456.005.

(2)~~(1)~~ Each board within the jurisdiction of the department, or the department when there is no board, shall determine by rule the amount of license fees for the profession it regulates, based upon long-range estimates prepared by the department of the revenue required to implement laws relating to the regulation of professions by the department and the board. Each board, or the department if there is no board, shall ensure that license fees are adequate to cover all anticipated costs and to maintain a reasonable cash balance, as determined by rule of the agency, with advice of the applicable board. If sufficient action is not taken by a board within 1 year after notification by the department that license fees are projected to be inadequate, the department shall set license fees on behalf of the applicable board to cover anticipated costs and to maintain the required cash balance. The department shall include recommended fee cap increases in its annual report to the Legislature. Further, it is the legislative intent that no regulated profession operate with a negative cash balance. The department may provide by rule for advancing sufficient funds to any profession operating with a negative cash balance. The advancement may be for a period not to exceed 2 consecutive years, and the regulated profession must pay interest. Interest shall be calculated at the current rate earned on investments of a trust fund used by the department to implement this chapter. Interest earned shall be allocated to the various funds in accordance with the allocation of investment earnings during the period of the advance.

(3)~~(2)~~ Each board, or the department if there is no board, may charge a fee not to exceed $25, as determined by rule, for the issuance of a wall certificate pursuant to s. 456.013(2) requested by a licensee who was licensed prior to July 1, 1998, or for the issuance of a duplicate wall certificate requested by any licensee.

(4)~~(3)~~ Each board, or the department if there is no board, may, by rule, assess and collect a one-time fee from each active status licensee and each inactive status licensee in an amount necessary to eliminate a cash deficit or, if there is not a cash deficit, in an amount sufficient to maintain the financial integrity of the professions as required in this section. Not more than one such assessment may be made in any 4-year period without specific legislative authorization.

(5) If the cash balance of the trust fund at the end of any fiscal year exceeds the total appropriation provided for the regulation of the health care professions in the prior fiscal year, the boards, in consultation with the department, may lower the license renewal fees.

(6)~~(4)~~ Each board ~~authorized to approve continuing education providers~~, or the department if there is no board, *shall* ~~may~~ establish, by rule, a fee not to exceed $250 for anyone seeking approval to provide continuing education courses *or programs* and *shall* ~~may~~ establish by rule a biennial renewal fee not to exceed $250 for the renewal of providership of such courses. *The fees collected from continuing education providers shall be used for the purposes of reviewing course provider applications, monitoring the integrity of the courses provided, covering legal expenses incurred as a result of not granting or renewing a providership, and developing and maintaining an electronic continuing education tracking system. The department shall implement an electronic continuing education tracking system for each new biennial renewal cycle for which electronic renewals are implemented after the effective date of this act and shall integrate such system into the licensure and renewal system. All approved continuing education providers shall provide information on course attendance to the department necessary to implement the electronic tracking system. The department shall, by rule, specify the form and procedures by which the information is to be submitted.* ~~This subsection does not apply to continuing education courses or providers approved by the board under chapter 465.~~

(7)~~(5)~~ All moneys collected by the department from fees or fines or from costs awarded to the agency by a court shall be paid into a trust fund used by the department to implement this chapter. The Legislature shall appropriate funds from this trust fund sufficient to carry out this chapter and the provisions of law with respect to professions regulated by the Division of Medical Quality Assurance within the department and the boards. The department may contract with public and private entities to receive and deposit revenue pursuant to this section. The department shall maintain separate accounts in the trust fund used by the department to implement this chapter for every profession within the department. To the maximum extent possible, the department shall directly charge all expenses to the account of each regulated profession. For the purpose of this subsection, direct charge expenses include, but are not limited to, costs for investigations, examinations, and legal services. For expenses that cannot be charged directly, the department shall provide for the proportionate allocation among the accounts of expenses incurred by the department in the performance of its duties with respect to each regulated profession. The regulation by the department of professions, as defined in this chapter, shall be financed solely from revenue collected by it from fees and other charges and deposited in the Medical Quality Assurance Trust Fund, and all such revenue is hereby appropriated to the department. However, it is legislative intent that each profession shall operate within its anticipated fees. The department may not expend funds from the account of a profession to pay for the expenses incurred on behalf of another profession, except that the Board of Nursing must pay for any costs incurred in the regulation of certified nursing assistants. The department shall maintain adequate records to support its allocation of agency expenses. The department shall provide any board with reasonable access to these records upon request. *On or before October 1 of each year,* the department shall provide each board an annual report of revenue and direct and allocated expenses related to the operation of that profession. The board shall use these reports and the department's adopted long-range plan to determine the amount of license fees. A condensed version of this information, with the department's recommendations, shall be included in the annual report to the Legislature prepared under s. 456.026.

(8)~~(6)~~ The department shall provide a condensed management report of budgets, finances, performance statistics, and recommendations to each board at least once a quarter. The department shall identify and include in such presentations any changes, or projected changes, made to the board's budget since the last presentation.

(9)~~(7)~~ If a duplicate license is required or requested by the licensee, the board or, if there is no board, the department may charge a fee as determined by rule not to exceed $25 before issuance of the duplicate license.

(10)~~(8)~~ The department or the appropriate board shall charge a fee not to exceed $25 for the certification of a public record. The fee shall be determined by rule of the department. The department or the appropriate board shall assess a fee for duplicating a public record as provided in s. 119.07(1)(a) and (b).

Section 6. Subsections (1) of section 457.107, Florida Statutes, is amended to read:

457.107 Renewal of licenses; continuing education.—

(1) The department shall renew a license upon receipt of the renewal application and the *required* fee set by the board by rule, not to exceed $500.

Section 7. *Section 458.31151, Florida Statutes, is repealed.*

Section 8. Subsection (1) of section 483.807, Florida Statutes, is amended to read:

483.807 Fees; establishment; disposition.—

(1) The board, by rule, shall establish fees to be paid for application, examination, reexamination, licensing and renewal, *registration, laboratory training program application,* reinstatement, and

recordmaking and recordkeeping. The board may also establish, by rule, a delinquency fee. The board shall establish fees that are adequate to ensure the continued operation of the board and to fund the proportionate expenses incurred by the department in carrying out its licensure and other related responsibilities under this part. Fees shall be based on departmental estimates of the revenue required to implement this part and the provisions of law with respect to the regulation of clinical laboratory personnel.

Section 9. Subsections (1), (3), and (4) of section 456.011, Florida Statutes, are amended to read:

456.011 Boards; organization; meetings; compensation and travel expenses.—

(1) Each board within the department shall comply with the provisions of this *chapter* ~~section~~.

(3) The board shall meet at least once annually and may meet as often as is necessary. *Meetings shall be conducted through teleconferencing or other technological means, unless disciplinary hearings involving standard of care, sexual misconduct, fraud, impairment, or felony convictions; licensure denial hearings; or controversial rule hearings are being conducted; or unless otherwise approved in advance of the meeting by the director of the Division of Medical Quality Assurance.* The chairperson or a quorum of the board shall have the authority to call ~~other~~ meetings*, except as provided above relating to in-person meetings*. A quorum shall be necessary for the conduct of official business by the board or any committee thereof. Unless otherwise provided by law, 51 percent or more of the appointed members of the board or any committee, when applicable, shall constitute a quorum. The membership of committees of the board, except as otherwise authorized pursuant to this chapter or the applicable practice act, shall be composed of currently appointed members of the board. The vote of a majority of the members of the quorum shall be necessary for any official action by the board or committee. Three consecutive unexcused absences or absences constituting 50 percent or more of the board's meetings within any 12-month period shall cause the board membership of the member in question to become void, and the position shall be considered vacant. The board, or the department when there is no board, shall, by rule, define unexcused absences.

(4) Unless otherwise provided by law, a board member or former board member serving on a probable cause panel shall be compensated $50 for each day in attendance at an official meeting of the board and for each day of participation in any other business involving the board. Each board shall adopt rules defining the phrase "other business involving the board," but the phrase may not routinely be defined to include telephone conference calls *that last less than 4 hours*. A board member also shall be entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of state shall require the prior approval of the secretary.

Section 10. Subsection (2) of section 456.013, Florida Statutes, is amended to read:

456.013 Department; general licensing provisions.—

(2) Before the issuance of any license, the department *shall* ~~may~~ charge an initial license fee as determined by ~~rule of~~ the applicable board or, if no such board exists, by rule of the department. Upon receipt of the appropriate license fee, the department shall issue a license to any person certified by the appropriate board, or its designee, as having met the licensure requirements imposed by law or rule. The license shall consist of a wallet-size identification card and a wall card measuring 6½ inches by 5 inches. In addition to the two-part license, the department, at the time of initial licensure, shall issue a wall certificate suitable for conspicuous display, which shall be no smaller than 8½ inches by 14 inches. The licensee shall surrender to the department the wallet-size identification card, the wall card, and the wall certificate, if one has been issued by the department, if the licensee's license is revoked.

Section 11. Section 456.017, Florida Statutes, is amended to read:

456.017 Department of Health; examinations.—

(1)(a) The department shall provide, contract, or approve services for the development, preparation, administration, scoring, score reporting, and evaluation of all examinations, in consultation with the appropriate board. The department shall certify that examinations developed and approved by the department adequately and reliably measure an applicant's ability to practice the profession regulated by the department. After an examination developed or approved by the department has been administered, the board, or the department when there is no board, may reject any question which does not reliably measure the general areas of competency specified in the rules of the board. The department may contract for the preparation, administration, scoring, score reporting, and evaluation of examinations, when such services are available and approved by the board.

(b) For each examination developed by the department or contracted vendor, to the extent not otherwise specified by statute, the board, or the department when there is no board, shall by rule specify the general areas of competency to be covered by each examination, the relative weight to be assigned in grading each area tested, and the score necessary to achieve a passing grade*. The department shall assess*~~, and~~ fees~~, where applicable,~~ to cover the actual cost for any purchase, development, *validation,* ~~and~~ administration*, and defense* of required examinations. This subsection does not apply to national examinations approved and administered pursuant to paragraph (c). If a practical examination is deemed to be necessary, the rules shall specify the criteria by which examiners are to be selected, the grading criteria to be used by the examiner, the relative weight to be assigned in grading each criterion, and the score necessary to achieve a passing grade. When a mandatory standardization exercise for a practical examination is required by law, the board, or the department when there is no board, may conduct such exercise. Therefore, board members, or employees of the department when there is no board, may serve as examiners at a practical examination with the consent of the board or department, as appropriate.

(c)*1.* The board, or the department when there is no board, *shall* ~~may~~ approve by rule the use of *one or more* ~~any~~ national *examinations* ~~examination~~ which the department has certified as meeting requirements of national examinations and generally accepted testing standards pursuant to department rules. Providers of examinations seeking certification by the department shall pay the actual costs incurred by the department in making a determination regarding the certification. The name and number of a candidate may be provided to a national contractor for the limited purpose of preparing the grade tape and information to be returned to the board or department; or, to the extent otherwise specified by rule, the candidate may apply directly to the vendor of the national examination and supply test score information to the department. The department may delegate to the board the duty to provide and administer the examination. Any national examination approved by a board, or the department when there is no board, prior to October 1, 1997, is deemed certified under this paragraph.

2. The board, or the department when there is no board, shall approve and begin administering a national examination no later than December 31, 2001. Neither the board nor the department may administer a state-developed written examination after December 31, 2001, notwithstanding any other provision of law. The examination may be administered electronically if adequate security measures are used, as determined by rule of the department.

3. The board, or the department when there is no board, may administer a state-developed practical or clinical examination, as required by the applicable practice act, if all costs of development, purchase, validation, administration, review, and defense are paid by the examination candidate prior to the administration of the examination. If a national practical or clinical examination is available and certified by the department pursuant to this section, the board, or the department when there is no board, may administer the national examination.

4. It is the intent of the Legislature to reduce the costs associated with state examinations and to encourage the use of national examinations whenever possible.

(d) Each board, or the department when there is no board, shall adopt rules regarding the security and monitoring of examinations. The department shall implement those rules adopted by the respective boards. In order to maintain the security of examinations, the department may employ the procedures set forth in s. 456.065 to seek fines and injunctive relief against an examinee who violates the provisions of s. 456.018 or the rules adopted pursuant to this paragraph. The department, or any agent thereof, may, for the purposes of investigation, confiscate any written, photographic, or recording material or device in the possession of the examinee at the examination site which the department deems necessary to enforce such provisions or rules. *The scores of candidates who have taken state-developed examinations shall be provided to the candidates electronically using a candidate identification number, and the department shall post the aggregate scores on the department's website without identifying the names of the candidates.*

(e) If the professional board with jurisdiction over an examination concurs, the department may, for a fee, share with any other state's licensing authority *or a national testing entity* an examination *or examination item bank* developed by or for the department unless prohibited by a contract entered into by the department for development or purchase of the examination. The department, with the concurrence of the appropriate board, shall establish guidelines that ensure security of a shared exam and shall require that any other state's licensing authority comply with those guidelines. Those guidelines shall be approved by the appropriate professional board. All fees paid by the user shall be applied to the department's examination and development program for professions regulated by this chapter.

(f) The department may adopt rules necessary to administer this subsection.

(2) For each examination developed by the department or a contracted vendor, the board, or the department when there is no board, shall adopt rules providing for reexamination of any applicants who failed an examination developed by the department or a contracted vendor. If both a written and a practical examination are given, an applicant shall be required to retake only the portion of the examination on which the applicant failed to achieve a passing grade, if the applicant successfully passes that portion within a reasonable time, as determined by rule of the board, or the department when there is no board, of passing the other portion. Except for national examinations approved and administered pursuant to this section, the department shall provide procedures for applicants who fail an examination developed by the department or a contracted vendor to review their examination questions, answers, papers, grades, and grading key for the questions the candidate answered incorrectly or, if not feasible, the parts of the examination failed. Applicants shall bear the actual cost for the department to provide examination review pursuant to this subsection. An applicant may waive in writing the confidentiality of the applicant's examination grades. *Notwithstanding any other provisions, only candidates who fail an examination by less than ten percent shall be entitled to challenge the validity of the examination at hearing.*

(3) For each examination developed or administered by the department or a contracted vendor, an accurate record of each applicant's examination questions, answers, papers, grades, and grading key shall be kept for a period of not less than 2 years immediately following the examination, and such record shall thereafter be maintained or destroyed as provided in chapters 119 and 257. This subsection does not apply to national examinations approved and administered pursuant to this section.

(4) Meetings of any member of the department or of any board within the department held for the exclusive purpose of creating or reviewing licensure examination questions or proposed examination questions are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution. Any public records, such as tape recordings, minutes, or notes, generated during or as a result of such meetings are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, these exemptions shall not affect the right of any person to review an examination as provided in subsection (2).

(5) For examinations developed by the department or a contracted vendor, each board, or the department when there is no board, may provide licensure examinations in an applicant's native language. *Notwithstanding any other provision of law,* applicants for examination or reexamination pursuant to this subsection shall bear the full cost for the department's development, preparation, *validation,* administration, grading, and evaluation of any examination in a language other than English *prior to the examination being administered*. Requests for translated examinations must be on file in the board office at least 6 months prior to the scheduled examination. When determining whether it is in the public interest to allow the examination to be translated into a language other than English, the board shall consider the percentage of the population who speak the applicant's native language. Applicants must apply for translation to the applicable board at least 6 months prior to the scheduled examination.

(6) In addition to meeting any other requirements for licensure by examination or by endorsement, *and notwithstanding the provisions in paragraph (1)(c),* an applicant may be required by a board, or the department when there is no board, to certify competency in state laws and rules relating to the applicable practice act. *Beginning October 1, 2001, all laws and rules examinations shall be administered electronically unless the laws and rules examination is administered concurrently with another written examination for that profession.*

Section 12. Subsection (1) of section 456.035, Florida Statutes, is amended to read:

456.035 Address of record.—

(1) Each licensee of the department is solely responsible for notifying the department in writing of the licensee's current mailing address and place of practice, as defined by rule of the board or the department if there is no board. *Electronic notification shall be allowed by the department; however, it shall be the responsibility of the licensee to ensure that the electronic notification was received by the department.* A licensee's failure to notify the department of a change of address constitutes a violation of this section, and the licensee may be disciplined by the board or the department if there is no board.

Section 13. Subsections (2), (4), and (10) of section 456.073, Florida Statutes, are amended to read:

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(2) The department shall allocate sufficient and adequately trained staff to expeditiously and thoroughly determine legal sufficiency and investigate all legally sufficient complaints. For purposes of this section, it is the intent of the Legislature that the term "expeditiously" means that the department complete the report of its initial investigative findings and recommendations concerning the existence of probable cause within 6 months after its receipt of the complaint. The failure of the department, for disciplinary cases under its jurisdiction, to comply with the time limits of this section while investigating a complaint against a licensee constitutes harmless error in any subsequent disciplinary action unless a court finds that either the fairness of the proceeding or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure. When its investigation is complete and legally sufficient, the department shall prepare and submit to the probable cause panel of the appropriate regulatory board the investigative report of the department. The report shall contain the investigative findings and the recommendations of the department concerning the existence of probable cause. *The department shall not recommend a letter of guidance in lieu of finding probable cause if the subject has already been issued a letter of guidance for a related offense.* At any time after legal sufficiency is found, the department may dismiss any case, or any part thereof, if the department determines that there is insufficient evidence

to support the prosecution of allegations contained therein. The department shall provide a detailed report to the appropriate probable cause panel prior to dismissal of any case or part thereof, and to the subject of the complaint after dismissal of any case or part thereof, under this section. For cases dismissed prior to a finding of probable cause, such report is confidential and exempt from s. 119.07(1). The probable cause panel shall have access, upon request, to the investigative files pertaining to a case prior to dismissal of such case. If the department dismisses a case, the probable cause panel may retain independent legal counsel, employ investigators, and continue the investigation and prosecution of the case as it deems necessary.

(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department, as appropriate. Each regulatory board shall provide by rule that the determination of probable cause shall be made by a panel of its members or by the department. Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board may provide by rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board's former or present consumer members, if one is available, is willing to serve, and is authorized to do so by the board chair. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profession. All proceedings of the panel are exempt from s. 286.011 until 10 days after probable cause has been found to exist by the panel or until the subject of the investigation waives his or her privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department or the agency. The probable cause panel or the department, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department. The secretary may grant extensions of the 15-day and the 30-day time limits. In lieu of a finding of probable cause, the probable cause panel, or the department if there is no board, may issue a letter of guidance to the subject. If, within the 30-day time limit, as may be extended, the probable cause panel does not make a determination regarding the existence of probable cause or does not issue a letter of guidance in lieu of a finding of probable cause, the department must make a determination regarding the existence of probable cause within 10 days after the expiration of the time limit. If the probable cause panel finds that probable cause exists, it shall direct the department to file a formal complaint against the licensee. The department shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department shall file a formal complaint against the subject of the investigation and prosecute that complaint pursuant to chapter 120. However, the department may decide not to prosecute the complaint if it finds that probable cause has been improvidently found by the panel. In such cases, the department shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to chapter 120. The department shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department within 1 year after the filing of a complaint. The department, for disciplinary cases under its jurisdiction, must establish a uniform reporting system to quarterly refer to each board the status of any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. Annually, the department, *in consultation with the applicable probable cause panel,* ~~if there is no board, or each board~~ must establish a plan to *expedite* ~~reduce~~ or otherwise close any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from a trust fund used by the department to implement this chapter. All proceedings of the probable cause panel are exempt from s. 120.525.

(10) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his or her privilege of confidentiality, whichever occurs first. Upon completion of the investigation *and a recommendation by the department to find probable cause,* and pursuant to a written request by the subject *or the subject's attorney*, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 456.057, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 456.057. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days *of mailing by the department*, unless an extension of time has been granted by the department. This subsection does not prohibit the department from providing such information to any law enforcement agency or to any other regulatory agency.

Section 14. Section 456.081, Florida Statutes, is amended to read:

456.081 Publication of information.—The department and the boards shall have the authority to advise licensees periodically, through the publication of a newsletter *on the department's website*, about information that the department or the board determines is of interest to the industry. Unless otherwise prohibited by law, the department and the boards shall publish a summary of final orders resulting in *disciplinary action* ~~fines, suspensions, or revocations,~~ and any other information the department or the board determines is of interest to the public.

Section 15. Subsections (1), (2), and (4) of section 456.072, Florida Statutes, are amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(a) Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession.

(b) Intentionally violating any rule adopted by the board or the department, as appropriate.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

(d) Using a Class III or a Class IV laser device or product, as defined by federal regulations, without having complied with the rules adopted pursuant to s. 501.122(2) governing the registration of such devices.

(e) Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome.

(f) Having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order,

or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

(g) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee.

(h) Attempting to obtain, obtaining, or renewing a license to practice a profession by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(i) Except as provided in s. 465.016, failing to report to the department any person who the licensee knows is in violation of this chapter, the chapter regulating the alleged violator, or the rules of the department or the board.

(j) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this chapter, the chapter regulating the profession, or the rules of the department or the board.

(k) Failing to perform any statutory or legal obligation placed upon a licensee.

(l) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee.

(m) Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.

(n) Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.

(o) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

(p) Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization when required to perform them.

(q) Violating ~~any provision of this chapter, the applicable professional practice act, a rule of the department or the board, or~~ a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.

(r) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.

(s) Failing to comply with the educational course requirements for domestic violence.

(t) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

(u) Engaging or attempting to engage in sexual misconduct as defined and prohibited in s. 456.063(1).

(v) Failing to comply with the requirements for profiling and credentialing, including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure application.

(w) Failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. Convictions, findings, adjudications, and pleas entered into prior to the enactment of this paragraph must be reported in writing to the board, or department if there is no board, on or before October 1, 1999.

(x) Using information about people involved in motor vehicle accidents which has been derived from accident reports made by law enforcement officers or persons involved in accidents pursuant to s. 316.066, or using information published in a newspaper or other news publication or through a radio or television broadcast that has used information gained from such reports, for the purposes of commercial or any other solicitation whatsoever of the people involved in such accidents.

(y) Being unable to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to practice because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of his or her profession with reasonable skill and safety to patients.

(z) Testing positive for any drug, as defined in s. 112.0455, on any confirmed preemployment or employer-ordered drug screening when the practitioner does not have a lawful prescription and legitimate medical reason for using such drug.

(aa) Violating any provision of this chapter, the applicable practice act, or any rules adopted pursuant thereto.

(2) When the board, or the department when there is no board, finds any person guilty of the grounds set forth in subsection (1) or of any grounds set forth in the applicable practice act, including conduct constituting a substantial violation of subsection (1) or a violation of the applicable practice act which occurred prior to obtaining a license, it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify, or to certify with restrictions, an application for a license.

(b) Suspension or permanent revocation of a license.

(c) Restriction of practice or license*, including, but not limited to, restricting the licensee from practicing in certain settings, restricting the licensee to work only under designated conditions or in certain settings, restricting the licensee from performing or providing designated clinical and administrative services, restricting the licensee from practicing more than a designated number of hours, or any other restriction found to be necessary for the protection of the public health, safety, and welfare*.

(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense. *If the violation is for fraud or making a false or fraudulent representation, the board, or department if there is no board, shall impose a fine of $10,000 per count or offense.*

(e) Issuance of a reprimand *or letter of concern*.

(f) Placement of the licensee on probation for a period of time and subject to such conditions as the board, or the department when there is no board, may specify. Those conditions may include, but are not limited to, requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violations found.

(g) Corrective action.

(h) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.

(i) Refund of fees billed and collected from the patient or a third party on behalf of the patient.

(j) Requirement that the practitioner undergo remedial education.

In determining what action is appropriate, the board, or department when there is no board, must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the practitioner. All costs associated with compliance with orders issued under this subsection are the obligation of the practitioner.

(4) 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, *shall* ~~may~~ assess costs related to the investigation and prosecution of the case. In any case where the board or the department imposes a fine or assessment and the fine or assessment is not paid within a reasonable time, such reasonable time to be prescribed in the rules of the board, or the department when there is no board, or in the order assessing such fines or costs, the department or the Department of Legal Affairs may contract for the collection of, or bring a civil action to recover, the fine or assessment.

Section 16. Subsection (3) of section 456.079, Florida Statutes, is amended to read:

456.079 Disciplinary guidelines.—

(3) A specific finding *in the final order* of mitigating or aggravating circumstances shall allow the board to impose a penalty other than that provided for in such guidelines. If applicable, the board, or the department if there is no board, shall adopt by rule disciplinary guidelines to designate possible mitigating and aggravating circumstances and the variation and range of penalties permitted for such circumstances.

Section 17. Subsections (1) and (2) of section 457.109, Florida Statutes, are amended to read:

457.109 Disciplinary actions; grounds; action by the board.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice acupuncture by bribery, by fraudulent misrepresentations, or through an error of the department.

(b) Having a license to practice acupuncture revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, in any jurisdiction of a crime which directly relates to the practice of acupuncture or to the ability to practice acupuncture. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising or advertising which claims that acupuncture is useful in curing any disease.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department.

(g) Aiding, assisting, procuring, employing, or advising any unlicensed person to practice acupuncture contrary to this chapter or to a rule of the department.

(h) Failing to perform any statutory or legal obligation placed upon a licensed acupuncturist.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed acupuncturist.

(j) Exercising influence within a patient-acupuncturist relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her acupuncturist.

(k) Making deceptive, untrue, or fraudulent representations in the practice of acupuncture or employing a trick or scheme in the practice of acupuncture when such scheme or trick fails to conform to the generally prevailing standards of treatment in the community.

(l) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate oral response from the recipient.

(m) Failing to keep written medical records justifying the course of treatment of the patient.

(n) Exercising influence on the patient to exploit the patient for the financial gain of the licensee or of a third party.

(o) Being unable to practice acupuncture with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to serve as an acupuncturist due to the reasons stated in this paragraph, the department shall have the authority to issue an order to compel the licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or serves as an acupuncturist. The licensee against whom the petition is filed shall not be named or identified by initials in any public court record or document, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. An acupuncturist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of acupuncture with reasonable skill and safety to patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the department shall be used against an acupuncturist in any other proceeding.

(p) Gross or repeated malpractice or the failure to practice acupuncture with that level of care, skill, and treatment which is recognized by a reasonably prudent similar acupuncturist as being acceptable under similar conditions and circumstances.

(q) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

(r) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(s) Violating ~~any provision of this chapter, a rule of the department, or~~ a lawful order of the *board* ~~department~~ previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(t) Conspiring with another to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(u) Fraud or deceit or gross negligence, incompetence, or misconduct in the operation of a course of study.

(v) Failing to comply with state, county, or municipal regulations or reporting requirements relating to public health and the control of contagious and infectious diseases.

(w) Failing to comply with any rule of the board relating to health and safety, including, but not limited to, the sterilization of needles and equipment and the disposal of potentially infectious materials.

(x) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the acts set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Placement of the acupuncturist on probation for a period of time and subject to such conditions as the board may specify.~~

Section 18. Subsection (6) of section 458.320, Florida Statutes, is amended to read:

458.320 Financial responsibility.—

(6) Any deceptive, untrue, or fraudulent representation by the licensee with respect to any provision of this section shall result in permanent disqualification from any exemption to mandated financial responsibility as provided in this section and shall constitute grounds for disciplinary action *under* ~~as specified in~~ s. 458.331.

Section 19. Subsections (1) and (2) of section 458.331, Florida Statutes, are amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice medicine by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician's license, shall be construed as action against the physician's license.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine.

(d) False, deceptive, or misleading advertising.

(e) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department or the board. A treatment provider approved pursuant to s. 456.076 shall provide the department or consultant with information in accordance with the requirements of s. 456.076(3), (4), (5), and (6).

(f) Aiding, assisting, procuring, or advising any unlicensed person to practice medicine contrary to this chapter or to a rule of the department or the board.

(g) Failing to perform any statutory or legal obligation placed upon a licensed physician.

(h) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed physician.

(i) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent a physician from receiving a fee for professional consultation services.

(j) Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician.

(k) Making deceptive, untrue, or fraudulent representations in or related to the practice of medicine or employing a trick or scheme in the practice of medicine.

(l) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate oral response from the recipient.

(m) Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

(n) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances, or drugs.

(o) Promoting or advertising on any prescription form of a community pharmacy unless the form shall also state "This prescription may be filled at any pharmacy of your choice."

(p) Performing professional services which have not been duly authorized by the patient or client, or his or her legal representative, except as provided in s. 743.064, s. 766.103, or s. 768.13.

(q) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent.

(r) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the physician to

himself or herself, except one prescribed, dispensed, or administered to the physician by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

(s) Being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to practice medicine because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed may not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of medicine with reasonable skill and safety to patients.

(t) Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. As used in this paragraph, "repeated malpractice" includes, but is not limited to, three or more claims for medical malpractice within the previous 5-year period resulting in indemnities being paid in excess of $25,000 each to the claimant in a judgment or settlement and which incidents involved negligent conduct by the physician. As used in this paragraph, "gross malpractice" or "the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances," shall not be construed so as to require more than one instance, event, or act. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph.

(u) Performing any procedure or prescribing any therapy which, by the prevailing standards of medical practice in the community, would constitute experimentation on a human subject, without first obtaining full, informed, and written consent.

(v) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform. The board may establish by rule standards of practice and standards of care for particular practice settings, including, but not limited to, education and training, equipment and supplies, medications including anesthetics, assistance of and delegation to other personnel, transfer agreements, sterilization, records, performance of complex or multiple procedures, informed consent, and policy and procedure manuals.

(w) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(x) Violating ~~any provision of this chapter, a rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(y) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(z) Procuring, or aiding or abetting in the procuring of, an unlawful termination of pregnancy.

(aa) Presigning blank prescription forms.

(bb) Prescribing any medicinal drug appearing on Schedule II in chapter 893 by the physician for office use.

(cc) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is a Schedule II amphetamine or a Schedule II sympathomimetic amine drug or any compound thereof, pursuant to chapter 893, to or for any person except for:

1. The treatment of narcolepsy; hyperkinesis; behavioral syndrome characterized by the developmentally inappropriate symptoms of moderate to severe distractability, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction;

2. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities; or

3. The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the board before such investigation is begun.

(dd) Failing to supervise adequately the activities of those physician assistants, paramedics, emergency medical technicians, or advanced registered nurse practitioners acting under the supervision of the physician.

(ee) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(ff) Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person.

(gg) Misrepresenting or concealing a material fact at any time during any phase of a licensing or disciplinary process or procedure.

(hh) Improperly interfering with an investigation or with any disciplinary proceeding.

(ii) Failing to report to the department any licensee under this chapter or under chapter 459 who the physician or physician assistant knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the physician or physician assistant also provides services.

(jj) Being found by any court in this state to have provided corroborating written medical expert opinion attached to any statutorily required notice of claim or intent or to any statutorily required response rejecting a claim, without reasonable investigation.

(kk) Failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one's license to practice medicine in another state, territory, or country.

(ll) Advertising or holding oneself out as a board-certified specialist, if not qualified under s. 458.3312, in violation of this chapter.

(mm) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

(nn) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s.*

456.072(1). ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), including conduct that would constitute a substantial violation of subsection (1) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify, or certification with restrictions, to the department an application for licensure, certification, or registration.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Placement of the physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the physician to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another physician.~~

~~(g) Issuance of a letter of concern.~~

~~(h) Corrective action.~~

~~(i) Refund of fees billed to and collected from the patient.~~

~~(j) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.~~

In determining what action is appropriate, the board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the physician. All costs associated with compliance with orders issued under this subsection are the obligation of the physician.

Section 20. Subsection (2) of section 458.345, Florida Statutes, is amended to read:

458.345 Registration of resident physicians, interns, and fellows; list of hospital employees; prescribing of medicinal drugs; penalty.—

(2) The board shall not certify to the department for registration any applicant who is under investigation in any state or jurisdiction for an act which would constitute *grounds* ~~the basis~~ for ~~imposing a~~ disciplinary *action under* ~~penalty specified in~~ s. 458.331~~(2)(b)~~ until such time as the investigation is completed, at which time the provisions of s. 458.331 shall apply.

Section 21. Subsection (7) of section 458.347, Florida Statutes, is amended to read:

458.347 Physician assistants.—

(7) PHYSICIAN ASSISTANT LICENSURE.—

(g) The Board of Medicine may impose any of the penalties *authorized under* ~~specified in~~ ss. 456.072 and 458.331(2) upon a physician assistant if the physician assistant or the supervising physician has been found guilty of or is being investigated for any act that constitutes a violation of this chapter or chapter 456.

Section 22. Subsection (6) of section 459.0085, Florida Statutes, is amended to read:

459.0085 Financial responsibility.—

(6) Any deceptive, untrue, or fraudulent representation by the licensee with respect to any provision of this section shall result in permanent disqualification from any exemption to mandated financial responsibility as provided in this section and shall constitute grounds for disciplinary action *under* ~~as specified in~~ s. 459.015.

Section 23. Subsections (1) and (2) of section 459.015, Florida Statutes, are amended to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice osteopathic medicine or a certificate issued under this chapter by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license or the authority to practice osteopathic medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority's acceptance of a physician's relinquishment of license, stipulation, consent order, or other settlement offered in response to or in anticipation of the filing of administrative charges against the physician shall be construed as action against the physician's license.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of osteopathic medicine or to the ability to practice osteopathic medicine. A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charges.

(d) False, deceptive, or misleading advertising.

(e) Failing to report to the department or the department's impaired professional consultant any person who the licensee or certificateholder knows is in violation of this chapter or of the rules of the department or the board. A treatment provider, approved pursuant to s. 456.076, shall provide the department or consultant with information in accordance with the requirements of s. 456.076(3), (4), (5), and (6).

(f) Aiding, assisting, procuring, or advising any unlicensed person to practice osteopathic medicine contrary to this chapter or to a rule of the department or the board.

(g) Failing to perform any statutory or legal obligation placed upon a licensed osteopathic physician.

(h) Giving false testimony in the course of any legal or administrative proceedings relating to the practice of medicine or the delivery of health care services.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed osteopathic physician.

(j) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, person, partnership, firm, corporation, or other business entity, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent an osteopathic physician from receiving a fee for professional consultation services.

(k) Refusing to provide health care based on a patient's participation in pending or past litigation or participation in any disciplinary action conducted pursuant to this chapter, unless such litigation or disciplinary action directly involves the osteopathic physician requested to provide services.

(l) Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician.

(m) Making deceptive, untrue, or fraudulent representations in or related to the practice of osteopathic medicine or employing a trick or scheme in the practice of osteopathic medicine.

(n) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or forms of overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate oral response from the recipient.

(o) Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed osteopathic physician or the osteopathic physician extender and supervising osteopathic physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

(p) Fraudulently altering or destroying records relating to patient care or treatment, including, but not limited to, patient histories, examination results, and test results.

(q) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods, appliances, or drugs.

(r) Promoting or advertising on any prescription form of a community pharmacy, unless the form shall also state "This prescription may be filled at any pharmacy of your choice."

(s) Performing professional services which have not been duly authorized by the patient or client or his or her legal representative except as provided in s. 743.064, s. 766.103, or s. 768.13.

(t) Prescribing, dispensing, administering, supplying, selling, giving, mixing, or otherwise preparing a legend drug, including all controlled substances, other than in the course of the osteopathic physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, supplying, selling, giving, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the osteopathic physician's professional practice, without regard to his or her intent.

(u) Prescribing or dispensing any medicinal drug appearing on any schedule set forth in chapter 893 by the osteopathic physician for himself or herself or administering any such drug by the osteopathic physician to himself or herself unless such drug is prescribed for the osteopathic physician by another practitioner authorized to prescribe medicinal drugs.

(v) Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person.

(w) Being unable to practice osteopathic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to practice medicine because of the reasons stated in this paragraph, have the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of medicine with reasonable skill and safety to patients.

(x) Gross or repeated malpractice or the failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar osteopathic physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. As used in this paragraph, "repeated malpractice" includes, but is not limited to, three or more claims for medical malpractice within the previous 5-year period resulting in indemnities being paid in excess of $25,000 each to the claimant in a judgment or settlement and which incidents involved negligent conduct by the osteopathic physician. As used in this paragraph, "gross malpractice" or "the failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar osteopathic physician as being acceptable under similar conditions and circumstances" shall not be construed so as to require more than one instance, event, or act. Nothing in this paragraph shall be construed to require that an osteopathic physician be incompetent to practice osteopathic medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed "gross malpractice," "repeated malpractice," or "failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized as being acceptable under similar conditions and circumstances," or any combination thereof, and any publication by the board shall so specify.

(y) Performing any procedure or prescribing any therapy which, by the prevailing standards of medical practice in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(z) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform. The board may establish by rule standards of practice and standards of care for particular practice settings, including, but not limited to, education and training, equipment and supplies, medications including anesthetics, assistance of and delegation to other personnel, transfer agreements, sterilization, records, performance of complex or multiple procedures, informed consent, and policy and procedure manuals.

(aa) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(bb) Violating ~~any provision of this chapter, a rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the board or department.

(cc) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(dd) Procuring, or aiding or abetting in the procuring of, an unlawful termination of pregnancy.

(ee) Presigning blank prescription forms.

(ff) Prescribing any medicinal drug appearing on Schedule II in chapter 893 by the osteopathic physician for office use.

(gg) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is a Schedule II amphetamine or Schedule II sympathomimetic amine drug or any compound thereof, pursuant to chapter 893, to or for any person except for:

1. The treatment of narcolepsy; hyperkinesis; behavioral syndrome characterized by the developmentally inappropriate symptoms of moderate to severe distractability, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction;

2. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities; or

3. The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the board before such investigation is begun.

(hh) Failing to supervise adequately the activities of those physician assistants, paramedics, emergency medical technicians, advanced registered nurse practitioners, or other persons acting under the supervision of the osteopathic physician.

(ii) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(jj) Misrepresenting or concealing a material fact at any time during any phase of a licensing or disciplinary process or procedure.

(kk) Improperly interfering with an investigation or with any disciplinary proceeding.

(ll) Failing to report to the department any licensee under chapter 458 or under this chapter who the osteopathic physician or physician assistant knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the osteopathic physician or physician assistant also provides services.

(mm) Being found by any court in this state to have provided corroborating written medical expert opinion attached to any statutorily required notice of claim or intent or to any statutorily required response rejecting a claim, without reasonable investigation.

(nn) Advertising or holding oneself out as a board-certified specialist in violation of this chapter.

(oo) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

(pp) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify, or certify with restrictions, to the department an application for certification, licensure, renewal, or reactivation.~~

~~(b) Revocation or suspension of a license or certificate.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Issuance of a letter of concern.~~

~~(g) Placement of the osteopathic physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the osteopathic physician to submit to treatment, attend continuing education courses, submit to reexamination, or work under the supervision of another osteopathic physician.~~

~~(h) Corrective action.~~

~~(i) Refund of fees billed to and collected from the patient.~~

~~(j) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.~~

In determining what action is appropriate, the board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the physician. All costs associated with compliance with orders issued under this subsection are the obligation of the physician.

Section 24. Paragraph (f) of subsection (7) of section 459.022, Florida Statutes, is amended to read:

459.022 Physician assistants.—

(7) PHYSICIAN ASSISTANT LICENSURE.—

(f) The Board of Osteopathic Medicine may impose any of the penalties *authorized under* ~~specified in~~ ss. 456.072 and 459.015(2) upon a physician assistant if the physician assistant or the supervising physician has been found guilty of or is being investigated for any act that constitutes a violation of this chapter or chapter 456.

Section 25. Subsections (1) and (2) of section 460.413, Florida Statutes, are amended to read:

460.413 Grounds for disciplinary action; action by board or department.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice chiropractic medicine by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license to practice chiropractic medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of chiropractic medicine or to the ability to practice chiropractic medicine. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising.

(e) Causing to be advertised, by any means whatsoever, any advertisement which does not contain an assertion or statement which would identify herself or himself as a chiropractic physician or identify such chiropractic clinic or related institution in which she or he practices or in which she or he is owner, in whole or in part, as a chiropractic institution.

(f) Advertising, practicing, or attempting to practice under a name other than one's own.

(g) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department or the board.

(h) Aiding, assisting, procuring, or advising any unlicensed person to practice chiropractic medicine contrary to this chapter or to a rule of the department or the board.

(i) Failing to perform any statutory or legal obligation placed upon a licensed chiropractic physician.

(j) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity of a licensed chiropractic physician.

(k) Making misleading, deceptive, untrue, or fraudulent representations in the practice of chiropractic medicine or employing a trick or scheme in the practice of chiropractic medicine when such trick or scheme fails to conform to the generally prevailing standards of treatment in the chiropractic medical community.

(l) Soliciting patients either personally or through an agent, unless such solicitation falls into a category of solicitations approved by rule of the board.

(m) Failing to keep legibly written chiropractic medical records that identify clearly by name and credentials the licensed chiropractic physician rendering, ordering, supervising, or billing for each examination or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories, examination results, test results, X rays, and diagnosis of a disease, condition, or injury. X rays need not be retained for more than 4 years.

(n) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods or appliances, or drugs.

(o) Performing professional services which have not been duly authorized by the patient or client or her or his legal representative except as provided in ss. 743.064, 766.103, and 768.13.

(p) Prescribing, dispensing, or administering any medicinal drug except as authorized by s. 460.403(9)(c)2., performing any surgery, or practicing obstetrics.

(q) Being unable to practice chiropractic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding by the secretary of the department, or his or her designee, or the probable cause panel of the board that probable cause exists to believe that the licensee is unable to practice the profession because of reasons stated in this paragraph, the department shall have the authority to compel a licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with the department's order, the department may file a petition for enforcement in the circuit court of the circuit in which the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. The record of proceedings to obtain a compelled mental or physical examination shall not be used against a licensee in any other proceedings. A chiropractic physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of chiropractic medicine with reasonable skill and safety to patients.

(r) Gross or repeated malpractice or the failure to practice chiropractic medicine at a level of care, skill, and treatment which is recognized by a reasonably prudent chiropractic physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the standards for malpractice in s. 766.102 in interpreting this provision. A recommended order by an administrative law judge, or a final order of the board finding a violation under this section shall specify whether the licensee was found to have committed "gross malpractice," "repeated malpractice," or "failure to practice chiropractic medicine with that level of care, skill, and treatment which is recognized as being acceptable under similar conditions and circumstances" or any combination thereof, and any publication by the board shall so specify.

(s) Performing any procedure or prescribing any therapy which, by the prevailing standards of chiropractic medical practice in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(t) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(u) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(v) Violating ~~any provision of this chapter, any rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(w) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(x) Submitting to any third-party payor a claim for a service or treatment which was not actually provided to a patient.

(y) Failing to preserve identity of funds and property of a patient. As provided by rule of the board, money or other property entrusted to a chiropractic physician for a specific purpose, including advances for costs and expenses of examination or treatment, is to be held in trust and must be applied only to that purpose. Money and other property of patients coming into the hands of a chiropractic physician are not subject to counterclaim or setoff for chiropractic physician's fees, and a refusal to account for and deliver over such money and property upon demand shall be deemed a conversion. This is not to preclude the retention of money or other property upon which the chiropractic physician has a valid lien for services or to preclude the payment of agreed fees from the proceeds of transactions for examinations or treatments. Controversies as to the amount of the fees are not grounds for disciplinary proceedings unless the amount demanded is clearly excessive or extortionate, or the demand is fraudulent. All funds of patients paid to a chiropractic physician, other than advances for costs and expenses, shall be deposited in one or more identifiable bank accounts maintained in the state in which the chiropractic physician's office is situated, and no funds belonging to the chiropractic physician shall be deposited therein except as follows:

1. Funds reasonably sufficient to pay bank charges may be deposited therein.

2. Funds belonging in part to a patient and in part presently or potentially to the physician must be deposited therein, but the portion belonging to the physician may be withdrawn when due unless the right of the physician to receive it is disputed by the patient, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

Every chiropractic physician shall maintain complete records of all funds, securities, and other properties of a patient coming into the possession of the physician and render appropriate accounts to the patient regarding them. In addition, every chiropractic physician shall promptly pay or deliver to the patient, as requested by the patient, the funds, securities, or other properties in the possession of the physician which the patient is entitled to receive.

(z) Offering to accept or accepting payment for services rendered by assignment from any third-party payor after offering to accept or accepting whatever the third-party payor covers as payment in full, if the effect of the offering or acceptance is to eliminate or give the impression of eliminating the need for payment by an insured of any required deductions applicable in the policy of the insured.

(aa) Failing to provide, upon request of the insured, a copy of a claim submitted to any third-party payor for service or treatment of the insured.

(bb) Advertising a fee or charge for a service or treatment which is different from the fee or charge the licensee submits to third-party payors for that service or treatment.

(cc) Advertising any reduced or discounted fees for services or treatments, or advertising any free services or treatments, without prominently stating in the advertisement the usual fee of the licensee for the service or treatment which is the subject of the discount, rebate, or free offering.

(dd) Using acupuncture without being certified pursuant to s. 460.403(9)(f).

(ee) Failing to report to the department any licensee under chapter 458 or under chapter 459 who the chiropractic physician or chiropractic physician's assistant knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the chiropractic physician or chiropractic physician's assistant also provides services.

(ff) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Placement of the chiropractic physician on probation for a period of time and subject to such conditions as the board may specify, including requiring the chiropractic physician to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another chiropractic physician.~~

~~(g) Imposition of costs of the investigation and prosecution.~~

~~(h) Requirement that the chiropractic physician undergo remedial education.~~

~~(i) Issuance of a letter of concern.~~

~~(j) Corrective action.~~

~~(k) Refund of fees billed to and collected from the patient or a third party.~~

In determining what action is appropriate, the board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the chiropractic physician. All costs associated with compliance with orders issued under this subsection are the obligation of the chiropractic physician.

Section 26. Subsections (1) and (2) of section 461.013, Florida Statutes, are amended to read:

461.013 Grounds for disciplinary action; action by the board; investigations by department.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice podiatric medicine by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license to practice podiatric medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of podiatric medicine or to the ability to practice podiatric medicine. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department or the board.

(g) Aiding, assisting, procuring, permitting, or advising any unlicensed person to practice podiatric medicine contrary to this chapter or to rule of the department or the board.

(h) Failing to perform any statutory or legal obligation placed upon a licensed podiatric physician.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such report or records shall include only those which are signed in the capacity of a licensed podiatric physician.

(j) Making misleading, deceptive, untrue, or fraudulent representations in the practice of podiatric medicine or employing a trick or scheme in the practice of podiatric medicine when such scheme or trick fails to conform to the generally prevailing standards of treatment in the podiatric community.

(k) Soliciting patients either personally or through an agent, unless such solicitation falls into a category of solicitations approved by rule of the board.

(l) Failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, and test results.

(m) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods, appliances, or drugs and the promoting or advertising on any prescription form of a community pharmacy unless the form shall also state "This prescription may be filled at any pharmacy of your choice."

(n) Performing professional services which have not been duly authorized by the patient or client or her or his legal representative except as provided in ss. 743.064, 766.103, and 768.13.

(o) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including all controlled substances, other than in the course of the podiatric physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the podiatric physician's professional practice, without regard to her or his intent.

(p) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the podiatric physician to herself or himself except those prescribed, dispensed, or

administered to the podiatric physician by another practitioner authorized to prescribe, dispense, or administer them.

(q) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any amphetamine or sympathomimetic amine drug or compound designated as a Schedule II controlled substance pursuant to chapter 893.

(r) Being unable to practice podiatric medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph the department shall, upon probable cause, have authority to compel a podiatric physician to submit to a mental or physical examination by physicians designated by the department. Failure of a podiatric physician to submit to such examination when directed shall constitute an admission of the allegations against her or him, unless the failure was due to circumstances beyond her or his control, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A podiatric physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of podiatric medicine with reasonable skill and safety to patients.

(s) Gross or repeated malpractice or the failure to practice podiatric medicine at a level of care, skill, and treatment which is recognized by a reasonably prudent podiatric physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the standards for malpractice in s. 766.102 in interpreting this section. As used in this paragraph, "repeated malpractice" includes, but is not limited to, three or more claims for medical malpractice within the previous 5-year period resulting in indemnities being paid in excess of $10,000 each to the claimant in a judgment or settlement and which incidents involved negligent conduct by the podiatric physicians. As used in this paragraph, "gross malpractice" or "the failure to practice podiatric medicine with the level of care, skill, and treatment which is recognized by a reasonably prudent similar podiatric physician as being acceptable under similar conditions and circumstances" shall not be construed so as to require more than one instance, event, or act.

(t) Performing any procedure or prescribing any therapy which, by the prevailing standards of podiatric medical practice in the community, would constitute experimentation on human subjects without first obtaining full, informed, and written consent.

(u) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(v) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(w) Violating ~~any provision of this chapter or chapter 456, any rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the board or department.

(x) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(y) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for any of the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(z) Fraud, deceit, or misconduct in the practice of podiatric medicine.

(aa) Failing to report to the department any licensee under chapter 458 or chapter 459 who the podiatric physician knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the podiatric physician also provides services.

(bb) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

(cc) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Placing the podiatric physician on probation for a period of time and subject to such conditions as the board may specify, including requiring the podiatric physician to submit to treatment, to attend continuing education courses, to submit to reexamination, and to work under the supervision of another podiatric physician.~~

~~(g) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.~~

Section 27. Subsections (1) and (2) of section 462.14, Florida Statutes, are amended to read:

462.14 Grounds for disciplinary action; action by the department.—

(1) The following acts constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice naturopathic medicine by bribery, by fraudulent misrepresentation, or through an error of the department.

(b) Having a license to practice naturopathic medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of naturopathic medicine or to the ability to practice naturopathic medicine. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department.

(g) Aiding, assisting, procuring, or advising any unlicensed person to practice naturopathic medicine contrary to this chapter or to a rule of the department.

(h) Failing to perform any statutory or legal obligation placed upon a licensed naturopathic physician.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed naturopathic physician.

(j) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent a naturopathic physician from receiving a fee for professional consultation services.

(k) Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with her or his physician.

(l) Making deceptive, untrue, or fraudulent representations in the practice of naturopathic medicine or employing a trick or scheme in the practice of naturopathic medicine when such scheme or trick fails to conform to the generally prevailing standards of treatment in the medical community.

(m) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A "solicitation" is any communication which directly or implicitly requests an immediate oral response from the recipient.

(n) Failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, test results, X rays, and records of the prescribing, dispensing and administering of drugs.

(o) Exercising influence on the patient or client in such a manner as to exploit the patient or client for the financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances, or drugs and the promoting or advertising on any prescription form of a community pharmacy unless the form also states "This prescription may be filled at any pharmacy of your choice."

(p) Performing professional services which have not been duly authorized by the patient or client, or her or his legal representative, except as provided in s. 743.064, s. 766.103, or s. 768.13.

(q) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the naturopathic physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the naturopathic physician's professional practice, without regard to her or his intent.

(r) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the naturopathic physician to herself or himself, except one prescribed, dispensed, or administered to the naturopathic physician by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

(s) Being unable to practice naturopathic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel a naturopathic physician to submit to a mental or physical examination by physicians designated by the department. The failure of a naturopathic physician to submit to such an examination when so directed shall constitute an admission of the allegations against her or him upon which a default and final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond the naturopathic physician's control. A naturopathic physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of naturopathic medicine with reasonable skill and safety to patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the department may be used against a naturopathic physician in any other proceeding.

(t) Gross or repeated malpractice or the failure to practice naturopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. The department shall give great weight to the provisions of s. 766.102 when enforcing this paragraph.

(u) Performing any procedure or prescribing any therapy which, by the prevailing standards of medical practice in the community, constitutes experimentation on a human subject, without first obtaining full, informed, and written consent.

(v) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(w) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(x) Violating ~~any provision of this chapter, any rule of the department, or~~ a lawful order of the department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(y) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(z) Procuring, or aiding or abetting in the procuring of, an unlawful termination of pregnancy.

(aa) Presigning blank prescription forms.

(bb) Prescribing by the naturopathic physician for office use any medicinal drug appearing on Schedule II in chapter 893.

(cc) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is an amphetamine or sympathomimetic amine drug, or a compound designated pursuant to chapter 893 as a Schedule II controlled substance to or for any person except for:

1. The treatment of narcolepsy; hyperkinesis; behavioral syndrome in children characterized by the developmentally inappropriate symptoms of moderate to severe distractability, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction.

2. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities.

3. The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the department before such investigation is begun.

(dd) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(ee) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The department may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the department finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Placement of the naturopathic physician on probation for a period of time and subject to such conditions as the department may specify, including, but not limited to, requiring the naturopathic physician to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another naturopathic physician.~~

Section 28. Subsections (1) and (2) of section 463.016, Florida Statutes, are amended to read:

463.016 Grounds for disciplinary action; action by the board.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Procuring or attempting to procure a license to practice optometry by bribery, by fraudulent misrepresentations, or through an error of the department or board.

(b) Procuring or attempting to procure a license for any other person by making or causing to be made any false representation.

(c) Having a license to practice optometry revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction.

(d) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of optometry or to the ability to practice optometry. Any plea of nolo contendere shall be considered a conviction for the purposes of this chapter.

(e) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which are signed by the licensee in her or his capacity as a licensed practitioner.

(f) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(g) Fraud or deceit, negligence or incompetency, or misconduct in the practice of optometry.

(h) A violation or repeated violations of provisions of this chapter, or of chapter 456, and any rules promulgated pursuant thereto.

(i) Conspiring with another licensee or with any person to commit an act, or committing an act, which would coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(j) Willfully submitting to any third-party payor a claim for services which were not provided to a patient.

(k) Failing to keep written optometric records about the examinations, treatments, and prescriptions for patients.

(l) Willfully failing to report any person who the licensee knows is in violation of this chapter or of rules of the department or the board.

(m) Gross or repeated malpractice.

(n) Practicing with a revoked, suspended, inactive, or delinquent license.

(o) Being unable to practice optometry with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. A licensed practitioner affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of optometry with reasonable skill and safety to patients.

(p) Having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of Florida laws or rules regulating optometry.

(q) Violating any provision of s. 463.014 or s. 463.015.

(r) Violating any lawful order of the board or department, previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the board or department.

(s) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensed practitioner knows or has reason to know she or he is not competent to perform.

(t) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The department may enter an order imposing any of the penalties in s. 456.072(2) against any licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Imposition of an administrative fine not to exceed $5,000 for each count or separate offense.~~

~~(d) Issuance of a reprimand.~~

~~(e) Placement of the licensed practitioner on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensed practitioner to submit to treatment, to attend continuing education courses, or to work under the supervision of another licensed practitioner.~~

Section 29. Subsections (1) and (2) of section 464.018, Florida Statutes, are amended to read:

464.018 Disciplinary actions.—

(1) The following acts *constitute* ~~shall be~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~disciplinary action set forth in this section~~:

(a) Procuring, attempting to procure, or renewing a license to practice nursing by bribery, by knowing misrepresentations, or through an error of the department or the board.

(b) Having a license to practice nursing revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of nursing or to the ability to practice nursing.

(d) Being found guilty, regardless of adjudication, of any of the following offenses:

1. A forcible felony as defined in chapter 776.

2. A violation of chapter 812, relating to theft, robbery, and related crimes.

3. A violation of chapter 817, relating to fraudulent practices.

4. A violation of chapter 800, relating to lewdness and indecent exposure.

5. A violation of chapter 784, relating to assault, battery, and culpable negligence.

6. A violation of chapter 827, relating to child abuse.

7. A violation of chapter 415, relating to protection from abuse, neglect, and exploitation.

8. A violation of chapter 39, relating to child abuse, abandonment, and neglect.

(e) Having been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under s. 435.03 or under any similar statute of another jurisdiction; or having committed an act which constitutes domestic violence as defined in s. 741.28.

(f) Making or filing a false report or record, which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the nurse's capacity as a licensed nurse.

(g) False, misleading, or deceptive advertising.

(h) Unprofessional conduct, which shall include, but not be limited to, any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing nursing practice, in which case actual injury need not be established.

(i) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances as set forth in chapter 893, for any other than legitimate purposes authorized by this part.

(j) Being unable to practice nursing with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, or chemicals or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to practice nursing because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A nurse affected by the provisions of this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of nursing with reasonable skill and safety to patients.

(k) Failing to report to the department any person who the licensee knows is in violation of this part or of the rules of the department or the board; however, if the licensee verifies that such person is actively participating in a board-approved program for the treatment of a physical or mental condition, the licensee is required to report such person only to an impaired professionals consultant.

(l) Knowingly violating any provision of this part, a rule of the board or the department, or a lawful order of the board or department previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the department.

(m) Failing to report to the department any licensee under chapter 458 or under chapter 459 who the nurse knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the nurse also provides services.

(n) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license with reinstatement subject to the provisions of subsection (3).~~

~~(c) Permanent revocation of a license.~~

~~(d) Restriction of practice.~~

~~(e) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(f) Issuance of a reprimand.~~

~~(g) Placement of the nurse on probation for a period of time and subject to such conditions as the board may specify, including requiring the nurse to submit to treatment, to attend continuing education courses, to take an examination, or to work under the supervision of another nurse.~~

Section 30. Subsection (3) of section 465.008, Florida Statutes, is amended to read:

465.008 Renewal of license.—

~~(3) Sixty days prior to the end of the biennium the department shall mail a notice of renewal to the last known address of the licensee.~~

Section 31. Subsections (1) and (2) of section 465.016, Florida Statutes, are amended to read:

465.016 Disciplinary actions.—

(1) The following acts *constitute* ~~shall be~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~disciplinary action set forth in this section~~:

(a) Obtaining a license by misrepresentation or fraud or through an error of the department or the board.

(b) Procuring or attempting to procure a license for any other person by making or causing to be made any false representation.

(c) Permitting any person not licensed as a pharmacist in this state or not registered as an intern in this state, or permitting a registered intern who is not acting under the direct and immediate personal supervision of a licensed pharmacist, to fill, compound, or dispense any prescriptions in a pharmacy owned and operated by such pharmacist or in a pharmacy where such pharmacist is employed or on duty.

(d) Being unfit or incompetent to practice pharmacy by reason of:

1. Habitual intoxication.

2. The misuse or abuse of any medicinal drug appearing in any schedule set forth in chapter 893.

3. Any abnormal physical or mental condition which threatens the safety of persons to whom she or he might sell or dispense prescriptions, drugs, or medical supplies or for whom she or he might manufacture, prepare, or package, or supervise the manufacturing, preparation, or packaging of, prescriptions, drugs, or medical supplies.

(e) Violating ~~any of the requirements of this chapter; or if licensed as a practitioner in this or any other state, violating any of the requirements of their respective practice act or violating~~ chapter 499; 21 U.S.C. ss. 301-392, known as the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., known as the Comprehensive Drug Abuse Prevention and Control Act; or chapter 893.

(f) Having been convicted or found guilty, regardless of adjudication, in a court of this state or other jurisdiction, of a crime which directly relates to the ability to practice pharmacy or to the practice of pharmacy. A plea of nolo contendere constitutes a conviction for purposes of this provision.

(g) Using in the compounding of a prescription, or furnishing upon prescription, an ingredient or article different in any manner from the ingredient or article prescribed, except as authorized in s. 465.019(6) or s. 465.025.

(h) Having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of this chapter.

(i) Compounding, dispensing, or distributing a legend drug, including any controlled substance, other than in the course of the professional practice of pharmacy. For purposes of this paragraph, it shall be legally presumed that the compounding, dispensing, or distributing of legend drugs in excessive or inappropriate quantities is not in the best interests of the patient and is not in the course of the professional practice of pharmacy.

(j) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by federal or state law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records include only those which the licensee is required to make or file in her or his capacity as a licensed pharmacist.

(k) Failing to make prescription fee or price information readily available by failing to provide such information upon request and upon the presentation of a prescription for pricing or dispensing. Nothing in this section shall be construed to prohibit the quotation of price information on a prescription drug to a potential consumer by telephone.

(l) Placing in the stock of any pharmacy any part of any prescription compounded or dispensed which is returned by a patient; however, in a hospital, nursing home, correctional facility, or extended care facility in which unit-dose medication is dispensed to inpatients, each dose being individually sealed and the individual unit dose or unit-dose system labeled with the name of the drug, dosage strength, manufacturer's control number, and expiration date, if any, the unused unit dose of medication may be returned to the pharmacy for redispensing. Each pharmacist shall maintain appropriate records for any unused or returned medicinal drugs.

(m) Being unable to practice pharmacy with reasonable skill and safety by reason of illness, use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. A pharmacist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of pharmacy with reasonable skill and safety to her or his customers.

(n) Violating a rule of the board or department or violating an order of the board or department previously entered in a disciplinary hearing.

(o) Failing to report to the department any licensee under chapter 458 or under chapter 459 who the pharmacist knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the pharmacist also provides services.

(p) Failing to notify the Board of Pharmacy in writing within 20 days of the commencement or cessation of the practice of the profession of pharmacy in Florida when such commencement or cessation of the practice of the profession of pharmacy in Florida was a result of a pending or completed disciplinary action or investigation in another jurisdiction.

(q) Using or releasing a patient's records except as authorized by this chapter and chapter 456.

(r) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Imposition of an administrative fine not to exceed $5,000 for each count or separate offense.~~

~~(d) Issuance of a reprimand.~~

~~(e) Placement of the pharmacist on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the pharmacist to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another pharmacist.~~

Section 32. Subsections (1) and (2) of section 466.028, Florida Statutes, are amended to read:

466.028 Grounds for disciplinary action; action by the board.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license under this chapter by bribery, fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license to practice dentistry or dental hygiene revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of dentistry or dental hygiene. A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charges.

(d) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content contrary to s. 466.019 or rules of the board adopted pursuant thereto.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Failing to report to the department any person who the licensee knows, or has reason to believe, is clearly in violation of this chapter or of the rules of the department or the board.

(g) Aiding, assisting, procuring, or advising any unlicensed person to practice dentistry or dental hygiene contrary to this chapter or to a rule of the department or the board.

(h) Being employed by any corporation, organization, group, or person other than a dentist or a professional corporation or limited liability company composed of dentists to practice dentistry.

(i) Failing to perform any statutory or legal obligation placed upon a licensee.

(j) Making or filing a report which the licensee knows to be false, failing to file a report or record required by state or federal law, knowingly impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensee.

(k) Committing any act which would constitute sexual battery, as defined in chapter 794, upon a patient or intentionally touching the sexual organ of a patient.

(l) Making deceptive, untrue, or fraudulent representations in or related to the practice of dentistry.

(m) Failing to keep written dental records and medical history records justifying the course of treatment of the patient including, but not limited to, patient histories, examination results, test results, and X rays, if taken.

(n) Failing to make available to a patient or client, or to her or his legal representative or to the department if authorized in writing by the patient, copies of documents in the possession or under control of the licensee which relate to the patient or client.

(o) Performing professional services which have not been duly authorized by the patient or client, or her or his legal representative, except as provided in ss. 766.103 and 768.13.

(p) Prescribing, procuring, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the professional practice of the dentist. For the purposes of this paragraph, it shall be legally presumed that prescribing, procuring, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the professional practice of the dentist, without regard to her or his intent.

(q) Prescribing, procuring, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893, by a dentist to herself or himself, except those prescribed, dispensed, or administered to the dentist by another practitioner authorized to prescribe them.

(r) Prescribing, procuring, ordering, dispensing, administering, supplying, selling, or giving any drug which is a Schedule II amphetamine or a Schedule II sympathomimetic amine drug or a compound thereof, pursuant to chapter 893, to or for any person except for the clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, and reviewed and approved by, the board before such investigation is begun.

(s) Being unable to practice her or his profession with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the secretary or her or his designee that probable cause exists to believe that the licensee is unable to practice dentistry or dental hygiene because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of her or his profession with reasonable skill and safety to patients.

(t) Fraud, deceit, or misconduct in the practice of dentistry or dental hygiene.

(u) Failure to provide and maintain reasonable sanitary facilities and conditions.

(v) Failure to provide adequate radiation safeguards.

(w) Performing any procedure or prescribing any therapy which, by the prevailing standards of dental practice in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(x) Being guilty of incompetence or negligence by failing to meet the minimum standards of performance in diagnosis and treatment when measured against generally prevailing peer performance, including, but not limited to, the undertaking of diagnosis and treatment for which the dentist is not qualified by training or experience or being guilty of dental malpractice. For purposes of this paragraph, it shall be legally presumed that a dentist is not guilty of incompetence or negligence by declining to treat an individual if, in the dentist's professional judgment, the dentist or a member of her or his clinical staff is not qualified by training and experience, or the dentist's treatment facility is not clinically satisfactory or properly equipped to treat the unique characteristics and health status of the dental patient, provided the dentist refers the patient to a qualified dentist or facility for appropriate treatment. As used in this paragraph, "dental malpractice" includes, but is not limited to, three or more claims within the previous 5-year period which resulted in indemnity being paid, or any single indemnity paid in excess of $5,000 in a judgment or settlement, as a result of negligent conduct on the part of the dentist.

(y) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(z) Delegating professional responsibilities to a person who is not qualified by training, experience, or licensure to perform them.

(aa) The violation ~~or the repeated violation of this chapter, chapter 456, or any rule promulgated pursuant to chapter 456 or this chapter; the violation~~ of a lawful order of the board or department previously entered in a disciplinary hearing; or failure to comply with a lawfully issued subpoena of the board or department.

(bb) Conspiring with another licensee or with any person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(cc) Being adjudged mentally incompetent in this or any other state, the discipline for which shall last only so long as the adjudication.

(dd) Presigning blank prescription or laboratory work order forms.

(ee) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(ff) Operating or causing to be operated a dental office in such a manner as to result in dental treatment that is below minimum acceptable standards of performance for the community. This includes, but is not limited to, the use of substandard materials or equipment, the imposition of time limitations within which dental procedures are to be

performed, or the failure to maintain patient records as required by this chapter.

(gg) Administering anesthesia in a manner which violates rules of the board adopted pursuant to s. 466.017.

(hh) Failing to report to the department any licensee under chapter 458 or chapter 459 who the dentist knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the dentist also provides services.

(ii) Failing to report to the board, in writing, within 30 days if action has been taken against one's license to practice dentistry in another state, territory, or country.

(jj) Advertising specialty services in violation of this chapter.

(kk) Allowing any person other than another dentist or a professional corporation or limited liability company composed of dentists to direct, control, or interfere with a dentist's clinical judgment; however, this paragraph may not be construed to limit a patient's right of informed consent. To direct, control, or interfere with a dentist's clinical judgment may not be interpreted to mean dental services contractually excluded, the application of alternative benefits that may be appropriate given the dentist's prescribed course of treatment, or the application of contractual provisions and scope of coverage determinations in comparison with a dentist's prescribed treatment on behalf of a covered person by an insurer, health maintenance organization, or a prepaid limited health service organization.

(ll) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any applicant or licensee guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Denial of an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Imposition of an administrative fine not to exceed $3,000 for each count or separate offense.~~

~~(d) Issuance of a reprimand.~~

~~(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education courses or demonstrate competency through a written or practical examination or to work under the supervision of another licensee.~~

~~(f) Restricting the authorized scope of practice.~~

Section 33. Section 466.037, Florida Statutes, is amended to read:

466.037 Suspension and revocation; administrative fine.—The department may suspend or revoke the certificate of any dental laboratory registered under s. 466.032, for failing to comply with the provisions of this chapter or rules adopted by the department under this chapter. The department may impose an administrative fine ~~not to exceed $500 for each count or separate offense~~.

Section 34. Subsections (1) and (2) of section 467.203, Florida Statutes, are amended to read:

467.203 Disciplinary actions; penalties.—

(1) The following acts *constitute* ~~shall be~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~disciplinary action as set forth in this section~~:

(a) Procuring, attempting to procure, or renewing a license to practice midwifery by bribery, by fraudulent misrepresentation, or through an error of the department.

(b) Having a license to practice midwifery revoked, suspended, or otherwise acted against, including being denied licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, in any jurisdiction of a crime which directly relates to the practice of midwifery or to the ability to practice midwifery. A plea of nolo contendere shall be considered a conviction for purposes of this provision.

(d) Making or filing a false report or record, which the licensee knows to be false; intentionally or negligently failing to file a report or record required by state or federal law; or willfully impeding or obstructing such filing or inducing another to do so. Such reports or records shall include only those which are signed in the midwife's capacity as a licensed midwife.

(e) Advertising falsely, misleadingly, or deceptively.

(f) Engaging in unprofessional conduct, which includes, but is not limited to, any departure from, or the failure to conform to, the standards of practice of midwifery as established by the department, in which case actual injury need not be established.

(g) Being unable to practice midwifery with reasonable skill and safety to patients by reason of illness; drunkenness; or use of drugs, narcotics, chemicals, or other materials or as a result of any mental or physical condition. A midwife affected under this paragraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that he or she can resume the competent practice of midwifery with reasonable skill and safety.

(h) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department.

(i) ~~Willfully or repeatedly~~ Violating ~~any provision of this chapter, any rule of the department, or~~ any lawful order of the department previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the department.

(j) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The department may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the department finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to approve an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(d) Issuance of a reprimand.~~

~~(e) Placement of the midwife on probation for such period of time and subject to such conditions as the department may specify, including requiring the midwife to submit to treatment; undertake further relevant education or training; take an examination; or work under the supervision of another licensed midwife, a physician, or a nurse midwife licensed under part I of chapter 464.~~

Section 35. Subsections (1) and (2) of section 468.1295, Florida Statutes, are amended to read:

468.1295 Disciplinary proceedings.—

(1) The following acts constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~both disciplinary actions~~

~~as set forth in subsection (2) and cease and desist or other related actions by the department as set forth in s. 456.065~~:

(a) Procuring or attempting to procure a license by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(b) Having a license revoked, suspended, or otherwise acted against, including denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of speech-language pathology or audiology.

(d) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or records required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such report or record shall include only those reports or records which are signed in one's capacity as a licensed speech-language pathologist or audiologist.

(e) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(f) Being proven guilty of fraud or deceit or of negligence, incompetency, or misconduct in the practice of speech-language pathology or audiology.

(g) Violating a lawful order of the board or department previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the board or department.

(h) Practicing with a revoked, suspended, inactive, or delinquent license.

(i) Using, or causing or promoting the use of, any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or other representation, however disseminated or published, which is misleading, deceiving, or untruthful.

(j) Showing or demonstrating or, in the event of sale, delivery of a product unusable or impractical for the purpose represented or implied by such action.

(k) Failing to submit to the board on an annual basis, or such other basis as may be provided by rule, certification of testing and calibration of such equipment as designated by the board and on the form approved by the board.

(l) Aiding, assisting, procuring, employing, or advising any licensee or business entity to practice speech-language pathology or audiology contrary to this part, chapter 456, or any rule adopted pursuant thereto.

~~(m) Violating any provision of this part or chapter 456 or any rule adopted pursuant thereto.~~

(m)~~(n)~~ Misrepresenting the professional services available in the fitting, sale, adjustment, service, or repair of a hearing aid, or using any other term or title which might connote the availability of professional services when such use is not accurate.

(n)~~(o)~~ Representing, advertising, or implying that a hearing aid or its repair is guaranteed without providing full disclosure of the identity of the guarantor; the nature, extent, and duration of the guarantee; and the existence of conditions or limitations imposed upon the guarantee.

(o)~~(p)~~ Representing, directly or by implication, that a hearing aid utilizing bone conduction has certain specified features, such as the absence of anything in the ear or leading to the ear, or the like, without disclosing clearly and conspicuously that the instrument operates on the bone conduction principle and that in many cases of hearing loss this type of instrument may not be suitable.

(p)~~(q)~~ Stating or implying that the use of any hearing aid will improve or preserve hearing or prevent or retard the progression of a hearing impairment or that it will have any similar or opposite effect.

(q)~~(r)~~ Making any statement regarding the cure of the cause of a hearing impairment by the use of a hearing aid.

(r)~~(s)~~ Representing or implying that a hearing aid is or will be "custom-made," "made to order," or "prescription-made," or in any other sense specially fabricated for an individual, when such is not the case.

(s)~~(t)~~ Canvassing from house to house or by telephone, either in person or by an agent, for the purpose of selling a hearing aid, except that contacting persons who have evidenced an interest in hearing aids, or have been referred as in need of hearing aids, shall not be considered canvassing.

(t)~~(u)~~ Failing to notify the department in writing of a change in current mailing and place-of-practice address within 30 days after such change.

(u)~~(v)~~ Failing to provide all information as described in ss. 468.1225(5)(b), 468.1245(1), and 468.1246.

(v)~~(w)~~ Exercising influence on a client in such a manner as to exploit the client for financial gain of the licensee or of a third party.

(w)~~(x)~~ Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee or certificateholder knows, or has reason to know, the licensee or certificateholder is not competent to perform.

(x)~~(y)~~ Aiding, assisting, procuring, or employing any unlicensed person to practice speech-language pathology or audiology.

(y)~~(z)~~ Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization to perform them.

(z)~~(aa)~~ Committing any act upon a patient or client which would constitute sexual battery or which would constitute sexual misconduct as defined pursuant to s. 468.1296.

(aa)~~(bb)~~ Being unable to practice the profession for which he or she is licensed or certified under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness, drunkenness, or use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the secretary, his or her designee, or the board that probable cause exists to believe that the licensee or certificateholder is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee or certificateholder to submit to a mental or physical examination by a physician, psychologist, clinical social worker, marriage and family therapist, or mental health counselor designated by the department or board. If the licensee or certificateholder refuses to comply with the department's order directing the examination, such order may be enforced by filing a petition for enforcement in the circuit court in the circuit in which the licensee or certificateholder resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice for which he or she is licensed or certified with reasonable skill and safety to patients.

(bb) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the acts set forth in subsection (1), it may issue an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify, or to certify with restrictions, an application for licensure.~~

~~(b) Suspension or permanent revocation of a license.~~

~~(c) Issuance of a reprimand.~~

~~(d) Restriction of the authorized scope of practice.~~

~~(e) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(f) Placement of the licensee or certificateholder on probation for a period of time and subject to such conditions as the board may specify. Those conditions may include, but are not limited to, requiring the licensee or certificateholder to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violation found.~~

~~(g) Corrective action.~~

Section 36. Subsections (1) and (2) of section 468.1755, Florida Statutes, are amended to read:

468.1755 Disciplinary proceedings.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions in subsection (2) may be taken~~:

(a) Violation of any provision of s. 456.072(1) or s. 468.1745(1).

(b) Attempting to procure a license to practice nursing home administration by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(c) Having a license to practice nursing home administration revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(d) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which relates to the practice of nursing home administration or the ability to practice nursing home administration. Any plea of nolo contendere shall be considered a conviction for purposes of this part.

(e) Making or filing a report or record which the licensee knows to be false, intentionally failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those which are signed in the capacity of a licensed nursing home administrator.

(f) Authorizing the discharge or transfer of a resident for a reason other than those provided in ss. 400.022 and 400.0255.

(g) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(h) Fraud or deceit, negligence, incompetence, or misconduct in the practice of nursing home administration.

~~(i) A violation or repeated violations of this part, chapter 456, or any rules promulgated pursuant thereto.~~

(i)~~(j)~~ Violation of a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the board or department.

(j)~~(k)~~ Practicing with a revoked, suspended, inactive, or delinquent license.

(k)~~(l)~~ Repeatedly acting in a manner inconsistent with the health, safety, or welfare of the patients of the facility in which he or she is the administrator.

(l)~~(m)~~ Being unable to practice nursing home administration with reasonable skill and safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals, or any other material or substance or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding of the secretary or his or her designee that probable cause exists to believe that the licensee is unable to serve as a nursing home administrator due to the reasons stated in this paragraph, the department shall have the authority to issue an order to compel the licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or serves as a nursing home administrator. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall have the opportunity, at reasonable intervals, to demonstrate that he or she can resume the competent practice of nursing home administration with reasonable skill and safety to patients.

(m)~~(n)~~ Willfully or repeatedly violating any of the provisions of the law, code, or rules of the licensing or supervising authority or agency of the state or political subdivision thereof having jurisdiction of the operation and licensing of nursing homes.

(n)~~(o)~~ Paying, giving, causing to be paid or given, or offering to pay or to give to any person a commission or other valuable consideration for the solicitation or procurement, either directly or indirectly, of nursing home usage.

(o)~~(p)~~ Willfully permitting unauthorized disclosure of information relating to a patient or his or her records.

(p)~~(q)~~ Discriminating with respect to patients, employees, or staff on account of race, religion, color, sex, or national origin.

(q) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any nursing home administrator guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Denial of an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(d) Issuance of a reprimand.~~

~~(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education courses or to work under the supervision of another licensee.~~

~~(f) Restriction of the authorized scope of practice.~~

Section 37. Section 468.217, Florida Statutes, is amended to read:

468.217 Denial of or refusal to renew license; suspension and revocation of license and other disciplinary measures.—

(1) *The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~The board may deny or refuse to renew a license, suspend or revoke a license, issue a reprimand, impose a fine, or impose probationary conditions upon a licensee, when the licensee or applicant for license has been guilty of unprofessional conduct which has endangered, or is likely to endanger, the health, welfare, or safety of the public. Such unprofessional conduct includes~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice occupational therapy by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(b) Having a license to practice occupational therapy revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of occupational therapy or to the ability to practice occupational therapy. A plea of nolo contendere shall be considered a conviction for the purposes of this part.

(d) False, deceptive, or misleading advertising.

(e) Advertising, practicing, or attempting to practice under a name other than one's own name.

(f) Failing to report to the department any person who the licensee knows is in violation of this part or of the rules of the department or of the board.

(g) Aiding, assisting, procuring, or advising any unlicensed person to practice occupational therapy contrary to this part or to a rule of the department or the board.

(h) Failing to perform any statutory or legal obligation placed upon a licensed occupational therapist or occupational therapy assistant.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records include only those which are signed in the capacity as a licensed occupational therapist or occupational therapy assistant.

(j) Paying or receiving any commission, bonus, kickback, or rebate to or from, or engaging in any split-fee arrangement in any form whatsoever with, a physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent an occupational therapist or occupational therapy assistant from receiving a fee for professional consultation services.

(k) Exercising influence within a patient-therapist relationship for purposes of engaging a patient in sexual activity. A patient is presumed to be incapable of giving free, full, and informed consent to sexual activity with the patient's occupational therapist or occupational therapy assistant.

(l) Making deceptive, untrue, or fraudulent representations in the practice of occupational therapy or employing a trick or scheme in the practice of occupational therapy if such scheme or trick fails to conform to the generally prevailing standards of treatment in the occupational therapy community.

(m) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A "solicitation" is any communication which directly or implicitly requests an immediate oral response from the recipient.

(n) Failing to keep written records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, and test results.

(o) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which includes, but is not limited to, the promoting or selling of services, goods, appliances, or drugs.

(p) Performing professional services which have not been duly authorized by the patient or client, or his or her legal representative, except as provided in s. 768.13.

(q) Gross or repeated malpractice or the failure to practice occupational therapy with that level of care, skill, and treatment which is recognized by a reasonably prudent similar occupational therapist or occupational therapy assistant as being acceptable under similar conditions and circumstances.

(r) Performing any procedure which, by the prevailing standards of occupational therapy practice in the community, would constitute experimentation on a human subject without first obtaining full, informed, and written consent.

(s) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

(t) Being unable to practice occupational therapy with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel an occupational therapist or occupational therapy assistant to submit to a mental or physical examination by physicians designated by the department. The failure of an occupational therapist or occupational therapy assistant to submit to such examination when so directed constitutes an admission of the allegations against him or her, upon which a default and final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond his or her control. An occupational therapist or occupational therapy assistant affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of occupational therapy with reasonable skill and safety to patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against an occupational therapist or occupational therapy assistant in any other proceeding.

(u) Delegating professional responsibilities to a person when the licensee who is delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(v) Violating ~~any provision of this part, a rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(w) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(x) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

(3)~~(2)~~ The board may not reinstate the license of an occupational therapist or occupational therapy assistant, or cause a license to be issued to a person it has deemed unqualified, until such time as the board is satisfied that such person has complied with all the terms and conditions set forth in the final order and is capable of safely engaging in the practice of occupational therapy.

Section 38. Subsections (1) and (2) of section 468.365, Florida Statutes, are amended to read:

468.365 Disciplinary grounds and actions.—

(1) The following acts constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions in subsection (2) may be taken~~:

(a) Procuring, attempting to procure, or renewing a license as provided by this part by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(b) Having licensure, certification, registration, or other authority, by whatever name known, to deliver respiratory care services revoked, suspended, or otherwise acted against, including the denial of licensure, certification, registration, or other authority to deliver respiratory care services by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to respiratory care services or to the ability to deliver such services.

(d) Willfully making or filing a false report or record, willfully failing to file a report or record required by state or federal law, or willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records include only those reports or records which require the signature of a respiratory care practitioner or respiratory therapist licensed pursuant to this part.

(e) Circulating false, misleading, or deceptive advertising.

(f) Unprofessional conduct, which includes, but is not limited to, any departure from, or failure to conform to, acceptable standards related to the delivery of respiratory care services, as set forth by the board in rules adopted pursuant to this part.

(g) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances, as set forth by law, for any purpose other than a legitimate purpose.

(h) Willfully failing to report any violation of this part.

(i) ~~Willfully or repeatedly~~ Violating ~~a rule of the board or the department or~~ a lawful order of the board or department previously entered in a disciplinary hearing.

~~(j) Violation of any rule adopted pursuant to this part or chapter 456.~~

(j)~~(k)~~ Engaging in the delivery of respiratory care services with a revoked, suspended, or inactive license.

(k)~~(l)~~ Permitting, aiding, assisting, procuring, or advising any person who is not licensed pursuant to this part, contrary to this part or to any rule of the department or the board.

(l)~~(m)~~ Failing to perform any statutory or legal obligation placed upon a respiratory care practitioner or respiratory therapist licensed pursuant to this part.

(m)~~(n)~~ Accepting and performing professional responsibilities which the licensee knows, or has reason to know, she or he is not competent to perform.

(n)~~(o)~~ Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or licensure to perform them.

(o)~~(p)~~ Gross or repeated malpractice or the failure to deliver respiratory care services with that level of care, skill, and treatment which is recognized by a reasonably prudent respiratory care practitioner or respiratory therapist with similar professional training as being acceptable under similar conditions and circumstances.

(p)~~(q)~~ Paying or receiving any commission, bonus, kickback, or rebate to or from, or engaging in any split-fee arrangement in any form whatsoever with, a person, organization, or agency, either directly or indirectly, for goods or services rendered to patients referred by or to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent the licensee from receiving a fee for professional consultation services.

(q)~~(r)~~ Exercising influence within a respiratory care relationship for the purpose of engaging a patient in sexual activity. A patient is presumed to be incapable of giving free, full, and informed consent to sexual activity with the patient's respiratory care practitioner or respiratory therapist.

(r)~~(s)~~ Making deceptive, untrue, or fraudulent representations in the delivery of respiratory care services or employing a trick or scheme in the delivery of respiratory care services if such a scheme or trick fails to conform to the generally prevailing standards of other licensees within the community.

(s)~~(t)~~ Soliciting patients, either personally or through an agent, through the use of fraud, deception, or otherwise misleading statements or through the exercise of intimidation or undue influence.

(t)~~(u)~~ Failing to keep written respiratory care records justifying the reason for the action taken by the licensee.

(u)~~(v)~~ Exercising influence on the patient in such a manner as to exploit the patient for the financial gain of the licensee or a third party, which includes, but is not limited to, the promoting or selling of services, goods, appliances, or drugs.

(v)~~(w)~~ Performing professional services which have not been duly ordered by a physician licensed pursuant to chapter 458 or chapter 459 and which are not in accordance with protocols established by the hospital, other health care provider, or the board, except as provided in ss. 743.064, 766.103, and 768.13.

(w)~~(x)~~ Being unable to deliver respiratory care services with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material as a result of any mental or physical condition. In enforcing this paragraph, the department shall, upon probable cause, have authority to compel a respiratory care practitioner or respiratory therapist to submit to a mental or physical examination by physicians designated by the department. The cost of examination shall be borne by the licensee being examined. The failure of a respiratory care practitioner or respiratory therapist to submit to such an examination when so directed constitutes an admission of the allegations against her or him, upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond her or his control. A respiratory care practitioner or respiratory therapist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent delivery of respiratory care services with reasonable skill and safety to her or his patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against a respiratory care practitioner or respiratory therapist in any other proceeding.

(x) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~If the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Denial of an application for licensure.~~

~~(b) Revocation or suspension of licensure.~~

~~(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(d) Placement of the respiratory care practitioner or respiratory therapist on probation for such period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the respiratory care practitioner or respiratory therapist to submit to treatment, to attend continuing education courses, or to work under the supervision of another respiratory care practitioner or respiratory therapist.~~

~~(e) Issuance of a reprimand.~~

Section 39. Subsections (1) and (2) of section 468.518, Florida Statutes, are amended to read:

468.518 Grounds for disciplinary action.—

(1) The following acts constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions in subsection (2) may be taken~~:

(a) Violating any provision of this part, any board or agency rule adopted pursuant thereto, or any lawful order of the board or agency previously entered in a disciplinary hearing held pursuant to this part, or failing to comply with a lawfully issued subpoena of the agency. The provisions of this paragraph also apply to any order or subpoena previously issued by the Department of Health during its period of regulatory control over this part.

(b) Being unable to engage in dietetics and nutrition practice or nutrition counseling with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

1. A licensee whose license is suspended or revoked pursuant to this paragraph shall, at reasonable intervals, be given an opportunity to demonstrate that he or she can resume the competent practice of dietetics and nutrition or nutrition counseling with reasonable skill and safety to patients.

2. Neither the record of the proceeding nor the orders entered by the board in any proceeding under this paragraph may be used against a licensee in any other proceeding.

(c) Attempting to procure or procuring a license to practice dietetics and nutrition or nutrition counseling by fraud or material misrepresentation of material fact.

(d) Having a license to practice dietetics and nutrition or nutrition counseling revoked, suspended, or otherwise acted against, including the denial of licensure by the licensing authority of another state, district, territory, or country.

(e) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of dietetics and nutrition or nutrition counseling or the ability to practice dietetics and nutrition or nutrition counseling.

(f) Making or filing a report or record that the licensee knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records include only those that are signed in the capacity of a licensed dietitian/nutritionist or licensed nutrition counselor.

(g) Advertising goods or services in a manner that is fraudulent, false, deceptive, or misleading in form or content.

(h) Committing an act of fraud or deceit, or of negligence, incompetency, or misconduct in the practice of dietetics and nutrition or nutrition counseling.

(i) Practicing with a revoked, suspended, inactive, or delinquent license.

(j) Treating or undertaking to treat human ailments by means other than by dietetics and nutrition practice or nutrition counseling.

(k) Failing to maintain acceptable standards of practice as set forth by the board and the council in rules adopted pursuant to this part.

(l) Engaging directly or indirectly in the dividing, transferring, assigning, rebating, or refunding of fees received for professional services, or profiting by means of a credit or other valuable consideration, such as an unearned commission, discount, or gratuity, with any person referring a patient or with any relative or business associate of the referring person. Nothing in this part prohibits the members of any regularly and properly organized business entity that is composed of licensees under this part and recognized under the laws of this state from making any division of their total fees among themselves as they determine necessary.

(m) Advertising, by or on behalf of a licensee under this part, any method of assessment or treatment which is experimental or without generally accepted scientific validation.

(n) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any licensee guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Denial of an application for licensure;~~

~~(b) Revocation or suspension of a license;~~

~~(c) Imposition of an administrative fine not to exceed $1,000 for each violation;~~

~~(d) Issuance of a reprimand or letter of guidance;~~

~~(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education courses or to work under the supervision of a licensed dietitian/nutritionist or licensed nutrition counselor; or~~

~~(f) Restriction of the authorized scope of practice of the licensee.~~

Section 40. Section 468.719, Florida Statutes, is amended to read:

468.719 Disciplinary actions.—

(1) The following acts *constitute* ~~shall be~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~disciplinary actions provided for in subsection (2)~~:

~~(a) A violation of any law relating to the practice of athletic training, including, but not limited to, any violation of this part, s. 456.072, or any rule adopted pursuant thereto.~~

(a)~~(b)~~ Failing to include the athletic trainer's name and license number in any advertising, including, but not limited to, business cards and letterhead, related to the practice of athletic training. Advertising shall not include clothing or other novelty items.

(b)~~(c)~~ Committing incompetency or misconduct in the practice of athletic training.

(c)~~(d)~~ Committing fraud or deceit in the practice of athletic training.

(d)~~(e)~~ Committing negligence, gross negligence, or repeated negligence in the practice of athletic training.

(e)~~(f)~~ While practicing athletic training, being unable to practice athletic training with reasonable skill and safety to athletes by reason of illness or use of alcohol or drugs or as a result of any mental or physical condition.

(f) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the acts set forth in subsection (1), the board may enter an order imposing one or more of the penalties provided in s. 456.072.~~

Section 41. Section 468.811, Florida Statutes, is amended to read:

468.811 Disciplinary proceedings.—

(1) The following acts *constitute* ~~are~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2):* ~~disciplinary action~~

~~against a licensee and the issuance of cease and desist orders or other related action by the department, pursuant to s. 456.072, against any person who engages in or aids in a violation.~~

(a) Attempting to procure a license by fraudulent misrepresentation.

(b) Having a license to practice orthotics, prosthetics, or pedorthics revoked, suspended, or otherwise acted against, including the denial of licensure in another jurisdiction.

(c) Being convicted or found guilty of or pleading nolo contendere to, regardless of adjudication, in any jurisdiction, a crime that directly relates to the practice of orthotics, prosthetics, or pedorthics, including violations of federal laws or regulations regarding orthotics, prosthetics, or pedorthics.

(d) Filing a report or record that the licensee knows is false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records include only reports or records that are signed in a person's capacity as a licensee under this act.

(e) Advertising goods or services in a fraudulent, false, deceptive, or misleading manner.

~~(f) Violation of this act or chapter 456, or any rules adopted thereunder.~~

(f)~~(g)~~ Violation of an order of the board, agency, or department previously entered in a disciplinary hearing or failure to comply with a subpoena issued by the board, agency, or department.

(g)~~(h)~~ Practicing with a revoked, suspended, or inactive license.

(h)~~(i)~~ Gross or repeated malpractice or the failure to deliver orthotic, prosthetic, or pedorthic services with that level of care and skill which is recognized by a reasonably prudent licensed practitioner with similar professional training as being acceptable under similar conditions and circumstances.

(i)~~(j)~~ Failing to provide written notice of any applicable warranty for an orthosis, prosthesis, or pedorthic device that is provided to a patient.

(j) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~The board may enter an order imposing one or more of the penalties in s. 456.072(2) against any person who violates any provision of subsection (1).~~

Section 42. Subsections (1) and (2) of section 478.52, Florida Statutes, are amended to read:

478.52 Disciplinary proceedings.—

(1) The following acts *constitute* ~~are~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions in subsection (2) may be taken~~:

(a) Obtaining or attempting to obtain a license by bribery, fraud, or knowing misrepresentation.

(b) Having a license or other authority to deliver electrolysis services revoked, suspended, or otherwise acted against, including denial of licensure, in another jurisdiction.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime, in any jurisdiction, which directly relates to the practice of electrology.

(d) Willfully making or filing a false report or record, willfully failing to file a report or record required for electrologists, or willfully impeding or obstructing the filing of a report or record required by this act or inducing another person to do so.

(e) Circulating false, misleading, or deceptive advertising.

(f) Unprofessional conduct, including any departure from, or failure to conform to, acceptable standards related to the delivery of electrolysis services.

(g) Engaging or attempting to engage in the illegal possession, sale, or distribution of any illegal or controlled substance.

(h) Willfully failing to report any known violation of this chapter.

(i) Willfully or repeatedly violating a rule adopted under this chapter, or an order of the board or department previously entered in a disciplinary hearing.

(j) Engaging in the delivery of electrolysis services without an active license.

(k) Employing an unlicensed person to practice electrology.

(l) Failing to perform any statutory or legal obligation placed upon an electrologist.

(m) Accepting and performing professional responsibilities which the licensee knows, or has reason to know, she or he is not competent to perform.

(n) Delegating professional responsibilities to a person the licensee knows, or has reason to know, is unqualified by training, experience, or licensure to perform.

(o) Gross or repeated malpractice or the inability to practice electrology with reasonable skill and safety.

(p) Judicially determined mental incompetency.

(q) Practicing or attempting to practice electrology under a name other than her or his own.

(r) Being unable to practice electrology with reasonable skill and safety because of a mental or physical condition or illness, or the use of alcohol, controlled substances, or any other substance which impairs one's ability to practice.

1. The department may, upon probable cause, compel a licensee to submit to a mental or physical examination by physicians designated by the department. The cost of an examination shall be borne by the licensee, and her or his failure to submit to such an examination constitutes an admission of the allegations against her or him, consequent upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond her or his control.

2. A licensee who is disciplined under this paragraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that she or he can resume the practice of electrology with reasonable skill and safety.

3. In any proceeding under this paragraph, the record of proceedings or the orders entered by the board may not be used against a licensee in any other proceeding.

(s) Disclosing the identity of or information about a patient without written permission, except for information which does not identify a patient and which is used for training purposes in an approved electrolysis training program.

(t) Practicing or attempting to practice any permanent hair removal except as described in s. 478.42(5).

(u) Operating any electrolysis facility unless it has been duly licensed as provided in this chapter.

(v) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1)*

of this section or who is found guilty of violating any provision of s. 456.072(1). ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), including conduct that would constitute a substantial violation of subsection (1) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:~~

~~(a) Deny the application for licensure.~~

~~(b) Revoke or suspend the license.~~

~~(c) Impose an administrative fine not to exceed $5,000 for each count or separate offense.~~

~~(d) Place the licensee on probation for a specified time and subject the licensee to such conditions as the board determines necessary, including, but not limited to, requiring treatment, continuing education courses, reexamination, or working under the supervision of another licensee.~~

~~(e) Issue a reprimand to the licensee.~~

~~(f) Restriction of a licensee's practice.~~

Section 43. Subsections (1) and (2) of section 480.046, Florida Statutes, are amended to read:

480.046 Grounds for disciplinary action by the board.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which disciplinary actions specified in subsection (2) may be taken against a massage therapist or massage establishment licensed under this act~~:

(a) Attempting to procure a license to practice massage by bribery or fraudulent misrepresentation.

(b) Having a license to practice massage revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of massage or to the ability to practice massage. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising.

(e) Aiding, assisting, procuring, or advising any unlicensed person to practice massage contrary to the provisions of this chapter or to a rule of the department or the board.

(f) Making deceptive, untrue, or fraudulent representations in the practice of massage.

(g) Being unable to practice massage with reasonable skill and safety by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel a massage therapist to submit to a mental or physical examination by physicians designated by the department. Failure of a massage therapist to submit to such examination when so directed, unless the failure was due to circumstances beyond her or his control, shall constitute an admission of the allegations against her or him, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A massage therapist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of massage with reasonable skill and safety to clients.

(h) Gross or repeated malpractice or the failure to practice massage with that level of care, skill, and treatment which is recognized by a reasonably prudent massage therapist as being acceptable under similar conditions and circumstances.

(i) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(j) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform.

(k) Violating ~~any provision of this chapter, a rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the department.

(l) Refusing to permit the department to inspect the business premises of the licensee during regular business hours.

(m) Failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition.

(n) Practicing massage at a site, location, or place which is not duly licensed as a massage establishment, except that a massage therapist, as provided by rules adopted by the board, may provide massage services, excluding colonic irrigation, at the residence of a client, at the office of the client, at a sports event, at a convention, or at a trade show.

(o) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to license an applicant.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Issuance of a reprimand or censure.~~

~~(d) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

Section 44. Section 483.825, Florida Statutes, is amended to read:

483.825 Grounds for disciplinary action.—

(1) The following acts constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which disciplinary actions specified in s. 483.827 may be taken against applicants, registrants, and licensees under this part~~:

(a)~~(1)~~ Attempting to obtain, obtaining, or renewing a license or registration under this part by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(b)~~(2)~~ Engaging in or attempting to engage in, or representing herself or himself as entitled to perform, any clinical laboratory procedure or category of procedures not authorized pursuant to her or his license.

(c)~~(3)~~ Demonstrating incompetence or making consistent errors in the performance of clinical laboratory examinations or procedures or erroneous reporting.

(d)~~(4)~~ Performing a test and rendering a report thereon to a person not authorized by law to receive such services.

(e)~~(5)~~ Has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the activities of clinical laboratory personnel or involves moral turpitude or fraudulent or dishonest dealing. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the state shall be admissible as prima facie evidence of such guilt.

(f)~~(6)~~ Having been adjudged mentally or physically incompetent.

(g)~~(7)~~ ~~Violating or~~ Aiding and abetting in the violation of any provision of this part or the rules adopted hereunder.

(h)~~(8)~~ Reporting a test result when no laboratory test was performed on a clinical specimen.

(i)~~(9)~~ Knowingly advertising false services or credentials.

(j)~~(10)~~ Having a license revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction. The licensing authority's acceptance of a relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the licensee, shall be construed as action against the licensee.

(k)~~(11)~~ Failing to report to the board, in writing, within 30 days that an action under subsection (5), subsection (6), or subsection (10) has been taken against the licensee or one's license to practice as clinical laboratory personnel in another state, territory, country, or other jurisdiction.

(l)~~(12)~~ Being unable to perform or report clinical laboratory examinations with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this subsection, the department shall have, upon a finding of the secretary or his or her designee that probable cause exists to believe that the licensee is unable to practice because of the reasons stated in this subsection, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this subsection shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume competent practice with reasonable skill and safety to patients.

(m)~~(13)~~ Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or licensure to perform them.

(n)~~(14)~~ Violating a previous order of the board entered in a disciplinary proceeding.

(o)~~(15)~~ Failing to report to the department a person or other licensee who the licensee knows is in violation of this chapter or the rules of the department or board adopted hereunder.

(p)~~(16)~~ Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so, including, but not limited to, impeding an agent of the state from obtaining a report or record for investigative purposes. Such reports or records shall include only those generated in the capacity as a licensed clinical laboratory personnel.

(q)~~(17)~~ Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly for patients referred to providers of health care goods and services including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this subsection shall not be construed to prevent a clinical laboratory professional from receiving a fee for professional consultation services.

(r)~~(18)~~ Exercising influence on a patient or client in such a manner as to exploit the patient or client for the financial gain of the licensee or other third party, which shall include, but not be limited to, the promoting, selling, or withholding of services, goods, appliances, referrals, or drugs.

(s)~~(19)~~ Practicing or offering to practice beyond the scope permitted by law or rule, or accepting or performing professional services or responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

(t)~~(20)~~ Misrepresenting or concealing a material fact at any time during any phase of the licensing, investigative, or disciplinary process, procedure, or proceeding.

(u)~~(21)~~ Improperly interfering with an investigation or any disciplinary proceeding.

(v)~~(22)~~ Engaging in or attempting to engage in sexual misconduct, causing undue embarrassment or using disparaging language or language of a sexual nature towards a patient, exploiting superior/subordinate, professional/patient, instructor/student relationships for personal gain, sexual gratification, or advantage.

(w) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

(3) In determining the amount of the fine to be levied for a violation, as provided in subsection (1), the following factors shall be considered:

(a) The severity of the violation, including the probability that death or serious harm to the health or safety of any person will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of this part were violated.

(b) Actions taken by the licensee to correct the violation or to remedy complaints.

(c) Any previous violation by the licensee.

(d) The financial benefit to the licensee of committing or continuing the violation.

Section 45. *Section 483.827, Florida Statutes, is repealed.*

Section 46. Subsection (6) of section 483.901, Florida Statutes, is amended to read:

483.901 Medical physicists; definitions; licensure.—

(6) LICENSE REQUIRED.—An individual may not engage in the practice of medical physics, including the specialties of diagnostic radiological physics, therapeutic radiological physics, medical nuclear radiological physics, or medical health physics, without a license issued by the department for the appropriate specialty.

(a) The department shall adopt rules to administer this section which specify license application and renewal fees, continuing education requirements, and standards for practicing medical physics. The council shall recommend to the department continuing education requirements that shall be a condition of license renewal. The department shall require a minimum of 24 hours per biennium of continuing education offered by an organization recommended by the council and approved by the department. The department, upon recommendation of the council, may adopt rules to specify continuing education requirements for persons who hold a license in more than one specialty.

(b) In order to apply for a medical physicist license in one or more specialties, a person must file an individual application for each specialty with the department. The application must be on a form prescribed by the department and must be accompanied by a nonrefundable application fee for each specialty.

(c) The department may issue a license to an eligible applicant if the applicant meets all license requirements. At any time before the

department issues a license, the applicant may request in writing that the application be withdrawn. To reapply, the applicant must submit a new application and an additional nonrefundable application fee and must meet all current licensure requirements.

(d) The department shall review each completed application for a license which the department receives.

(e) On receipt of an application and fee as specified in this section, the department may issue a license to practice medical physics in this state on or after October 1, 1997, to a person who is board certified in the medical physics specialty in which the applicant applies to practice by the American Board of Radiology for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; by the American Board of Medical Physics for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; or by the American Board of Health Physics or an equivalent certifying body approved by the department.

(f) A licensee shall:

1. Display the license in a place accessible to the public; and

2. Report immediately any change in the licensee's address or name to the department.

(g) The following acts *constitute* ~~are~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions in paragraph (h) may be taken~~:

1. Obtaining or attempting to obtain a license by bribery, fraud, knowing misrepresentation, or concealment of material fact or through an error of the department.

2. Having a license denied, revoked, suspended, or otherwise acted against in another jurisdiction.

3. Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, the profession of medical physics.

4. Willfully failing to file a report or record required for medical physics or willfully impeding or obstructing the filing of a report or record required by this section or inducing another person to do so.

5. Making misleading, deceptive, or fraudulent representations in or related to the practice of medical physics.

6. Willfully failing to report any known violation of this section or any rule adopted thereunder.

~~7. Willfully or repeatedly violating a rule adopted under this section or an order of the department.~~

7.~~8.~~ Failing to perform any statutory or legal obligation placed upon a licensee.

8.~~9.~~ Aiding, assisting, procuring, employing, or advising any unlicensed person to practice medical physics contrary to this section or any rule adopted thereunder.

9.~~10.~~ Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization to perform them.

10.~~11.~~ Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

11.~~12.~~ Gross or repeated malpractice or the inability to practice medical physics with reasonable skill and safety.

12.~~13.~~ Judicially determined mental incompetency.

13.~~14.~~ Being unable to practice medical physics with reasonable skill and safety because of a mental or physical condition or illness or the use of alcohol, controlled substances, or any other substance which impairs one's ability to practice.

a. The department may, upon probable cause, compel a licensee to submit to a mental or physical examination by physicians designated by the department. The cost of an examination shall be borne by the licensee, and the licensee's failure to submit to such an examination constitutes an admission of the allegations against the licensee, consequent upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond the licensee's control.

b. A licensee who is disciplined under this subparagraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that the licensee can resume the practice of medical physics with reasonable skill and safety.

c. With respect to any proceeding under this subparagraph, the record of proceedings or the orders entered by the department may not be used against a licensee in any other proceeding.

14. Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(h) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the department finds any person guilty of any of the grounds set forth in paragraph (g), including conduct that would constitute a substantial violation of paragraph (g) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:~~

~~1. Deny the application for licensure.~~

~~2. Revoke or suspend the license.~~

~~3. Impose an administrative fine for each count or separate offense.~~

~~4. Place the licensee on probation for a specified time and subject the licensee to such conditions as the department determines necessary, including requiring treatment, continuing education courses, or working under the monitoring or supervision of another licensee.~~

~~5. Restrict a licensee's practice.~~

~~6. Issue a reprimand to the licensee.~~

(i) The department may not issue or reinstate a license to a person it has deemed unqualified until it is satisfied that such person has complied with the terms and conditions of the final order and that the licensee can safely practice medical physics.

(j) Upon receipt of a complete application and the fee set forth by rule, the department may issue a physicist-in-training certificate to a person qualified to practice medical physics under direct supervision. The department may establish by rule requirements for initial certification and renewal of a physicist-in-training certificate.

Section 47. Subsections (1) and (2) of section 484.014, Florida Statutes, are amended to read:

484.014 Disciplinary actions.—

(1) The following acts *constitute* ~~relating to the practice of opticianry shall be~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~both disciplinary action against an optician as set forth in this section and cease and desist or other related action by the department as set forth in s. 456.065 against any person operating an optical establishment who engages in, aids, or abets any such violation~~:

(a) Procuring or attempting to procure a license by misrepresentation, bribery, or fraud or through an error of the department or the board.

(b) Procuring or attempting to procure a license for any other person by making or causing to be made any false representation.

(c) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by federal or state law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which the person is required to make or file as an optician.

(d) Failing to make fee or price information readily available by providing such information upon request or upon the presentation of a prescription.

(e) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(f) Fraud or deceit, or negligence, incompetency, or misconduct, in the authorized practice of opticianry.

~~(g) Violation or repeated violation of this part or of chapter 456 or any rules promulgated pursuant thereto.~~

(g)~~(h)~~ Practicing with a revoked, suspended, inactive, or delinquent license.

(h)~~(i)~~ Violation of a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(i)~~(j)~~ Violation of any provision of s. 484.012.

(j)~~(k)~~ Conspiring with another licensee or with any person to commit an act, or committing an act, which would coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(k)~~(l)~~ Willfully submitting to any third-party payor a claim for services which were not provided to a patient.

(l)~~(m)~~ Failing to keep written prescription files.

(m)~~(n)~~ Willfully failing to report any person who the licensee knows is in violation of this part or of rules of the department or the board.

(n)~~(o)~~ Exercising influence on a client in such a manner as to exploit the client for financial gain of the licensee or of a third party.

(o)~~(p)~~ Gross or repeated malpractice.

(p)~~(q)~~ Permitting any person not licensed as an optician in this state to fit or dispense any lenses, spectacles, eyeglasses, or other optical devices which are part of the practice of opticianry.

(q)~~(r)~~ Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, in a court of this state or other jurisdiction, a crime which relates to the ability to practice opticianry or to the practice of opticianry.

(r)~~(s)~~ Having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of Florida law or rules regulating opticianry.

(s)~~(t)~~ Being unable to practice opticianry with reasonable skill and safety by reason of illness or use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. An optician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of opticianry with reasonable skill and safety to her or his customers.

(t) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(d) Issuance of a reprimand.~~

~~(e) Placement of the optician on probation for a period of time and subject to such conditions as the board may specify, including requiring the optician to submit to treatment or to work under the supervision of another optician.~~

Section 48. Subsections (1) and (2) of section 484.056, Florida Statutes, are amended to read:

484.056 Disciplinary proceedings.—

(1) The following acts *constitute* ~~relating to the practice of dispensing hearing aids shall be~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~both disciplinary action against a hearing aid specialist as set forth in this section and cease and desist or other related action by the department as set forth in s. 456.065 against any person owning or operating a hearing aid establishment who engages in, aids, or abets any such violation~~:

(a) Violation of any provision of s. 456.072(1), s. 484.0512, or s. 484.053.

(b) Attempting to procure a license to dispense hearing aids by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

(c) Having a license to dispense hearing aids revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(d) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of dispensing hearing aids or the ability to practice dispensing hearing aids, including violations of any federal laws or regulations regarding hearing aids.

(e) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those reports or records which are signed in one's capacity as a licensed hearing aid specialist.

(f) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(g) Proof that the licensee is guilty of fraud or deceit or of negligence, incompetency, or misconduct in the practice of dispensing hearing aids.

~~(h) Violation or repeated violation of this part or of chapter 456, or any rules promulgated pursuant thereto.~~

(h)~~(i)~~ Violation of a lawful order of the board or department previously entered in a disciplinary hearing or failure to comply with a lawfully issued subpoena of the board or department.

(i)~~(j)~~ Practicing with a revoked, suspended, inactive, or delinquent license.

(j)~~(k)~~ Using, or causing or promoting the use of, any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or other representation, however disseminated or published, which is misleading, deceiving, or untruthful.

(k)~~(l)~~ Showing or demonstrating, or, in the event of sale, delivery of, a product unusable or impractical for the purpose represented or implied by such action.

(l)~~(m)~~ Misrepresentation of professional services available in the fitting, sale, adjustment, service, or repair of a hearing aid, or use of the

terms "doctor," "clinic," "clinical," "medical audiologist," "clinical audiologist," "research audiologist," or "audiologic" or any other term or title which might connote the availability of professional services when such use is not accurate.

(m)~~(n)~~ Representation, advertisement, or implication that a hearing aid or its repair is guaranteed without providing full disclosure of the identity of the guarantor; the nature, extent, and duration of the guarantee; and the existence of conditions or limitations imposed upon the guarantee.

(n)~~(o)~~ Representing, directly or by implication, that a hearing aid utilizing bone conduction has certain specified features, such as the absence of anything in the ear or leading to the ear, or the like, without disclosing clearly and conspicuously that the instrument operates on the bone conduction principle and that in many cases of hearing loss this type of instrument may not be suitable.

(o)~~(p)~~ Making any predictions or prognostications as to the future course of a hearing impairment, either in general terms or with reference to an individual person.

(p)~~(q)~~ Stating or implying that the use of any hearing aid will improve or preserve hearing or prevent or retard the progression of a hearing impairment or that it will have any similar or opposite effect.

(q)~~(r)~~ Making any statement regarding the cure of the cause of a hearing impairment by the use of a hearing aid.

(r)~~(s)~~ Representing or implying that a hearing aid is or will be "custom-made," "made to order," or "prescription-made" or in any other sense specially fabricated for an individual person when such is not the case.

(s)~~(t)~~ Canvassing from house to house or by telephone either in person or by an agent for the purpose of selling a hearing aid, except that contacting persons who have evidenced an interest in hearing aids, or have been referred as in need of hearing aids, shall not be considered canvassing.

(t)~~(u)~~ Failure to submit to the board on an annual basis, or such other basis as may be provided by rule, certification of testing and calibration of audiometric testing equipment on the form approved by the board.

(u)~~(v)~~ Failing to provide all information as described in s. 484.051(1).

(v)~~(w)~~ Exercising influence on a client in such a manner as to exploit the client for financial gain of the licensee or of a third party.

(w) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2)(a) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~Except as provided in paragraph (b), when the board finds any hearing aid specialist to be guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~1. Denial of an application for licensure.~~

~~2. Revocation or suspension of a license.~~

~~3. Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~4. Issuance of a reprimand.~~

~~5. Placing the hearing aid specialist on probation for a period of time and subject to such conditions as the board may specify, including requiring the hearing aid specialist to attend continuing education courses or to work under the supervision of another hearing aid specialist.~~

~~6. Restricting the authorized scope of practice.~~

(b) The board shall revoke the license of any hearing aid specialist found guilty of canvassing as described in this section.

Section 49. Subsections (1) and (2) of section 486.125, Florida Statutes, are amended to read:

486.125 Refusal, revocation, or suspension of license; administrative fines and other disciplinary measures.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Being unable to practice physical therapy with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

1. In enforcing this paragraph, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to practice physical therapy due to the reasons stated in this paragraph, the department shall have the authority to compel a physical therapist or physical therapist assistant to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or serves as a physical therapy practitioner. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011.

2. A physical therapist or physical therapist assistant whose license is suspended or revoked pursuant to this subsection shall, at reasonable intervals, be given an opportunity to demonstrate that she or he can resume the competent practice of physical therapy with reasonable skill and safety to patients.

3. Neither the record of proceeding nor the orders entered by the board in any proceeding under this subsection may be used against a physical therapist or physical therapist assistant in any other proceeding.

(b) Having committed fraud in the practice of physical therapy or deceit in obtaining a license as a physical therapist or as a physical therapist assistant.

(c) Being convicted or found guilty regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of physical therapy or to the ability to practice physical therapy. The entry of any plea of nolo contendere shall be considered a conviction for purpose of this chapter.

(d) Having treated or undertaken to treat human ailments by means other than by physical therapy, as defined in this chapter.

(e) Failing to maintain acceptable standards of physical therapy practice as set forth by the board in rules adopted pursuant to this chapter.

(f) Engaging directly or indirectly in the dividing, transferring, assigning, rebating, or refunding of fees received for professional services, or having been found to profit by means of a credit or other valuable consideration, such as an unearned commission, discount, or gratuity, with any person referring a patient or with any relative or business associate of the referring person. Nothing in this chapter shall be construed to prohibit the members of any regularly and properly organized business entity which is comprised of physical therapists and which is recognized under the laws of this state from making any division of their total fees among themselves as they determine necessary.

(g) Having a license revoked or suspended; having had other disciplinary action taken against her or him; or having had her or his

application for a license refused, revoked, or suspended by the licensing authority of another state, territory, or country.

(h) Violating ~~any provision of this chapter, a rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing.

(i) Making or filing a report or record which the licensee knows to be false. Such reports or records shall include only those which are signed in the capacity of a physical therapist.

(j) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform, including, but not limited to, specific spinal manipulation.

(k) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Placement of the physical therapist or physical therapist assistant on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the physical therapist or physical therapist assistant to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another physical therapist.~~

~~(g) Recovery of actual costs of investigation and prosecution.~~

Section 50. Section 490.009, Florida Statutes, is amended to read:

490.009 Discipline.—

~~(1) When the department or, in the case of psychologists, the board finds that an applicant, provisional licensee, or licensee whom it regulates under this chapter has committed any of the acts set forth in subsection (2), it may issue an order imposing one or more of the following penalties:~~

~~(a) Denial of an application for licensure, either temporarily or permanently.~~

~~(b) Revocation of an application for licensure, either temporarily or permanently.~~

~~(c) Suspension for a period of up to 5 years or revocation of a license, after hearing.~~

~~(d) Immediate suspension of a license pursuant to s. 120.60(6).~~

~~(e) Imposition of an administrative fine not to exceed $5,000 for each count or separate offense.~~

~~(f) Issuance of a public reprimand.~~

~~(g) Placement of an applicant or licensee on probation for a period of time and subject to conditions specified by the department or, in the case of psychologists, by the board, including, but not limited to, requiring the applicant or licensee to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of a designated licensee.~~

~~(h) Restriction of practice.~~

(1)~~(2)~~ The following acts *constitute* ~~of a licensee, provisional licensee, or applicant are~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions listed in subsection (1) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license under this chapter by bribery or fraudulent misrepresentation or through an error of the board or department.

(b) Having a license to practice a comparable profession revoked, suspended, or otherwise acted against, including the denial of certification or licensure by another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of his or her profession or the ability to practice his or her profession. A plea of nolo contendere creates a rebuttable presumption of guilt of the underlying criminal charges. However, the board shall allow the person who is the subject of the disciplinary proceeding to present any evidence relevant to the underlying charges and circumstances surrounding the plea.

(d) False, deceptive, or misleading advertising or obtaining a fee or other thing of value on the representation that beneficial results from any treatment will be guaranteed.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Maintaining a professional association with any person who the applicant or licensee knows, or has reason to believe, is in violation of this chapter or of a rule of the department or, in the case of psychologists, of the department or the board.

(g) Knowingly aiding, assisting, procuring, or advising any nonlicensed person to hold himself or herself out as licensed under this chapter.

(h) Failing to perform any statutory or legal obligation placed upon a person licensed under this chapter.

(i) Willfully making or filing a false report or record; failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of a report or record; or inducing another person to make or file a false report or record or to impede or obstruct the filing of a report or record. Such report or record includes only a report or record which requires the signature of a person licensed under this chapter.

(j) Paying a kickback, rebate, bonus, or other remuneration for receiving a patient or client, or receiving a kickback, rebate, bonus, or other remuneration for referring a patient or client to another provider of mental health care services or to a provider of health care services or goods; referring a patient or client to oneself for services on a fee-paid basis when those services are already being paid for by some other public or private entity; or entering into a reciprocal referral agreement.

(k) Committing any act upon a patient or client which would constitute sexual battery or which would constitute sexual misconduct as defined in s. 490.0111.

(l) Making misleading, deceptive, untrue, or fraudulent representations in the practice of any profession licensed under this chapter.

(m) Soliciting patients or clients personally, or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct.

(n) Failing to make available to a patient or client, upon written request, copies of test results, reports, or documents in the possession or under the control of the licensee which have been prepared for and paid for by the patient or client.

(o) Failing to respond within 30 days to a written communication from the department concerning any investigation by the department or

to make available any relevant records with respect to any investigation about the licensee's conduct or background.

(p) Being unable to practice the profession for which he or she is licensed under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness; drunkenness; or excessive use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the secretary, the secretary's designee, or the board that probable cause exists to believe that the licensee is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee to submit to a mental or physical examination by psychologists or physicians designated by the department or board. If the licensee refuses to comply with the department's order, the department may file a petition for enforcement in the circuit court of the circuit in which the licensee resides or does business. The licensee shall not be named or identified by initials in the petition or in any other public court records or documents, and the enforcement proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall be afforded an opportunity at reasonable intervals to demonstrate that he or she can resume the competent practice for which he or she is licensed with reasonable skill and safety to patients.

~~(q) Violating provisions of this chapter, or of chapter 456, or any rules adopted pursuant thereto.~~

(q)~~(r)~~ Performing any treatment or prescribing any therapy which, by the prevailing standards of the mental health professions in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(r)~~(s)~~ Failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee is not qualified by training or experience.

(s)~~(t)~~ Delegating professional responsibilities to a person whom the licensee knows or has reason to know is not qualified by training or experience to perform such responsibilities.

(t)~~(u)~~ Violating a rule relating to the regulation of the profession or a lawful order of the department previously entered in a disciplinary hearing.

(u)~~(v)~~ Failing to maintain in confidence a communication made by a patient or client in the context of such services, except as provided in s. 490.0147.

(v)~~(w)~~ Making public statements which are derived from test data, client contacts, or behavioral research and which identify or damage research subjects or clients.

(w) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The department, or in the case of psychologists, the board, may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

Section 51. Section 491.009, Florida Statutes, is amended to read:

491.009 Discipline.—

~~(1) When the department or the board finds that an applicant, licensee, provisional licensee, registered intern, or certificateholder whom it regulates under this chapter has committed any of the acts set forth in subsection (2), it may issue an order imposing one or more of the following penalties:~~

~~(a) Denial of an application for licensure, registration, or certification, either temporarily or permanently.~~

~~(b) Revocation of an application for licensure, registration, or certification, either temporarily or permanently.~~

~~(c) Suspension for a period of up to 5 years or revocation of a license, registration, or certificate, after hearing.~~

~~(d) Immediate suspension of a license, registration, or certificate pursuant to s. 120.60(6).~~

~~(e) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(f) Issuance of a public reprimand.~~

~~(g) Placement of an applicant, licensee, registered intern, or certificateholder on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the applicant, licensee, registered intern, or certificateholder to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of a designated licensee or certificateholder.~~

~~(h) Restriction of practice.~~

(1)~~(2)~~ The following acts *constitute* ~~of a licensee, provisional licensee, registered intern, certificateholder, or applicant are~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions listed in subsection (1) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license, registration, or certificate under this chapter by bribery or fraudulent misrepresentation or through an error of the board or the department.

(b) Having a license, registration, or certificate to practice a comparable profession revoked, suspended, or otherwise acted against, including the denial of certification or licensure by another state, territory, or country.

(c) Being convicted or found guilty of, regardless of adjudication, or having entered a plea of nolo contendere to, a crime in any jurisdiction which directly relates to the practice of his or her profession or the ability to practice his or her profession. However, in the case of a plea of nolo contendere, the board shall allow the person who is the subject of the disciplinary proceeding to present evidence in mitigation relevant to the underlying charges and circumstances surrounding the plea.

(d) False, deceptive, or misleading advertising or obtaining a fee or other thing of value on the representation that beneficial results from any treatment will be guaranteed.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Maintaining a professional association with any person who the applicant, licensee, registered intern, or certificateholder knows, or has reason to believe, is in violation of this chapter or of a rule of the department or the board.

(g) Knowingly aiding, assisting, procuring, or advising any nonlicensed, nonregistered, or noncertified person to hold himself or herself out as licensed, registered, or certified under this chapter.

(h) Failing to perform any statutory or legal obligation placed upon a person licensed, registered, or certified under this chapter.

(i) Willfully making or filing a false report or record; failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of a report or record; or inducing another person to make or file a false report or record or to impede or obstruct the filing of a report or record. Such report or record includes only a report or record which requires the signature of a person licensed, registered, or certified under this chapter.

(j) Paying a kickback, rebate, bonus, or other remuneration for receiving a patient or client, or receiving a kickback, rebate, bonus, or other remuneration for referring a patient or client to another provider of mental health care services or to a provider of health care services or

goods; referring a patient or client to oneself for services on a fee-paid basis when those services are already being paid for by some other public or private entity; or entering into a reciprocal referral agreement.

(k) Committing any act upon a patient or client which would constitute sexual battery or which would constitute sexual misconduct as defined pursuant to s. 491.0111.

(l) Making misleading, deceptive, untrue, or fraudulent representations in the practice of any profession licensed, registered, or certified under this chapter.

(m) Soliciting patients or clients personally, or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct.

(n) Failing to make available to a patient or client, upon written request, copies of tests, reports, or documents in the possession or under the control of the licensee, registered intern, or certificateholder which have been prepared for and paid for by the patient or client.

(o) Failing to respond within 30 days to a written communication from the department or the board concerning any investigation by the department or the board, or failing to make available any relevant records with respect to any investigation about the licensee's, registered intern's, or certificateholder's conduct or background.

(p) Being unable to practice the profession for which he or she is licensed, registered, or certified under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness; drunkenness; or excessive use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the secretary, the secretary's designee, or the board that probable cause exists to believe that the licensee, registered intern, or certificateholder is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee, registered intern, or certificateholder to submit to a mental or physical examination by psychologists, physicians, or other licensees under this chapter, designated by the department or board. If the licensee, registered intern, or certificateholder refuses to comply with such order, the department's order directing the examination may be enforced by filing a petition for enforcement in the circuit court in the circuit in which the licensee, registered intern, or certificateholder resides or does business. The licensee, registered intern, or certificateholder against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee, registered intern, or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice for which he or she is licensed, registered, or certified with reasonable skill and safety to patients.

~~(q) Violating provisions of this chapter, or of chapter 456, or any rules adopted pursuant thereto.~~

(q)~~(r)~~ Performing any treatment or prescribing any therapy which, by the prevailing standards of the mental health professions in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(r)~~(s)~~ Failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee, registered intern, or certificateholder is not qualified by training or experience.

(s)~~(t)~~ Delegating professional responsibilities to a person whom the licensee, registered intern, or certificateholder knows or has reason to know is not qualified by training or experience to perform such responsibilities.

(t)~~(u)~~ Violating a rule relating to the regulation of the profession or a lawful order of the department or the board previously entered in a disciplinary hearing.

(u)~~(v)~~ Failure of the licensee, registered intern, or certificateholder to maintain in confidence a communication made by a patient or client in the context of such services, except as provided in s. 491.0147.

(v)~~(w)~~ Making public statements which are derived from test data, client contacts, or behavioral research and which identify or damage research subjects or clients.

(w) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The department, or in the case of psychologists, the board, may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

Section 52. Subsection (3) of section 456.065, Florida Statutes, is amended to read:

456.065 Unlicensed practice of a health care profession; intent; cease and desist notice; penalties; enforcement; citations; fees; allocation and disposition of moneys collected.—

(3) Because all enforcement costs should be covered by professions regulated by the department, the department shall impose, upon initial licensure and each licensure renewal, a special fee of $5 per licensee to fund efforts to combat unlicensed activity. Such fee shall be in addition to all other fees collected from each licensee. ~~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 the Medical Quality Assurance Trust Fund by profession. The department shall seek board advice regarding enforcement methods and strategies. The department shall directly credit the Medical Quality Assurance Trust Fund, by profession, with the revenues received from the department's efforts to enforce licensure provisions. The department shall include all financial and statistical data resulting from unlicensed activity enforcement as a separate category in the quarterly management report provided for in s. 456.025. 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. The department shall also use these funds to inform and educate consumers generally on the importance of using licensed health care practitioners.

Section 53. Subsection (1) of section 456.074, Florida Statutes, is amended to read:

456.074 Certain health care practitioners; immediate suspension of license.—

(1) The department shall issue an emergency order suspending the license of any person licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, chapter 466, or chapter 484 who pleads guilty to, is convicted or found guilty of, or who enters a plea of nolo contendere to, regardless of adjudication, a felony under chapter 409*, chapter 817,* or chapter 893 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C. ss. 1395-1396.

Section 54. Effective July 1, 2003, section 464.005, Florida Statutes, is amended to read:

464.005 Board headquarters.—The board shall maintain its official headquarters in *Tallahassee* ~~the city in which it has been domiciled for the past 5 years~~.

Section 55. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 2 through page 4, line 25,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to health care practitioner regulation; providing legislative intent and findings with respect to the Medical Quality Assurance Trust Fund and function administered by the Department of Health; requiring the Auditor General to do a followup Medical Quality Assurance audit and issue a report to the Legislature; requiring the Office of Program Policy Analysis and Government Accountability to study the feasibility of maintaining the Medical Quality Assurance function within a single department and issue a report to the Legislature; amending s. 456.004, F.S.; providing requirements for rules relating to biennial renewal of licenses; amending s. 456.025, F.S.; revising requirements relating to the setting and use of fees for the regulation of health care professions and practitioners, including continuing education fees; providing for an electronic continuing education tracking system; repealing s. 458.31151, F.S.; relating to development of the examination for foreign-trained physicians and the fees therefor; amending s. 457.107, F.S.; for clarification of acupuncture fees; amending s. 483.807, F.S.; relating to clinical laboratory personnel fees; amending s. 456.011, F.S.; requiring board meetings to be conducted through teleconferencing or other technological means except under certain circumstances; amending s. 456.013, F.S.; requiring the department to charge initial license fees; amending s. 456.017, F.S.; providing for administration of national examinations and termination of state-administered written examinations; providing for administration of state-administered practical or clinical examinations if paid for in advance by the examination candidates; providing legislative intent with respect to the use of national examinations and the removal of state-administered examinations as a barrier to licensure; providing for electronic access to and posting of examination scores under certain conditions; providing for the sharing of examinations or examination item banks with certain entities; clarifying circumstances under which candidates may bring a challenge; providing for electronic administration of certain laws and rules examinations; amending s. 456.035, F.S.; providing for electronic notification of a licensee's current mailing address and place of practice; amending s. 456.073, F.S.; authorizing a letter of guidance in lieu of a finding of probable cause under certain conditions; amending s. 456.081, F.S.; providing for the posting of newsletters on the department's website; amending s. 456.072, F.S.; revising and providing grounds for discipline of licensees; revising and providing disciplinary actions; amending s. 456.079, F.S.; requiring mitigating or aggravating circumstances to be in the final order to be considered in the imposition of penalties; amending ss. 457.109, 458.320, 458.331, 458.345, 458.347, 459.0085, 459.015, 459.022, 460.413, 461.013, 462.14, 463.016, 464.018, 465.008, 465.016, 466.028, 466.037, 467.203, 468.1295, 468.1755, 468.217, 468.365, 468.518, 468.719, 468.811, 478.52, 480.046, 483.825, 483.901, 484.014, 484.056, 486.125, 490.009, and 491.009, F.S.; revising and conforming provisions relating to disciplinary grounds and penalties; amending s. 456.065, F.S.; requiring the unlicensed activity fee to be in addition to all other fees collected from each licensee; amending s. 456.074, F.S.; providing for immediate suspension of license for convictions relating to fraudulent practices; amending s. 464.005, F.S.; providing for future relocation of the headquarters of the Board of Nursing; providing effective dates.

Rep. Farkas moved the adoption of the amendment.

Representative(s) Farkas offered the following:

(Amendment Bar Code: 145369)

Amendment 1 to Amendment 1 (with title amendment)—On page 2, between lines 8 & 9, of the amendment

insert:

Section 1. *The contract between the Department of Health and the Agency for Health Care Administration pursuant to section 20.43(3), Florida Statutes, is not subject to the provisions of section 216.346, Florida Statutes. The Department of Health shall reimburse the Agency for Health Care Administration for the agency's actual direct costs and the agency's indirect costs incurred as a result of the contract, subject to appropriated funds. The agency shall provide to the department documentation, explanation, and justification of all direct and indirect costs incurred, by budget entity.*

And the title is amended as follows:

On page 163, line 19, after "Legislature;" of the amendment

insert: requiring the Department of Health to reimburse the Agency for Health Care Administration for certain costs;

Rep. Farkas moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Farkas offered the following:

(Amendment Bar Code: 555655)

Amendment 2 to Amendment 1—On page 17, line 10, after "profession"

insert: *or unless the electronic administration would be substantially more expensive.*

Rep. Farkas moved the adoption of the amendment to the amendment, which was adopted.

THE SPEAKER IN THE CHAIR

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

SB 782—A bill to be entitled An act relating to nursing education; amending ss. 240.4075, 240.4076, F.S.; including nursing homes, family practice teaching hospitals and specialty children's hospitals as facilities eligible under the program; exempting such hospitals from the fund-matching requirements of the program; transferring the program from the Board of Regents to the Department of Health; providing an effective date.

—was taken up, having been read the second time, and amended, earlier today; now pending on motion by Rep. Argenziano to adopt Amendment 2.

Reconsideration

On motion by Rep. Farkas, the House reconsidered the vote by which **Amendment 1**, as amended, was adopted. The question recurred on the adoption of the amendment.

On motion by Rep. Argenziano, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Argenziano offered the following:

(Amendment Bar Code: 513411)

Amendment 11 to Amendment 1 (with title amendment)—On page 1, between lines 16 & 17,

insert:

Section 4. Section 409.9205, Florida Statutes, is amended to read:

409.9205 Medicaid Fraud Control Unit~~; law enforcement officers~~.—

(1) Except as provided in s. 110.205, all positions in the Medicaid Fraud Control Unit of the Department of Legal Affairs are hereby transferred to the Career Service System.

(2) All investigators employed by the Medicaid Fraud Control Unit who have been certified under s. 943.1395 are law enforcement officers of the state. Such investigators have the authority to conduct criminal investigations, bear arms, make arrests, and apply for, serve, and execute search warrants, arrest warrants, capias, and other process throughout the state pertaining to Medicaid fraud as described in this chapter. The Attorney General shall provide reasonable notice of criminal investigations conducted by the Medicaid Fraud Control Unit to, and coordinate those investigations with, the sheriffs of the respective counties. ~~Investigators employed by the Medicaid Fraud~~

~~Control Unit are not eligible for membership in the Special Risk Class of the Florida Retirement System under s. 121.0515.~~

And the title is amended as follows:

On page 129, line 16, after the semicolon

insert: amending 409.9205, F.S.; transferring positions in the Medicaid Fraud Control Unit of the Department of Legal Affairs to Career Service;

Rep. Argenziano moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Amendment 2 was abandoned.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

On motion by Rep. Byrd, pursuant to Rule 10.2(c), the House moved to the consideration of the list of bills on the Members' desks.

HB 1695—A bill to be entitled An act relating to public records; amending s. 229.57, F.S.; providing an exemption from public records requirements for information in the possession of the Department of Education in connection with annual student assessments which identifies teachers or other instructional personnel or discloses the effects of instruction by such persons; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was read the second time by title.

The Committee on State Administration offered the following:

(Amendment Bar Code: 725109)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsection (16) of section 229.57, Florida Statutes, is created to read:

229.57 Student assessment program*; public records exemption*.—

(16) All personal identifying information of instructional personnel, as defined in s. 228.041(9), contained in records held by the Department of Education pursuant to s. 229.57(8) and (11), is confidential and exempt from s. 119.07(1) and s. 24, Art. I of the State Constitution. However, such information may be disclosed to the State Board of Education in the course of its duties and responsibilities, and the State Board of Education shall maintain the confidential and exempt status of such information as provided herein. This subsection is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that the exemption provided by this act is a public necessity because personal identifying information of instructional personnel is of a sensitive, personal nature. The collection of such information by the Department of Education is crucial to the effective administration of the statewide assessment program, however, if the personal identifying information of instructional personnel were released, such personnel might not be as willing to fully participate in certain programs. Those programs are intended to improve the quality of instructional personnel however, the release of their personal identifying information may lower instead of increase their motivation towards excellence. The release of such information could also result in discriminatory practices against certain instructional personnel. In addition, qualified persons may be discouraged from entering the field of teaching by the threat of such release of their personal information obtained through the assessment program. Therefore, the release of such information would result in harm that far outweighs any possible public benefit of such release.

And the title is amended as follows:

On page 1, lines 4 through 9,
remove from the title of the bill: all of said lines

and insert in lieu thereof: public records requirements for personal identifying information of instructional personnel held by the Department of Education; providing for disclosure of such information to the State Board of Education;

Rep. Alexander moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 463—A bill to be entitled An act relating to the Florida Prepaid College Program; amending s. 240.551, F.S.; revising the accreditation requirements for independent college or university eligibility purposes; clarifying that the amount of benefits transferred to an eligible independent college or university, an eligible out-of-state college or university, an applied technology diploma program, or a vocational certificate program or refunded to a purchaser shall not exceed the redemption value of the advance payment contract at a state postsecondary institution; providing an effective date.

—was read the second time by title.

The Committee on Education Appropriations offered the following:

(Amendment Bar Code: 722625)

Amendment 1 (with directory language and title amendments)—On page 3, line 22 through page 4, line 9,
remove from the bill: all of said lines

and insert in lieu thereof:

(a) Except as provided in paragraphs (b)*,* ~~and~~ (c)*, and (f)*, no refund shall exceed the amount paid into the fund by the purchaser.

(b) If the beneficiary is awarded a scholarship, the terms of which cover the benefits included in the advance payment contracts, moneys paid for the purchase of the advance payment contracts shall be *refunded* ~~returned~~ to the purchaser in semester installments coinciding with the matriculation by the beneficiary in *an amount which, in total, does not exceed the redemption value of the advance payment contract at a state postsecondary institution* ~~amounts of either the original purchase price plus 5 percent compounded interest, or the current rates at state postsecondary institutions, whichever is less~~.

(c) In the event of the death or total disability of the beneficiary, moneys paid for the purchase of advance payment contracts shall be *refunded* ~~returned~~ to the purchaser *in an amount not to exceed the redemption value of the advance payment contract at a state postsecondary institution* ~~together with 5 percent compounded interest, or the current rates at state postsecondary institutions, whichever is less~~.

(f) Benefits purchased under the Florida Prepaid College Program shall be permitted to roll over to a college savings program, as defined under s. 529 of the United States Internal Revenue Code, relating to qualified state tuition programs. The board shall transfer, or cause to have transferred, an amount not to exceed the redemption value of the advance payment contract at a state postsecondary institution in Florida at the time of the rollover, after assessment of a reasonable transfer fee.

And the directory language is amended as follows:

On page 1, lines 18-20,
remove: all of said lines

and insert in lieu thereof:

Section 1. Subsection (10) and paragraphs (a), (b), and (c) of subsection (13) of section 240.551, Florida Statutes, are amended, and paragraph (f) is added to subsection (13) of said section, to read:

And the title is amended as follows:

On page 1, line 13, after the semicolon

insert: providing for a rollover of benefits to a college savings program at the redemption value of the advance payment contract at a state postsecondary institution;

Rep. Baxley moved the adoption of the amendment, which was adopted.

The Committee on Education Appropriations offered the following:

(Amendment Bar Code: 593667)

Amendment 2 (with directory language and title amendments)—On page 4, between lines 9 & 10,

insert:

(22) DIRECT-SUPPORT ORGANIZATION; AUTHORITY.—

(e) The chair and the executive director of the board shall be directors of the direct-support organization and shall jointly name*, at a minimum,* three other individuals to serve as directors of the organization.

And the directory language is amended as follows:

On page 1, lines 18 & 19,
remove: all of said lines

and insert in lieu thereof:

Section 1. Subsection (10), paragraphs (b) and (c) of subsection (13), and paragraph (e) of subsection (22) of section 240.551, Florida Statutes, are

And the title is amended as follows:

On page 1, line 13, after the semicolon

insert: revising provisions relating to appointment of directors of the direct-support organization;

Rep. Baxley moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 699—A bill to be entitled An act relating to rural electric cooperatives; amending s. 425.09, F.S.; authorizing cooperative bylaws to permit voting by limited proxy for certain purposes and under certain circumstances; providing criteria and limitations; prohibiting voting by general proxy; providing procedures and requirements for appointing limited proxies; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 701—A bill to be entitled An act relating to road designations; designating a portion of State Road 16 as the Correctional Officers Memorial Highway; directing the Department of Transportation to erect suitable markers; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 93—A bill to be entitled An act relating to road and bridge designations; redesignating the old Nassau Sound Bridge in Nassau and Duval Counties as the "George Crady Bridge"; designating a portion of U.S. Highway 17 as the "Doyle Parker Memorial Highway"; designating a portion of State Road 77 as the "Lynn Haven Parkway"; designating a portion of State Road 87 as the "Bennett C. Russell Florida/Alabama Parkway"; designating the new U.S. Highway 27 bridge in Moore Haven as the "Mamie Langdale Memorial Bridge"; designating a portion of Highway 41 in White Springs as the "Martin Luther King, Jr., Memorial Highway"; designating a portion of Interstate 75 as the "Purple Heart Highway"; designating a portion of State Road 944 as "Jean-Jacques Dessalines Boulevard" in Miami-Dade County; designating a portion of U.S. Highway 17 as the "Jerome A. Williams Memorial Highway"; designating a portion of State Road 25 as "Borinquen Boulevard" in Miami-Dade County; designating Highway 417 in Seminole County as the "Korean War Veterans Memorial Highway"; designating a portion of State Road 100 as the "Veterans Memorial Highway"; directing the Department of Transportation to erect suitable markers; providing an effective date.

—was read the second time by title.

Representative(s) Kallinger offered the following:

(Amendment Bar Code: 102691)

Amendment 1 (with title amendment)—On page 5, between lines 3 and 4,

insert:

Section 13. *Toni Jennings Boulevard designated; Department of Transportation to erect suitable markers.—*

(1) That portion of Semoran Boulevard in the City of Orlando in Orange County beginning at the Bee Line Expressway (State Road 528) on the South to Curry Ford Road on the North is hereby designated as "Toni Jennings Boulevard."

(2) The Department of Transportation is directed to erect suitable markers designating Toni Jennings Boulevard as described in subsection (1).

And the title is amended as follows:

On page 1, line 27,

after the semicolon insert: designating a portion of Semoran Boulevard in the City of Orlando, Orange County, as "Toni Jennings Boulevard";

Rep. Kallinger moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 1541—A bill to be entitled An act relating to public records; amending s. 288.075, F.S.; expanding the definition of the term "economic development agency" to include, for purposes of confidentiality of records, the Florida Commercial Space Financing Corporation and any public economic development agency of a county or a municipality; extending the scheduled repeal of a public records exemption for information concerning business location, relocation, or expansion plans; providing for future expiration and legislative review; clarifying an exception to the confidentiality provided by such exemption; authorizing public officers or employees under specified conditions to enter into agreements with a business that has requested confidentiality; authorizing an extension in the period of confidentiality; increasing the period of confidentiality for trade secrets; providing a statement of public necessity; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1585—A bill to be entitled An act relating to public records; providing an exemption from public-records requirements for information relating to abandoned property which is contained in reports to the Department of Banking and Finance under s. 717.117, F.S.; providing for future review and repeal; providing findings of public necessity; providing an effective date.

—was read the second time by title.

The Committee on Banking offered the following:

(Amendment Bar Code: 031213)

Amendment 1 (with title amendment)—On page 1, line 12,
remove from the bill: everything after the enacting clause,

and insert in lieu thereof:

Section 1. *Report of abandoned or unclaimed property; public records exemption.—Social security numbers and financial account numbers contained in reports required under s. 717.117, Florida Statutes, are confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State Constitution. Notwithstanding this exemption, social security numbers shall be released for the limited purpose of locating abandoned or unclaimed property owners to an attorney, Florida-certified public accountant, or private investigator who is duly licensed in this state. This act is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, Florida Statutes, and shall stand repealed October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.*

Section 2. *The Legislature finds that it is a public necessity to make confidential and exempt the social security numbers and financial account numbers of abandoned or unclaimed property owners that are in the custody of the Department of Banking and Finance to prevent identity theft and related crimes. The Legislature further finds that this exemption is necessary to prevent the information from use in forged documents demonstrating entitlement to abandoned or unclaimed property and thereby defrauding the rightful property owner or the State School Fund. Notwithstanding the public necessity to make confidential such information, it is necessary to provide access to social security numbers to an attorney, Florida-certified public accountant, or private investigator duly licensed in this state to facilitate the location and return of unclaimed property to rightful owners. The Legislature further finds that an attorney, Florida-certified public accountant, or private investigator is subject to more stringent regulation and oversight than the public as a whole. In addition, attorneys, Florida-certified public accountants, and private investigators are the only persons authorized to file claims on behalf of abandoned or unclaimed property owners pursuant to chapter 717, Florida Statutes.*

Section 3. This act shall take effect October 1, 2001.

And the title is amended as follows:

On page 1, lines 4 and 5,
remove from the title of the bill: all of said lines

and insert in lieu thereof: social security numbers and financial account numbers which are contained in reports to the Department

Rep. Detert moved the adoption of the amendment.

The Committee on State Administration offered the following:

(Amendment Bar Code: 375741)

Amendment 1 to Amendment 1—On page 1, line 20,
remove from the amendment: all of said line

and insert in lieu thereof: *financial account numbers contained in reports required to be submitted to the Department of Banking and Finance pursuant to*

Rep. Detert moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1787—A bill to be entitled An act relating to warranty associations; amending s. 634.011, F.S.; defining "additive product"; revising the definitions of "motor vehicle service agreement" and "salesperson"; amending s. 634.044, F.S.; including part inventories among the allowable assets of a service agreement company; amending s. 634.137, F.S.; providing for submission of financial reports to the Department of Insurance in a computer-readable form; amending s. 634.171, F.S.; providing that a motor vehicle service agreement company is not required to be licensed as a salesperson to solicit, sell, issue, or otherwise transact the motor vehicle service agreements issued by the company; repealing s. 634.281, F.S., which provides that service agreement companies and their salespersons shall be subject to pt. X of ch. 626, F.S., relating to viatical settlements; creating s. 634.2815, F.S.; prohibiting engaging in any trade practice determined to be an unfair method of competition or an unfair or deceptive act or practice involving the business of motor vehicle service agreements; creating s. 634.282, F.S.; defining unfair methods of competition and unfair or deceptive acts or practices; creating s. 634.2825, F.S.; requiring vendors and lenders to separately state and identify the amount charged and to be paid for a motor vehicle service agreement; providing applicability; creating s. 634.283, F.S.; providing power of the Department of Insurance to examine and investigate the affairs of persons involved in the business of motor vehicle service agreements in the state; creating s. 634.284, F.S.; authorizing the department to conduct hearings with respect to specified prohibited practices; providing a fine for failure to comply with a subpoena or an order directing discovery; creating s. 634.285, F.S.; providing for the issuance of cease and desist orders by the department; providing specified penalties; creating s. 634.286, F.S.; providing for appeals of orders of the department; creating s. 634.287, F.S.; providing penalties for violation of a cease and desist order of the department; creating s. 634.288, F.S.; providing for civil liability; amending s. 634.301, F.S.; revising the definition of "home warranty"; amending s. 634.3077, F.S.; eliminating specified assets to be deducted in computing the net asset requirement of a home warranty association; creating s. 634.3078, F.S.; specifying allowable assets and liabilities with respect to the determination of the financial condition of a service warranty association; amending s. 634.313, F.S.; providing for submission of annual statements and financial reports to the Department of Insurance in a computer-readable form; amending s. 634.318, F.S.; providing that a home warranty association is not required to be licensed as a salesperson to solicit, sell, issue, or otherwise transact the home warranty agreements issued by the association; amending s. 634.331, F.S.; revising terminology with respect to coverage of property for sale; amending s. 634.336, F.S.; including advertising, offering, or providing a free home warranty as an inducement to specified purchases or sales among acts or practices which constitute unfair methods of competition and unfair or deceptive acts or practices; amending s. 634.415, F.S.; providing for submission of statements and reports to the Department of Insurance in a computer-readable form; amending s. 634.419, F.S.; providing that a service warranty association is not required to be licensed as a sales representative to solicit, sell, or issue service warranty agreements issued by the association; amending s. 634.436, F.S.; including advertising, offering, or providing a free service warranty as an inducement to specified purchases or sales among acts or practices which constitute unfair methods of competition and unfair or deceptive acts or practices; amending ss. 624.124 and 628.4615, F.S.; correcting cross references; providing an effective date.

—was read the second time by title.

The Committee on Insurance offered the following:

(Amendment Bar Code: 441253)

Amendment 1 (with title amendment)—On page 9, line 16 through page 32, line 19
remove from the bill: all of said lines

and insert in lieu thereof:

(e) Uses any advertisement that would mislead or otherwise cause a reasonable person to believe mistakenly that the state or federal government is responsible for the motor vehicle service agreement sales activity of any person or stands behind any person's credit or that any person, the state, or the federal government guarantees any returns on motor vehicle service agreements or is a source of payment of any motor vehicle service agreement obligation of or sold by any person.

(2) FALSE INFORMATION AND ADVERTISING GENERALLY.—Knowingly making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public:

(a) In a newspaper, magazine, or other publication;

(b) In the form of a notice, circular, pamphlet, letter, or poster;

(c) Over any radio or television station; or

(d) Over the Internet, electronically, or in any other way,

an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of motor vehicle service agreements, which assertion, representation, or statement is untrue, deceptive, or misleading.

(3) DEFAMATION.—Knowingly making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of, any oral or written statement, or any pamphlet, circular, article, or literature, which is false or maliciously critical of, or derogatory to, any person and which is calculated to injure such person.

(4) BOYCOTT, COERCION, AND INTIMIDATION.—Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion, or intimidation resulting in, or tending to result in, unreasonable restraint of, or monopoly in, the business of motor vehicle service agreements.

(5) FALSE STATEMENTS AND ENTRIES.—

(a) Knowingly:

1. Filing with any supervisory or other public official;

2. Making, publishing, disseminating, or circulating;

3. Delivering to any person;

4. Placing before the public; or

5. Causing, directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public,

any false statement.

(b) Knowingly making any false entry of a material fact in any book, report, or statement of any person, or knowingly failing to make a true entry of any material fact pertaining to the business of such person in any book, report, or statement of such person.

(6) UNFAIR DISCRIMINATION.—Knowingly making or permitting any unfair discrimination between individuals of the same actuarially supportable class and essentially the same hazard, in the amount of premium, policy fees, or rates charged for any motor vehicle service agreement, in any of the terms or conditions of such agreement, or in any other manner whatsoever.

(7) UNLAWFUL REBATES.—Except as otherwise expressly provided by law, or in an applicable filing with the department, knowingly:

(a) Permitting, or offering to make, or making, any contract or agreement as to such contract other than as plainly expressed in the motor vehicle service agreement issued thereon;

(b) Paying, allowing, or giving, or offering to pay, allow, or give, directly or indirectly, as inducement to such motor vehicle service agreement, any unlawful rebate of premiums payable on the agreement, any special favor or advantage in the benefits thereon, or any valuable consideration or inducement not specified in the agreement;

(c) Giving, selling, or purchasing, or offering to give, sell, or purchase, as an inducement to such motor vehicle service agreement or in connection therewith, any stocks, bonds, or other securities of any insurance company, service agreement company, or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value not specified in the motor vehicle service agreement.

(8) UNFAIR CLAIM SETTLEMENT PRACTICES.—

(a) Attempting to settle claims on the basis of an application or any other material document which was altered without notice to, or knowledge or consent of, the service agreement holder;

(b) Making a material misrepresentation to the service agreement holder for the purpose and with the intent of effecting settlement of such claims, loss, or damage under such contract on less favorable terms than those provided in, and contemplated by, such contract; or

(c) Committing or performing with such frequency as to indicate a general business practice any of the following practices:

1. Failure to adopt and implement internal standards for the investigation of claims;

2. Misrepresentation of pertinent facts or contract provisions relating to coverages at issue;

3. Failure to acknowledge and act promptly upon communications with respect to claims;

4. Denial of claims without conducting reasonable investigations based upon available information;

5. Failure to affirm or deny full or partial coverage of claims and, as to partial coverage, the dollar amount or extent of coverage, or failure to provide a written statement that the claim is being investigated, upon written request of the service agreement holder within 30 days after proof-of-loss statements have been completed;

6. Failure to promptly provide a reasonable explanation to the service agreement holder of the basis in the contract in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement;

7. Failure to promptly notify the service agreement holder of any additional information necessary for the processing of a claim; or

8. Failure to clearly explain the nature of the requested information and the reasons such information is necessary.

(9) FAILURE TO MAINTAIN PROCEDURES FOR HANDLING COMPLAINTS.—Failing to maintain a complete record of all complaints received since the date of the last examination. For purposes of this paragraph, "complaint" means any written communication primarily expressing a grievance.

(10) DISCRIMINATORY REFUSAL TO ISSUE A CONTRACT.—Refusing to issue a contract solely because of an individual's race, color, creed, marital status, sex, or national origin.

(11) MISREPRESENTATION IN SERVICE AGREEMENT APPLICATIONS.—Knowingly making a false or fraudulent written or oral statement or representation on, or relative to, an application or negotiation for a motor vehicle service agreement for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, service agreement company, agent, broker, salesperson, or individual.

(12) FREE SERVICE AGREEMENTS.—

(a) Advertising, offering, or providing a free motor vehicle service agreement as an inducement to the purchase or sale of real or personal property or of services directly or indirectly connected with such real or personal property.

(b) For the purposes of this subsection, a "free" motor vehicle service agreement is:

1. A motor vehicle service agreement for which no identifiable and additional charge is made to the purchaser of such real property, personal property, or services.

2. A motor vehicle service agreement for which an identifiable or additional charge is made in an amount less than the cost of such motor vehicle service agreement as to the seller or other person, other than the service agreement company, providing the same.

3. Using the word "free" or words which imply the provision of a motor vehicle service agreement without a cost in connection with the advertising or offering for sale of any kind of goods, merchandise, or services.

(13) ILLEGAL DEALINGS IN PREMIUMS; EXCESS OR REDUCED CHARGES FOR MOTOR VEHICLE SERVICE AGREEMENTS.—

(a) Knowingly collecting any sum as a premium or charge for a motor vehicle service agreement, which is not then provided, or is not in due course to be provided, subject to acceptance of the risk by a service agreement company or an insurer, by a motor vehicle service agreement issued by a service agreement company or an insurer as permitted by this part.

(b) Knowingly collecting as a premium or charge for a motor vehicle service agreement any sum in excess of or less than the premium or charge applicable to such motor vehicle service agreement, in accordance with the applicable classifications and rates as filed with the department, and as specified in the motor vehicle service agreement.

(14) INTERLOCKING OWNERSHIP AND MANAGEMENT.—

(a) Any motor vehicle service agreement company may retain, invest in, or acquire the whole or any part of the capital of any other motor vehicle service agreement company, or have a common management with any other motor vehicle service agreement company, unless such retention, investment, acquisition, or common management is inconsistent with any other provision of this part, or unless by reason thereof the business of such insurers with the public is conducted in a manner which substantially lessens competition generally in the insurance business.

(b) Any person otherwise qualified may be a director of two or more motor vehicle service agreement companies which are competitors, unless the effect thereof is substantially to lessen competition between motor vehicle service agreement companies generally or materially tend to create a monopoly.

(15) FALSE CLAIMS; OBTAINING OR RETAINING MONEY DISHONESTLY.—

(a) Any salesperson who causes to be presented to any motor vehicle service agreement company a false claim for payment, knowing the same to be false; or

(b) Any salesperson who represents any motor vehicle service agreement company or collects or does business without the authority of the motor vehicle service agreement company, secures cash advances by false statements, or fails to turn over when required, or satisfactorily account for, all collections of such motor vehicle service agreement company,

shall, in addition to the other penalties provided in this act, commit a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(16) SLIDING.—Sliding is the act or practice of:

(a) Representing to the applicant that a specific ancillary coverage or product is required by law in conjunction with the purchase of a motor vehicle service agreement when such coverage or product is not required;

(b) Representing to the applicant that a specific ancillary coverage or product is included in the motor vehicle service agreement contract applied for without an additional charge when such charge is required; or

(c) Charging an applicant for a specific ancillary coverage or product, in addition to the cost of the motor vehicle service agreement coverage applied for, without the informed consent of the applicant.

No provision of this section shall be deemed to prohibit a service agreement company or a licensed insurer from giving to service agreement holders, prospective service agreement holders, and others for the purpose of advertising, any article of merchandise having a value of not more than $25.

Section 8. Section 634.2825, Florida Statutes, is created to read:

634.2825 Motor vehicle service agreement cost specified in "price package".—

(1) When the premium or charge for a motor vehicle service agreement or involving such property or merchandise is included in the overall purchase price or financing of the purchase of merchandise or property, the vendor or lender shall separately state and identify the amount charged and to be paid for the motor vehicle service agreement, and the classifications, if any, upon which based; and the inclusion or exclusion of the cost of a motor vehicle service agreement in such purchase price or financing shall not increase, reduce, or otherwise affect any other factor involved in the cost of merchandise, property, or financing as to the purchaser or borrower.

(2) This section does not apply to transactions which are subject to the provisions of part I of chapter 520, entitled "The Motor Vehicle Retail Sales Finance Act."

Section 9. Section 634.283, Florida Statutes, is created to read:

634.283 Power of department to examine and investigate.—The department has the power to examine and investigate the affairs of every person involved in the business of motor vehicle service agreements in this state in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by s. 634.2815.

Section 10. Section 634.284, Florida Statutes, is created to read:

634.284 Prohibited practices; hearings, witnesses, appearances, production of books, and service of process.—

(1) Whenever the department has reason to believe that any person has engaged, or is engaging, in this state in any unfair method of competition or any unfair or deceptive act or practice as defined in s. 634.282, or is engaging in the business of motor vehicle service agreements without being properly licensed as required by this part, and that a proceeding by the department in respect thereto would be in the interest of the public, the department shall conduct or cause to have conducted a hearing in accordance with chapter 120.

(2) The department, a duly empowered hearing officer, or an administrative law judge shall, during the conduct of such hearing, have those powers enumerated in s. 120.569; however, the penalty for failure to comply with a subpoena or with an order directing discovery is limited to a fine not to exceed $1,000 per violation.

(3) A statement of charges, notice, or order under this part may be served by anyone duly authorized by the department, either in the manner provided by law for service of process in civil actions or by certifying and mailing a copy thereof to the person affected by such statement, notice, order, or other process at her or his residence or principal office or place of business. The verified return by the person so serving such statement, notice, order, or other process, setting forth the manner of the service is proof of the same; and the return postcard receipt for such statement, notice, order, or other process, certified and mailed as provided in this subsection, is proof of service of the same.

Section 11. Section 634.285, Florida Statutes, is created to read:

634.285 Cease and desist and penalty orders.—After the hearing provided for in s. 634.284, the department shall enter a final order in accordance with s. 120.569. If it is determined that the person charged has engaged in an unfair or deceptive act or practice or the unlawful transaction of a service agreement business, the department also shall issue an order requiring the violator to cease and desist from engaging in such method of competition, act, or practice or the unlawful transaction of service agreement business. Further, the department may, at its discretion, order any one or more of the following penalties:

(1) The suspension or revocation of such person's license, or eligibility for any license, if the person knew, or reasonably should have known, that she or he was in violation of this part.

(2) If it is determined that the person charged has provided or offered to provide motor vehicle service agreements without proper licensure, the imposition of an administrative penalty not to exceed $1,000 for each service agreement contract offered or effectuated.

Section 12. Section 634.286, Florida Statutes, is created to read:

634.286 Appeals from orders of the department.—Any person subject to an order of the department under s. 634.285 may obtain a review of such order by filing an appeal therefrom in accordance with the provisions and procedures for appeal from the orders of the department in general under s. 120.68.

Section 13. Section 634.287, Florida Statutes, is created to read:

634.287 Penalty for violation of cease and desist order.—Any person who violates a cease and desist order of the department under s. 634.285 while such order is in effect, after notice and hearing as provided in s. 634.284, is subject, at the discretion of the department, to any one or more of the following penalties:

(1) A monetary penalty of not more than $50,000 as to all matters determined in such hearing.

(2) The suspension or revocation of such person's license or eligibility to hold a license.

Section 14. Section 634.288, Florida Statutes, is created to read:

634.288 Civil liability.—The provisions of this part are cumulative to rights under the general civil and common law, and no action of the department will abrogate such rights to damages or other relief in any court.

Section 15. Effective January 1, 2002, section 634.3077, Florida Statutes, is amended to read:

634.3077 Financial requirements.—

(1) An association licensed under this part shall maintain a funded, unearned premium reserve account, consisting of unencumbered assets, equal to a minimum of 25 percent of the gross written premiums received by it from all warranty contracts in force. Such assets shall be held in the form of cash or invested in securities for investments as provided in part II of chapter 625.

(2) An association shall maintain, at a minimum, net assets equal to one-sixth of the written premiums it receives for the issuance and delivery of any binder or warranty in force. Net assets may be less than one-sixth of the premiums written provided the association has net assets of not less than $500,000 and maintains a funded, unearned premium reserve account consisting of unencumbered assets equal to a minimum of 40 percent of the gross written premiums received by it from all warranty contracts in force which shall be held in the form of cash or invested in securities for investments as provided in part II of chapter 625.

~~(3) In computing the net asset requirement, goodwill; franchises; customer lists; patents or trademarks; receivables from or advances to officers, directors, employees, salespersons, or affiliated companies; and assets deposited outside the United States shall be deducted from the net assets of the association.~~

(3)~~(4)~~ An association shall not be required to set up an unearned premium reserve if it has purchased contractual liability insurance which demonstrates to the satisfaction of the department that 100 percent of its claim exposure is covered by such insurance. Such contractual liability insurance shall be obtained from an insurer that holds a certificate of authority to do business within the state or from an insurer approved by the department as financially capable of meeting the obligations incurred pursuant to the policy. For purposes of this subsection, the contractual liability policy shall contain the following provisions:

(a) In the event that the home warranty association is unable to fulfill its obligation under its contracts issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the contractual liability insurer will pay losses and unearned premiums under such plans directly to persons making claims under such contracts.

(b) The insurer issuing the policy shall assume full responsibility for the administration of claims in the event of the inability of the association to do so.

(c) The policy may not be canceled or not renewed by either the insurer or the association unless 60 days' written notice thereof has been given to the department by the insurer before the date of such cancellation or nonrenewal.

(4)~~(5)~~ An association that purchases contractual liability insurance on the warranties that it issues shall provide the department with claim statistics required to be filed by associations not purchasing such insurance.

Section 16. Effective January 1, 2002, section 634.3078, Florida Statutes, is created to read:

634.3078 Assets and liabilities.—

(1) ASSETS.—In any determination of the financial condition of a home warranty association, there shall be allowed as assets only those assets that are owned by the home warranty association company and which assets consist of:

(a) Cash in the possession of the home warranty association, or in transit under its control, including the true balance of any deposit in a solvent bank, savings and loan association, or trust company which is domiciled in the United States.

(b) Investments, securities, properties, and loans acquired or held in accordance with this part, and in connection therewith the following items:

1. Interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued on a basis including accrued interest.

2. Declared and unpaid dividends on stock and shares, unless the amount of the dividends has otherwise been allowed as an asset.

3. Interest due or accrued upon a collateral loan which is not in default in an amount not to exceed 1 year's interest thereon.

4. Interest due or accrued on deposits or certificates of deposit in solvent banks, savings and loan associations, and trust companies domiciled in the United States, and interest due or accrued on other assets, if such interest is in the judgment of the department a collectible asset.

5. Interest due or accrued on current mortgage loans, in an amount not exceeding in any event the amount, if any, of the excess of the value of the property less delinquent taxes thereon over the unpaid principal; but in no event shall interest accrued for a period in excess of 90 days be allowed as an asset.

6. Rent due or accrued on real property if such rent is not in arrears for more than 3 months. However, in no event shall rent accrued for a period in excess of 90 days be allowed as an asset.

7. The unaccrued portion of taxes paid prior to the due date on real property.

(c) Furniture, fixtures, furnishings, vehicles, and equipment, if the original cost of each item is at least $200, which cost shall be amortized in full over a period not to exceed 5 calendar years, unless otherwise approved by the department.

(d) Part inventories maintained for the purpose of servicing products warranted. Part inventories must be listed at cost. Home warranty associations companies are required to maintain records to support valuation of part inventories.

(e) The liquidation value of prepaid expenses.

(f) Other assets or receivables, not inconsistent with the provisions of this section, deemed by the department to be available for the payment of losses and claims, at values to be determined by the department.

The department, upon determining that a home warranty association's asset has not been evaluated according to applicable law or that it does not qualify as an asset, shall require the home warranty association to properly reevaluate the asset or replace the asset with an asset suitable

to the department within 30 days of written notification by the department of this determination, if the removal of the asset from the organization's assets would impair the company's solvency.

(2) ASSETS NOT ALLOWED.—In addition to assets impliedly excluded by the provisions of subsection (1), the following assets expressly shall not be allowed as assets in any determination of the financial condition of a home warranty association:

(a) Goodwill, agreement holder lists, patents, trade names, agreements not to compete, and other like intangible assets.

(b) Any note or account receivable from or advances to officers, directors, or controlling stockholders, whether secured or not, and advances to employees, agents, or other persons on personal security only.

(c) Stock of the home warranty association owned by it directly or owned by it through any entity in which the organization owns or controls, directly or indirectly, more than 25 percent of the ownership interest.

(d) Leasehold improvements, stationery, and literature, except that leasehold improvements made prior to October 1, 2001, shall be allowed as an asset and shall be amortized over the shortest of the following periods:

1. The life of the lease.

2. The useful life of the improvements.

3. The 3-year period following October 1, 2001.

(e) Furniture, fixtures, furnishings, vehicles, and equipment, other than those items authorized under paragraph (1)(c).

(f) Notes or other evidences of indebtedness which are secured by mortgages or deeds of trust which are in default and beyond the express period specified in the instrument for curing the default.

(g) Bonds in default for more than 60 days.

(h) Deferred costs other than the liquidation value of prepaid expenses except for those companies that reserve 100 percent of gross written premium.

(i) Any note, account receivable, advance, or other evidence of indebtedness, or investment in:

1. The parent of the home warranty association;

2. Any entity directly or indirectly controlled by the home warranty association's parent;

3. An affiliate of the parent or the home warranty association; or

4. Officers, directors, shareholders, employees, or salespersons of the home warranty association; however, premium receivables under 45 days old may be considered an admitted asset.

The department may, however, allow all or a portion of such asset, at values to be determined by the department, if deemed by the department to be available for the payment of losses and claims.

(3) LIABILITIES.—In any determination of the financial condition of a home warranty association, liabilities to be charged against its assets shall include, but not be limited to:

(a) The amount, in conformity with generally accepted accounting principles, necessary to pay all of its unpaid losses and claims incurred for or on behalf of an agreement holder, on or prior to the end of the reporting period, whether reported or unreported.

(b) Taxes, expenses, and other obligations due or accrued at the date of the statement.

(c) Reserve for unearned premiums.

The department, upon determining that the home warranty association has failed to report liabilities that should have been reported, shall require a correct report which reflects the proper liabilities to be submitted by the home warranty association to the department within 10 working days of receipt of written notification.

Section 17. Effective January 1, 2002, subsection (7) is added to section 634.312, Florida Statutes, to read:

634.312 Filing, approval of forms.

(7) All home warranty contracts must disclose any exclusions, restrictions, or limitations on the benefits offered or the coverage provided by the home warranty contract in boldfaced type, and must contain, in boldfaced type, a statement on the front page of the contract substantially similar to the following: "Certain items and events are not covered by this contract. Please refer to the exclusions listed on page _ of this document."

Section 18. Subsection (5) is added to section 634.313, Florida Statutes, to read:

634.313 Tax on premiums; annual statement; reports.—

(5) The department may by rule require each home warranty association to submit to the department, as the department may designate, all or part of the information contained in the financial reports required by this section in a computer-readable form compatible with the electronic data processing system specified by the department.

Section 19. Section 634.318, Florida Statutes, is amended to read:

634.318 License and appointment of sales representatives.—Sales representatives for home warranty associations and insurers shall be licensed, appointed, renewed, continued, reinstated, or terminated in the same manner as prescribed in chapter 626 for insurance representatives in general, except they shall be exempt from the fingerprinting, photo identification card, education, and examination provisions. License, appointment, and other fees shall be those as prescribed in s. 624.501. No employee or sales representative of a home warranty association or insurer may directly or indirectly solicit or negotiate insurance contracts, or hold herself or himself out in any manner to be an insurance agent or solicitor, unless so qualified, licensed, and appointed therefor under the insurance code. *A home warranty association is not required to be licensed as a sales representative to solicit, sell, issue, or otherwise transact the home warranty agreements issued by the home warranty association.*

Section 20. Section 634.331, Florida Statutes, is amended to read:

634.331 Coverage of property for sale.—A home warranty may provide coverage of residential property during the listing period of such property for a period not to exceed 12 months, provided that the home warranty company charges the warranty purchaser a separately identifiable charge for the *listing* ~~list~~ period coverage in an amount equal to at least 15 percent of the annual premium charged for the home warranty and the charge for such coverage is due at the earlier of the end of the listing period or the date the sale of the residential property is closed.

Section 21. Subsection (6) is added to section 634.415, Florida Statutes, to read:

634.415 Tax on premiums; annual statement; reports; quarterly statements.—

(6) The department may by rule require each service warranty association to submit to the department, as the department may designate, all or part of the information contained in the financial statements and reports required by this section in a computer-readable form compatible with the electronic data processing system specified by the department.

Section 22. Section 634.419, Florida Statutes, is amended to read:

634.419 License and appointment required.—No person or entity shall solicit, negotiate, advertise, or effectuate service warranty contracts in this state unless such person or entity is licensed and appointed as a sales representative. Sales representatives shall be

responsible for the actions of persons under their supervision. However, a service warranty association licensed *as such* under this part shall not be required to be licensed and appointed as a sales representative to *solicit, negotiate,* advertise *or effectuate* its products.

Section 23. Subsection (8) is added to section 634.436, Florida Statutes, to read:

634.436 Unfair methods of competition and unfair or deceptive acts or practices defined.—The following methods, acts, or practices are defined as unfair methods of competition and unfair or deceptive acts or practices:

(8) FREE SERVICE WARRANTIES.—

(a) Advertising, offering, or providing a free service warranty as an inducement to the purchase or sale of real or personal property or of services directly or indirectly connected with such real or personal property.

(b) For the purposes of this subsection, a "free" service warranty is:

1. A service warranty for which no identifiable and additional charge is made to the purchaser of such real property, personal property, or services.

2. A service warranty for which an identifiable or additional charge is made in an amount less than the cost of such service warranty as to the seller or other person, other than the service warranty association, providing the same.

3. Using the word "free" or words which imply the provision of a service warranty without a cost in connection with the advertising or offering for sale of any kind of goods, merchandise, or services.

Section 24. Section 624.124, Florida Statutes, is amended to read:

624.124 Motor vehicle services; exemption from code.—Any person may, in exchange for fees, dues, charges, or other consideration, provide any of the following services related to the ownership, operation, use, or maintenance of a motor vehicle without being deemed an insurer and without being subject to the provisions of this code:

(1) Towing service.

(2) Procuring from an insurer group coverage for bail and arrest bonds or for accidental death and dismemberment.

(3) Emergency service.

(4) Procuring prepaid legal services, or providing reimbursement for legal services, except that this shall not be deemed to be an exemption from chapter 642.

(5) Offering assistance in locating or recovering stolen or missing motor vehicles.

(6) Paying emergency living and transportation expenses of the owner of a motor vehicle when the motor vehicle is damaged.

For purposes of this section, "motor vehicle" has the same meaning specified by s. 634.011*(7)*~~(6)~~.

Section 25. Paragraph (a) of subsection (1) of section 628.4615, Florida Statutes, is amended to read:

628.4615 Specialty insurers; acquisition of controlling stock, ownership interest, assets, or control; merger or consolidation.—

(1) For the purposes of this section, the term "specialty insurer" means any person holding a license or certificate of authority as:

(a) A motor vehicle service agreement company authorized to issue motor vehicle service agreements as those terms are defined in s. 634.011*(8)*~~(7)~~ and *(9)* ~~(8)~~;

Section 26. Section 634.289, Florida Statutes, is created to read:

634.289 Rules.—The department may adopt rules, in accordance with chapter 120, to identify specific methods of competition or acts or practices which are prohibited by s. 634.282, but these rules shall not enlarge upon or extend the provisions of that section.

Section 27. Section 634.302, Florida Statutes, is created to read:

634.302 Powers of department; rules.—The department shall administer this part, and, to that end, it has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this part. *Such rules may include rules to identify specific methods of competition or acts or practices which are prohibited by s. 634.336, but the rules shall not enlarge upon or extend the provisions of that section.*

Section 28. Section 634.402, Florida Statutes, is amended to read:

634.402 Powers of department; rules.—The department shall administer this part, and to that end it has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this part. *Such rules may identify specific methods of competition or acts or practices which are prohibited by s. 634.436, but shall not enlarge upon or extend the provisions of that section.*

Section 29. This act shall take effect upon becoming a law, except as otherwise provided herein.

And the title is amended as follows:

On page 1, line 19 through page 3, line 28
remove from the title of the bill: all of said lines

and insert in lieu thereof: repealing s. 634.281, F.S., which provides that service agreement companies and their salespersons shall be subject to pt. IX of ch. 626, F.S., relating to service agreement companies and their salespersons; creating s. 634.2815, F.S.; prohibiting engaging in any trade practice determined to be an unfair method of competition or an unfair or deceptive act or practice involving the business of motor vehicle service agreements; creating s. 634.282, F.S.; defining unfair methods of competition and unfair or deceptive acts or practices; creating s. 634.2825, F.S.; requiring vendors and lenders to separately state and identify the amount charged and to be paid for a motor vehicle service agreement; providing applicability; creating s. 634.283, F.S.; providing power of the Department of Insurance to examine and investigate the affairs of persons involved in the business of motor vehicle service agreements in the state; creating s. 634.284, F.S.; authorizing the department to conduct hearings with respect to specified prohibited practices; providing a fine for failure to comply with a subpoena or an order directing discovery; creating s. 634.285, F.S.; providing for the issuance of cease and desist orders by the department; providing specified penalties; creating s. 634.286, F.S.; providing for appeals of orders of the department; creating s. 634.287, F.S.; providing penalties for violation of a cease and desist order of the department; creating s. 634.288, F.S.; providing for civil liability; amending s. 634.3077, F.S.; eliminating specified assets to be deducted in computing the net asset requirement of a home warranty association; creating s. 634.3078, F.S.; specifying allowable assets and liabilities with respect to the determination of the financial condition of a service warranty association; amending s. 634.313, F.S.; providing for submission of annual statements and financial reports to the Department of Insurance in a computer-readable form; amending s. 634.312, F.S.; filing and approval of forms; amending s. 634.318, F.S.; providing that a home warranty association is not required to be licensed as a salesperson to solicit, sell, issue, or otherwise transact the home warranty agreements issued by the association; amending s. 634.331, F.S.; revising terminology with respect to coverage of property for sale; amending s. 634.415, F.S.; providing for submission of statements and reports to the Department of Insurance in a computer-readable form; amending s. 634.419, F.S.; providing that a service warranty association is not required to be licensed as a sales representative to solicit, sell, or issue service warranty agreements issued by the association; amending s. 634.436, F.S.; including advertising, offering, or providing a free service warranty as an inducement to specified purchases or sales among acts or practices which constitute unfair methods of competition and unfair or deceptive acts or practices; amending ss. 624.124 and 628.4615, F.S.; correcting cross references; creating s. 634.289, F.S.; relating to rulemaking authority; amending s. 634.302, F.S.; relating to

rulemaking authority; amending s. 634.402, F.S.; relating to rulemaking authority; providing for effective dates.

Rep. Berfield moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1681—A bill to be entitled An act relating to pest control operators; amending s. 482.021, F.S.; defining the term "new construction"; amending s. 482.051, F.S.; providing for the issuance of stop-work orders where fumigations are being performed in certain situations; creating s. 482.0815, F.S.; requiring licensees to hold a permit before performing preventive termite treatments for new construction; providing procedures for the issuance of permits and providing penalties for specified violations; providing for the adoption of rules; amending s. 482.091, F.S.; requiring certain cardholders to obtain specified classroom training; amending s. 482.132, F.S.; providing alternative educational requirements for pest control operator's certificate applicants; amending s. 482.161, F.S.; limiting the application of sanctions for violations by licensees with multiple business locations; repealing s. 482.211(11), F.S., which provides an exemption from regulation for certain yard workers; providing an effective date.

—was read the second time by title.

The Committee on Agriculture & Consumer Affairs offered the following:

(Amendment Bar Code: 651333)

Amendment 1—On page 3, line 10,
remove from the bill: *written authorization*

and insert in lieu thereof: *permit*

Rep. Miller moved the adoption of the amendment, which was adopted.

The Committee on Agriculture & Consumer Affairs offered the following:

(Amendment Bar Code: 133219)

Amendment 2—On page 4, lines 12-16,
remove from the bill: all of said lines

and insert in lieu thereof:

(6) The permit of a licensee whose permit has been suspended within the previous 3 years shall be revoked if the licensee subsequently meets any of the conditions of subsection (4).

(7) The department may not issue a permit or renew the permit to perform preventive termite treatments

Rep. Miller moved the adoption of the amendment, which was adopted.

The Committee on Agriculture & Consumer Affairs offered the following:

(Amendment Bar Code: 371821)

Amendment 3 (with title amendment)—On page 7, lines 6-7,
remove from the bill: all of said lines

And the title is amended as follows:

On page 1, lines 21-23,
remove from the title of the bill: all of said lines

and insert in lieu thereof: multiple business locations;

Rep. Miller moved the adoption of the amendment, which was adopted.

The Council for Competitive Commerce offered the following:

(Amendment Bar Code: 573241)

Amendment 4—On page 5, line 4
after the word "department" remove from the bill: *immediately*

Rep. Miller moved the adoption of the amendment, which was adopted.

The Council for Competitive Commerce offered the following:

(Amendment Bar Code: 095925)

Amendment 5 (with title amendment)—On page 7, between lines 5 and 6 of the bill

insert:

Section 7. Subsection (1) of section 482.242, Florida Statutes, is amended to read:

482.242 Preemption.—

(1) This chapter is intended as comprehensive and exclusive regulation of pest control in this state. The provisions of this chapter preempt to the state all regulation of the activities and operations of pest control services, including the pesticides used pursuant to labeling and registration approved under chapter 487. No local government or political subdivision of the state may enact or enforce an ordinance that regulates pest control, except that the preemption in this section does not prohibit a local government or political subdivision from enacting an ordinance regarding any of the following:

(a) Local occupational licenses adopted pursuant to chapter 205.

(b) Land development regulations adopted pursuant to chapter 163 which include regulation of any aspect of development, including a subdivision, building construction, sign regulation or any other regulation concerning the development of land, or landscaping or tree protection ordinances which do not include pesticide application restrictions.

(c) Regulations that:

1. Require, for multi-complex dwellings in excess of 10 units, annual termite inspections for termite activity or damage, including Formosan termites, which must be performed by a person licensed under this chapter.

2. Require pest control treatments of structures that have termite activity or damage which must be performed by a person licensed under this chapter.

3. Require property owners or other persons to obtain inspections or pest control treatments performed by a person licensed under this chapter.

An ordinance by a local government or political subdivision which requires an annual inspection or pest control treatment must conform to current law.

(d)~~(c)~~ Protection of wellhead protection areas and high recharge areas.

(e)~~(d)~~ Hazardous materials reporting as set forth in part II of chapter 252, storage, and containment including as relating to stormwater management.

(f)~~(e)~~ Hazardous material unlawful discharge and disposal.

(g)~~(f)~~ Hazardous materials remediation.

And the title is amended as follows:

On page 1, line 21

after the semicolon, insert: amending s. 482.242, F.S.; providing additional exceptions to the state's preemption of pest control regulation;

Rep. Miller moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 1803—A bill to be entitled An act relating to workers' compensation; amending s. 61.14, F.S.; requiring a judge of compensation claims to consider the interests of the worker and the worker's family when approving settlements of workers' compensation claims; requiring appropriate recovery of any child support arrearage from such settlements; amending s. 61.30, F.S.; providing that gross income includes all workers' compensation benefits and settlements; amending s. 112.3145, F.S.; redefining the term "specified state employee" to include the Deputy Chief Judge of Compensation Claims; amending s. 120.65, F.S.; establishing requirements for the Deputy Chief Judge; amending s. 121.055, F.S.; including the Deputy Chief Judge in the Senior Management Service Class of the Florida Retirement System; conforming provisions to the transfer of the judges of compensation claims from the Department of Labor and Employment Security to the Division of Administrative Hearings; amending s. 381.004, F.S.; conforming provisions to the transfer of the judges of compensation claims to the Division of Administrative Hearings; amending s. 440.02, F.S.; revising a monetary limit in a definition; excluding certain sports officials from the definition of "employee"; excluding certain work done by state prisoners and county inmates from the definition of "employment"; amending s. 440.09, F.S.; excluding employees covered under the Defense Base Act from payment of benefits; amending s. 440.105, F.S.; reclassifying the Chief Judge of Compensation Claims as the Deputy Chief Judge of Compensation Claims; amending s. 440.12, F.S.; providing for direct deposit of compensation payments; amending s. 440.13, F.S.; revising requirements for submission of certain medical reports and bills; granting rehabilitation providers access to medical records; revising provider eligibility requirements; amending s. 440.134, F.S.; requiring certain insurers to provide medically necessary remedial treatment, care, and attendance under certain circumstances; amending s. 440.14, F.S.; requiring an employee to provide certain information concerning concurrent employment; amending s. 440.185, F.S.; authorizing the division to contract with a private entity for collection of certain policy information; providing application; amending s. 440.192, F.S.; revising requirements and procedures for filing petitions for benefits; permitting judges to dismiss portions of a petition; specifying that dismissal of petitions is without prejudice; amending grounds for dismissal; redesignating the notice of denial as a response to petition; amending s. 440.20, F.S.; providing for payment of compensation by direct deposit under certain circumstances; providing procedural guidelines for certain carriers for certain purposes; revising lump-sum settlement requirements; amending s. 440.22, F.S.; excluding child support and alimony claims from general exemption of workers' compensation benefits from claims of creditors; amending s. 440.25, F.S.; revising mediation procedures; requiring written consent for additional continuances; authorizing the director of the Division of Administrative Hearings to employ mediators; requiring judges of compensation claims to file a report under certain circumstances; eliminating local rule adoption; removing the division's participation in indigency proceedings; conforming provisions to the reclassification of the Chief Judge as the Deputy Chief Judge; amending s. 440.271, F.S.; requiring the First District Court of Appeal to establish a specialized division to hear workers' compensation cases; amending s. 440.29, F.S.; conforming provisions to the reclassification of the Chief Judge as the Deputy Chief Judge; amending s. 440.34, F.S.; providing for attorney's fees in a response to petition; amending s. 440.345, F.S.; revising reporting requirements; amending s. 440.38, F.S.; providing for the type of qualifying security deposit necessary to become a self-insured employer; providing requirements, procedures, and criteria; correcting a cross reference; amending s. 440.44, F.S.; revising record requirements; authorizing the director of the Division of Administrative Hearings to make expenditures relating to the Office of the Judges of Compensation Claims; requiring the office to maintain certain offices and personnel; conforming provisions to the transfer of the Office of the Judges of Compensation Claims to the Division of Administrative Hearings; amending s. 440.442, F.S.; deleting Code of Judicial Conduct requirements; providing for a Code of Judicial Conduct as adopted by the Florida Supreme Court; amending s. 440.45, F.S.; eliminating the Chief Judge position; creating the position of Deputy Chief Judge of Compensation Claims; conforming provisions to the transfer of the judges of compensation claims from the Department of Labor and Employment Security to the Division of Administrative Hearings within the Department of Management Services; requiring nominees for the judges of compensation claims to meet additional experience requirements; authorizing the director of the Division of Administrative Hearings to initiate and investigate complaints against the Deputy Chief Judge and judges of compensation claims and make recommendations to the Governor; revising reporting requirements; requiring the judicial nominating commission to consider whether judges of compensation claims have met certain requirements; providing procedures; authorizing the Governor to appoint certain judges of compensation claims; amending s. 440.47, F.S.; conforming provisions to the reclassification of the Chief Judge as the Deputy Chief Judge; providing that the director of the Division of Administrative Hearings must approve travel expenses; amending s. 440.59, F.S.; revising certain reporting requirements; deleting an injury reporting requirement; deleting an annual reporting requirement of the Chief Judge; amending s. 440.593, F.S.; providing the division with enforcement authority relating to electronic reporting; authorizing the division to assess a civil penalty; authorizing the division to adopt rules; amending ss. 489.114 and 489.510, F.S.; providing an exception to certain workers' compensation coverage evidence requirements; amending ss. 489.115 and 489.515, F.S.; revising certification and registration requirements for initial licensure; amending s. 627.0915, F.S.; eliminating references to the Division of Safety of the Department of Labor and Employment Security in relation to rating plans' workplace safety programs; amending s. 627.311, F.S.; clarifying language with respect to joint underwriters' liability for monetary damages; amending s. 627.914, F.S.; revising the requirements for reports of information by workers' compensation insurers; deleting a reporting requirement for the Division of Workers' Compensation; transferring the Office of the Judges of Compensation Claims to the Division of Administrative Hearings; transferring certain positions from the Division of Workers' Compensation to the Office of Judges of Compensation Claims; providing effective dates.

—was read the second time by title.

On motion by Rep. Melvin, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Melvin, Ross, and Waters offered the following:

(Amendment Bar Code: 192125)

Amendment 1 (with directory language amendment)—On page 24, lines 23-30
remove from the bill: all of said lines

and insert in lieu thereof:

(2)*(a)*~~(b)~~ ~~Effective January 1, 1997,~~ The employer *may* ~~shall~~, subject to the *terms and* limitations specified elsewhere in this *section and* chapter, furnish to the employee solely through managed care arrangements such medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery requires.

(b)~~(a)~~ The agency shall authorize an insurer to offer or utilize a workers' compensation managed care arrangement after the insurer files a completed application along with the payment of a $1,000 application fee, and upon the agency's being satisfied that the applicant has the ability to provide quality of care consistent with the prevailing professional standards of care and the insurer and its workers' compensation managed care arrangement otherwise meets the requirements of this section. No insurer may offer or utilize a managed care arrangement without such authorization. The authorization, unless sooner suspended or revoked, shall automatically expire 2 years after the date of issuance unless renewed by the insurer. The authorization shall be renewed upon application for renewal and

payment of a renewal fee of $1,000, provided that the insurer is in compliance with the requirements of this section and any rules adopted hereunder. An application for renewal of the authorization shall be made 90 days prior to expiration of the authorization, on forms provided by the agency. The renewal application shall not require the resubmission of any documents previously filed with the agency if such documents have remained valid and unchanged since their original filing.

And the directory language is amended as follows:

On page 24, lines 19 & 20
remove: all of said lines

and insert in lieu thereof:

Section 12. Paragraphs (a) and (b) of subsection (2) of section 440.134, Florida Statutes, are amended to read:

Rep. Melvin moved the adoption of the amendment, which was adopted.

On motion by Rep. Melvin, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Melvin, Ross, and Waters offered the following:

(Amendment Bar Code: 870473)

Amendment 2—On page 31, line 17 through page 38, line 9
remove from the bill: all of said lines

and insert in lieu thereof:

(11)(a) *When a claimant is not represented by counsel,* upon joint petition of all interested parties, a lump-sum payment in exchange for the employer's or carrier's release from liability for future medical expenses, as well as future payments of compensation expenses and any other benefits provided under this chapter, shall be allowed at any time in any case in which the employer or carrier has filed a written notice of denial within 120 days after the *employer receives notice* ~~date~~ of the injury, and the judge of compensation claims at a hearing to consider the settlement proposal finds a justiciable controversy as to legal or medical compensability of the claimed injury or the alleged accident. The employer or carrier may not pay any attorney's fees on behalf of the claimant for any settlement under this section unless expressly authorized elsewhere in this chapter. Upon the joint petition of all interested parties and after giving due consideration to the interests of all interested parties, the judge of compensation claims may enter a compensation order approving and authorizing the discharge of the liability of the employer for compensation and remedial treatment, care, and attendance, as well as rehabilitation expenses, by the payment of a lump sum. Such a compensation order so entered upon joint petition of all interested parties is not subject to modification or review under s. 440.28. If the settlement proposal together with supporting evidence is not approved by the judge of compensation claims, it shall be considered void. Upon approval of a lump-sum settlement under this subsection, the judge of compensation claims shall send a report to the Chief Judge of the amount of the settlement and a statement of the nature of the controversy. The Chief Judge shall keep a record of all such reports filed by each judge of compensation claims and shall submit to the Legislature a summary of all such reports filed under this subsection annually by September 15.

(b) *When a claimant is not represented by counsel,* upon joint petition of all interested parties, a lump-sum payment in exchange for the employer's or carrier's release from liability for future medical expenses, as well as future payments of compensation and rehabilitation expenses, and any other benefits provided under this chapter, may be allowed at any time in any case after the injured employee has attained maximum medical improvement. An employer or carrier may not pay any attorney's fees on behalf of the claimant for any settlement, unless expressly authorized elsewhere in this chapter. A compensation order so entered upon joint petition of all interested parties shall not be subject to modification or review under s. 440.28. However, a judge of compensation claims is not required to approve any award for lump-sum payment when it is determined by the judge of compensation claims that the payment being made is in excess of the value of benefits the claimant would be entitled to under this chapter. The judge of compensation claims shall make or cause to be made such investigations as she or he considers necessary, in each case in which the parties have stipulated that a proposed final settlement of liability of the employer for compensation shall not be subject to modification or review under s. 440.28, to determine whether such final disposition will definitely aid the rehabilitation of the injured worker or otherwise is clearly for the best interests of the person entitled to compensation and, in her or his discretion, may have an investigation made by the Rehabilitation Section of the Division of Workers' Compensation. The joint petition and the report of any investigation so made will be deemed a part of the proceeding. An employer shall have the right to appear at any hearing pursuant to this subsection which relates to the discharge of such employer's liability and to present testimony at such hearing. The carrier shall provide reasonable notice to the employer of the time and date of any such hearing and inform the employer of her or his rights to appear and testify. ~~When the claimant is represented by counsel or when the claimant and carrier or employer are represented by counsel, final approval of the lump-sum settlement agreement, as provided for in a joint petition and stipulation, shall be approved by entry of an order within 7 days after the filing of such joint petition and stipulation without a hearing, unless the judge of compensation claims determines, in her or his discretion, that additional testimony is needed before such settlement can be approved or disapproved and so notifies the parties.~~ The probability of the death of the injured employee or other person entitled to compensation before the expiration of the period during which such person is entitled to compensation shall, in the absence of special circumstances making such course improper, be determined in accordance with the most recent United States Life Tables published by the National Office of Vital Statistics of the United States Department of Health and Human Services. The probability of the happening of any other contingency affecting the amount or duration of the compensation, except the possibility of the remarriage of a surviving spouse, shall be disregarded. As a condition of approving a lump-sum payment to a surviving spouse, the judge of compensation claims, in the judge of compensation claims' discretion, may require security which will ensure that, in the event of the remarriage of such surviving spouse, any unaccrued future payments so paid may be recovered or recouped by the employer or carrier. Such applications shall be considered and determined in accordance with s. 440.25.

(c) Notwithstanding s. 440.21(2), when a claimant is represented by counsel, the claimant may waive all rights to any and all benefits under this chapter by entering into a settlement agreement releasing the employer and the carrier from liability for workers' compensation benefits in exchange for a lump-sum payment to the claimant. The settlement agreement requires approval by the judge of compensation claims only as to the attorney's fees paid to the claimant's attorney by the claimant. The parties need not submit any information or documentation in support of the settlement, except as needed to justify the amount of the attorney's fees. Neither the employer nor the carrier is responsible for any attorney's fees relating to the settlement and release of claims under this section. Payment of the lump-sum settlement amount must be made within 14 days after the date the judge of compensation claims mails the order approving the attorney's fees. Any order entered by a judge of compensation claims approving the attorney's fees as set out in the settlement under this subsection is not considered to be an award and is not subject to modification or review. The judge of compensation claims shall report these settlements to the Deputy Chief Judge in accordance with the requirements set forth in paragraphs (a) and (b). Settlements entered into under this subsection are valid and apply to all dates of accident.

(d) With respect to any lump-sum settlement under this subsection, a judge of compensation claims must consider whether the settlement provides for appropriate recovery of any child support arrearage.

(e)~~(c)~~ This section applies to all claims that the parties have not previously settled, regardless of the date of accident.

Section 17. Section 440.22, Florida Statutes, is amended to read:

440.22 Assignment and exemption from claims of creditors.—No assignment, release, or commutation of compensation or benefits due or payable under this chapter except as provided by this chapter shall be valid, and such compensation and benefits shall be exempt from all claims of creditors, and from levy, execution and attachments or other remedy for recovery or collection of a debt, which exemption may not be waived. *However, the exemption of workers' compensation claims from creditors does not extend to claims based on an award of child support or alimony.*

Section 18. Subsections (1), (2), (3), and (4) and paragraph (b) of subsection (5) of section 440.25, Florida Statutes, are amended to read:

440.25 Procedures for mediation and hearings.—

(1) Within 21 days after a petition for benefits is filed under s. 440.192, a mediation conference concerning such petition shall be held. Within 7 days after such petition is filed, the judge of compensation claims shall notify the interested parties that a mediation conference concerning such petition will be held. Such notice shall give the date, time, and location of the mediation conference. Such notice may be served personally upon the interested parties or may be sent to the interested parties by mail. *The claimant or the adjuster of the employer or carrier may, at the mediator's discretion, attend the mediation conference by telephone or, if agreed to by the parties, other electronic means.*

(2) Any party who participates in a mediation conference shall not be precluded from requesting a hearing following the mediation conference should both parties not agree to be bound by the results of the mediation conference. A mediation conference is required to be held unless this requirement is waived by the *Deputy* Chief Judge. No later than 3 days prior to the mediation conference, all parties must submit any applicable motions, including, but not limited to, a motion to waive the mediation conference, to the judge of compensation claims.

(3) Such mediation conference shall be conducted informally and does not require the use of formal rules of evidence or procedure. Any information from the files, reports, case summaries, mediator's notes, or other communications or materials, oral or written, relating to a mediation conference under this section obtained by any person performing mediation duties is privileged and confidential and may not be disclosed without the written consent of all parties to the conference. Any research or evaluation effort directed at assessing the mediation program activities or performance must protect the confidentiality of such information. Each party to a mediation conference has a privilege during and after the conference to refuse to disclose and to prevent another from disclosing communications made during the conference whether or not the contested issues are successfully resolved. This subsection and paragraphs (4)(a) and (b) shall not be construed to prevent or inhibit the discovery or admissibility of any information that is otherwise subject to discovery or that is admissible under applicable law or rule of procedure, except that any conduct or statements made during a mediation conference or in negotiations concerning the conference are inadmissible in any proceeding under this chapter. The *Deputy* Chief Judge shall select a mediator. The mediator shall be employed on a full-time basis by the Office of the Judges of Compensation Claims. A mediator must be a member of The Florida Bar for at least 5 years and must complete a mediation training program approved by the *Deputy* Chief Judge. Adjunct mediators may be employed by the Office of the Judges of Compensation Claims on an as-needed basis and shall be selected from a list prepared by the *Deputy* Chief Judge. An adjunct mediator must be independent of all parties participating in the mediation conference. An adjunct mediator must be a member of The Florida Bar for at least 5 years and must complete a mediation training program approved by the *Deputy* Chief Judge. An adjunct

Rep. Melvin moved the adoption of the amendment, which was adopted.

On motion by Rep. Melvin, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Melvin, Ross, and Waters offered the following:

(Amendment Bar Code: 671079)

Amendment 3—On page 45, line 31
remove from the bill: all of said line

and insert in lieu thereof: a *response to petition* ~~notice of denial~~ with the *Office of the Judges of Compensation Claims* ~~division~~

Rep. Melvin moved the adoption of the amendment, which was adopted.

On motion by Rep. Melvin, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Melvin, Ross, and Waters offered the following:

(Amendment Bar Code: 503129)

Amendment 4 (with directory language amendment)—On page 22, between lines 17 & 18 of the bill

insert:

(2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—

(f) Upon the written request of the employee, the carrier shall give the employee the opportunity for one change of physician during the course of treatment for any one accident. The employee shall be entitled to select another physician from among not fewer than three carrier-authorized physicians who are not professionally affiliated.

And the directory language is amended as follows:

On page 22, lines 13-15
remove: all of said lines

and insert in lieu thereof:

Section 11. Paragraph (a) of subsection (3) and paragraphs (b) and (c) of subsection (4) of section 440.13, Florida Statutes, are amended, and paragraph (f) is added to subsection (2) of said section, to read:

Rep. Melvin moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1479 was taken up. On motion by Rep. Bowen, CS for SB 806 was substituted for HB 1479. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 806—A bill to be entitled An act relating to insurance; amending s. 626.221, F.S.; exempting an applicant for a license as a customer representative from examination requirements under certain conditions; exempting an applicant for a license as an adjuster from examination requirements under certain conditions; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 717—A bill to be entitled An act relating to assessment of agricultural property; amending s. 193.461, F.S.; providing that, for purposes of the income methodology approach to such assessment, certain irrigation systems, litter containment structures, and animal waste nutrient containment structures shall be considered a part of the average yields per acre and have no separately assessable contributory value; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/CS/HB 721—A bill to be entitled An act relating to public records; amending s. 403.067, F.S.; providing an exemption from public records requirements for certain individual agricultural records reported to the Department of Agriculture and Consumer Services in connection with

its duties relating to pollution reduction under the total maximum daily load program for water bodies; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1669—A bill to be entitled An act relating to water management; creating the Harris Chain of Lakes Restoration Council; providing for membership, powers, and duties; providing for a report to the Legislature; providing for an advisory group to the council; requiring the St. Johns River Water Management District to provide staff for the council; providing for award of contracts subject to an appropriation of funds; providing for a Harris Chain of Lakes restoration program; providing for a demonstration restoration project; providing appropriations; providing an effective date.

—was read the second time by title.

The Committee on Natural Resources & Environmental Protection offered the following:

(Amendment Bar Code: 922753)

Amendment 1—On page 2, line 8, of the bill

after the word *Johns*, insert: *River*

Rep. Gibson moved the adoption of the amendment, which was adopted.

The Committee on General Government Appropriations offered the following:

(Amendment Bar Code: 451615)

Amendment 2 (with title amendment)—On page 5, lines 15 through 26
remove from the bill: all of said lines

and insert in lieu thereof:

Section 3. *The Fish and Wildlife Conservation Commission is authorized to conduct a demonstration restoration project on the Harris Chain of Lakes for the purpose of creating better habitat for fish and wildlife.*

And the title is amended as follows:

On page 1, line 13
remove from the title of the bill: "providing appropriations;"

Rep. Gibson moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 1253—A bill to be entitled An act relating to health insurance; providing legislative intent; providing definitions; providing for a pilot program for health flex plans for certain uninsured persons; providing criteria; exempting approved health flex plans from certain licensing requirements; providing criteria for eligibility to enroll in a health flex plan; requiring health flex plan providers to maintain certain records; providing requirements for denial, nonrenewal, or cancellation of coverage; specifying coverage under an approved health flex plan is not an entitlement; providing for civil actions against health plan entities by the Agency for Health Care Administration under certain circumstances; amending s. 627.6699, F.S.; revising certain definitions; requiring the Insurance Commissioner to appoint new health benefit plan committees under certain circumstances for certain purposes; revising certain coverage disclosure requirements for small employer carriers; including certain form filing, approval, and disapproval requirements and procedures relating to health maintenance organizations within certain small employer carrier proscriptions; providing certain notice requirements; restricting application of certain laws to limited benefit policies under certain circumstances; authorizing offering or delivering limited benefit policies or contracts to certain employers; providing an effective date.

—was read the second time by title.

The Council for Healthy Communities offered the following:

(Amendment Bar Code: 383047)

Amendment 1 (with title amendment)—On page 2, line 17, remove from the bill: everything after the enacting clause,

and insert in lieu thereof:

Section 1. *Health flex plans.—*

(1) INTENT.—The Legislature finds that a significant portion of the residents of this state are not able to obtain affordable health insurance coverage. Therefore it is the intent of the Legislature to expand the availability of health care options for lower income uninsured state residents by encouraging health insurers, health maintenance organizations, health care provider-sponsored organizations, local governments, health care districts, or other public or private community-based organizations to develop alternative approaches to traditional health insurance which emphasize coverage for basic and preventive health care services. To the maximum extent possible, such options should be coordinated with existing governmental or community-based health services programs in a manner which is consistent with the objectives and requirements of such programs.

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

(a) "Agency" means the Agency for Health Care Administration.

(b) "Approved plan" means a health flex plan approved under subsection (3) which guarantees payment by the health plan entity for specified health care services provided to the enrollee.

(c) "Enrollee" means an individual who has been determined eligible for and is receiving health benefits under a health flex plan approved under this section.

(d) "Health care coverage" means payment for health care services covered as benefits under an approved plan or that otherwise provides, either directly or through arrangements with other persons, covered health care services on a prepaid per capita basis or on a prepaid aggregate fixed-sum basis.

(e) "Health plan entity" means a health insurer, health maintenance organization, health care provider-sponsored organization, local government, health care districts, or other public or private community-based organization which develops and implements an approved plan, and is responsible for financing and paying all claims by enrollees of the plan.

(3) PILOT PROGRAM.—The agency and the Department of Insurance shall jointly approve or disapprove health flex plans which provide health care coverage for eligible participants residing in the three areas of the state having the highest number of uninsured residents as determined by the agency. A plan may limit or exclude benefits otherwise required by law for insurers offering coverage in this state, cap the total amount of claims paid in 1 year per enrollee, or limit the number of enrollees covered. The agency and the Department of Insurance shall not approve or shall withdraw approval of a plan which:

(a) Contains any ambiguous, inconsistent, or misleading provisions, or exceptions or conditions that deceptively affect or limit the benefits purported to be assumed in the general coverage provided by the plan;

(b) Provides benefits that are unreasonable in relation to the premium charged, contains provisions that are unfair or inequitable or contrary to the public policy of this state or that encourage misrepresentation, or result in unfair discrimination in sales practices; or

(c) Cannot demonstrate that the plan is financially sound and the applicant has the ability to underwrite or finance the benefits provided.

(4) LICENSE NOT REQUIRED.—A health flex plan approved under this section shall not be subject to the licensing requirements of the

Florida Insurance Code or chapter 641, Florida Statutes, relating to health maintenance organizations, unless expressly made applicable. However, for the purposes of prohibiting unfair trade practices, health flex plans shall be considered insurance subject to the applicable provisions of part IX of chapter 626, Florida Statutes, except as otherwise provided in this section.

(5) ELIGIBILITY.—Eligibility to enroll in an approved health flex plan is limited to residents of this state who:

(a) Are 64 years of age or younger.

(b) Have a family income equal to or less than 200 percent of the federal poverty level.

(c) Are not covered by a private insurance policy and are not eligible for coverage through a public health insurance program such as Medicare or Medicaid, or other public health care program, including, but not limited to, Kidcare, and have not been covered at any time during the past 6 months.

(d) Have applied for health care benefits through an approved health flex plan and agree to make any payments required for participation, including, but not limited to, periodic payments and payments due at the time health care services are provided.

(6) RECORDS.—Every health flex plan provider shall maintain reasonable records of its loss, expense, and claims experience and shall make such records reasonably available to enable the agency and the Department of Insurance to monitor and determine the financial viability of the plan, as necessary.

(7) NOTICE.—The denial of coverage by the health plan entity shall be accompanied by the specific reasons for denial, nonrenewal, or cancellation. Notice of nonrenewal or cancellation shall be provided at least 45 days in advance of such nonrenewal or cancellation except that 10 days' written notice shall be given for cancellation due to nonpayment of premiums. If the health plan entity fails to give the required notice, the plan shall remain in effect until notice is appropriately given.

(8) NONENTITLEMENT.—Coverage under an approved health flex plan is not an entitlement and no cause of action shall arise against the state, local governmental entity, or other political subdivision of this state or the agency for failure to make coverage available to eligible persons under this section.

(9) CIVIL ACTIONS.—In addition to an administrative action initiated under subsection (4), the agency may seek any remedy provided by law, including, but not limited to, the remedies provided in s. 812.035, Florida Statutes, if the agency finds that a health plan entity has engaged in any act resulting in injury to an enrollee covered by a plan approved under this section.

Section 2. Paragraph (m) of subsection (3), paragraphs (a), (d), and (e) of subsection (12), and paragraph (a) of subsection (15) of section 627.6699, Florida Statutes, are amended to read:

627.6699 Employee Health Care Access Act.—

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

(m) "Limited benefit policy or contract" means a policy or contract that provides coverage for each person insured under the policy for a specifically named disease or diseases, a specifically named accident, or ~~a specifically named limited market~~ that fulfills *a* ~~an experimental or~~ reasonable need *by providing more affordable health insurance*~~, such as the small group market~~.

(12) STANDARD, BASIC, AND LIMITED HEALTH BENEFIT PLANS.—

(a)1. By May 15, 1993, the commissioner shall appoint a health benefit plan committee composed of four representatives of carriers which shall include at least two representatives of HMOs, at least one of which is a staff model HMO, two representatives of agents, four representatives of small employers, and one employee of a small employer. The carrier members shall be selected from a list of individuals recommended by the board. The commissioner may require the board to submit additional recommendations of individuals for appointment.

2. The plans shall comply with all of the requirements of this subsection.

3. The plans must be filed with and approved by the department prior to issuance or delivery by any small employer carrier.

4. *Before October 1, 2001, and in every fourth year thereafter, the commissioner shall appoint a new health benefit plan committee in the manner provided in subparagraph 1. to determine if modifications to a plan might be appropriate and to submit recommended modifications to the department for approval. Such determination shall be based upon prevailing industry standards regarding managed care and cost containment provisions and shall be for the purpose of ensuring that the benefit plans offered to small employers on a guaranteed issue basis are consistent with the low-priced to mid-priced benefit plans offered in the large group market. This determination shall be included in a report submitted to the President of the Senate and the Speaker of the House of Representatives annually by October 1.* ~~After approval of the revised health benefit plans, if the department determines that modifications to a plan might be appropriate, the commissioner shall appoint a new health benefit plan committee in the manner provided in subparagraph 1. to submit recommended modifications to the department for approval.~~

(d)1. Upon offering coverage under a standard health benefit plan, a basic health benefit plan, or a limited benefit policy or contract for any small employer, the small employer carrier shall *disclose in writing to the employer* ~~provide such employer group with a written statement that contains, at a minimum~~:

~~a. An explanation of those mandated benefits and providers that are not covered by the policy or contract;~~

a.~~b.~~ *An outline of coverage* ~~An explanation of the managed care and cost control features of the policy or contract,~~ along with all appropriate mailing addresses and telephone numbers to be used by insureds in seeking information. ~~or authorization; and~~

b.~~c.~~ ~~An explanation of~~ The primary and preventive care features of the policy or contract.

~~Such disclosure statement must be presented in a clear and understandable form and format and must be separate from the policy or certificate or evidence of coverage provided to the employer group.~~

~~2. Before a small employer carrier issues a standard health benefit plan, a basic health benefit plan, or a limited benefit policy or contract, it must obtain from the prospective policyholder a signed written statement in which the prospective policyholder:~~

~~a. Certifies as to eligibility for coverage under the standard health benefit plan, basic health benefit plan, or limited benefit policy or contract;~~

c.~~b.~~ ~~Acknowledges~~ The limited nature of the coverage and ~~an understanding of the managed care and~~ *the* cost control features of the policy or contract.~~;~~

~~c. Acknowledges that if misrepresentations are made regarding eligibility for coverage under a standard health benefit plan, a basic health benefit plan, or a limited benefit policy or contract, the person making such misrepresentations forfeits coverage provided by the policy or contract; and~~

2.~~d.~~ If a limited plan is requested, *the prospective policyholder must acknowledge in writing* ~~acknowledges~~ that *he or she* ~~the prospective policyholder~~ had been offered, at the time of application for the insurance policy or contract, the opportunity to purchase any health benefit plan offered by the carrier and that the prospective policyholder had rejected that coverage.

~~A copy of such written statement shall be provided to the prospective policyholder no later than at the time of delivery of the policy or~~

~~contract, and the original of such written statement shall be retained in the files of the small employer carrier for the period of time that the policy or contract remains in effect or for 5 years, whichever period is longer.~~

~~3. Any material statement made by an applicant for coverage under a health benefit plan which falsely certifies as to the applicant's eligibility for coverage serves as the basis for terminating coverage under the policy or contract.~~

3.~~4.~~ Each marketing communication that is intended to be used in the marketing of a health benefit plan in this state must be submitted for review by the department prior to use and must contain the disclosures stated in this subsection.

4. The contract, policy, and certificates evidencing coverage under a limited benefit policy or contract and the application for coverage under such plans must state in not less than 10 point type on the first page in contrasting color the following: "The benefits provided by this health plan are limited and may not cover all of your medical needs. You should carefully review the benefits offered under this health plan."

(d)~~(c)~~ A small employer carrier may not use any policy, contract, form, or rate under this section, including applications, enrollment forms, policies, contracts, certificates, evidences of coverage, riders, amendments, endorsements, and disclosure forms, until the insurer has filed it with the department and the department has approved it under ss. 627.410, ~~627.4106, and~~ 627.411*, and 641.31*.

(15) APPLICABILITY OF OTHER STATE LAWS.—

(a) Except as expressly provided in this section, a law requiring coverage for a specific health care service or benefit, or a law requiring reimbursement, utilization, or consideration of a specific category of licensed health care practitioner, does not apply to a standard or basic health benefit plan policy or contract or a limited benefit policy or contract offered or delivered to a small employer unless that law is made expressly applicable to such policies or contracts. *A law restricting or limiting deductibles, copayments, or annual or lifetime maximum payments does not apply to a limited benefit policy or contract offered or delivered to a small employer unless such law is made expressly applicable to such policy or contract. A limited benefit policy or contract which is offered or delivered to a small employer may also be offered or delivered to an employer with 51 or more eligible employees. Any covered disease or condition may be treated by any physician, without discrimination, licensed or certified to treat the disease or condition.*

Section 3. This act shall take effect October 1, 2001.

And the title is amended as follows:

On page 1, line 2, through page 2, line 14,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: An act relating to health care; making legislative findings and providing legislative intent; providing definitions; providing for a pilot program for health flex plans for certain uninsured persons; providing criteria; exempting approved health flex plans from certain licensing requirements; providing criteria for eligibility to enroll in a health flex plan; requiring health flex plan providers to maintain certain records; providing requirements for denial, nonrenewal, or cancellation of coverage; specifying coverage under an approved health flex plan is not an entitlement; providing for civil actions against health plan entities by the Agency for Health Care Administration under certain circumstances; amending s. 627.6699, F.S.; revising a definition; requiring the Insurance Commissioner to appoint a health benefit plan committee to modify the standard, basic, and limited health benefit plans; revising the disclosure that a carrier must make to a small employer upon offering certain policies; prohibiting small employer carriers from using certain policies, contracts, forms, or rates unless filed with and approved by the Department of Insurance pursuant to certain provisions; restricting application of certain laws to limited benefit policies under certain circumstances; authorizing offering or delivering limited benefit policies or contracts to certain employers; providing requirements for benefits in limited benefit policies or contracts for small employers; providing an effective date.

WHEREAS, the Legislature recognizes that the increasing number of uninsured Floridians is due in part to small employers' and their employees' inability to afford comprehensive health insurance coverage, and

WHEREAS, the Legislature recognizes the need for small employers and their employees to have the opportunity to choose more affordable and flexible health insurance plans, and

WHEREAS, it is the intent of the Legislature that insurers and health maintenance organizations have maximum flexibility in health plan design or in developing a health plan design to complement a medical savings account program established by a small employer for the benefit of its employees, NOW, THEREFORE,

Rep. Farkas moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 687 was taken up. On motion by Rep. Romeo, the rules were waived and CS for SB 224 was substituted for CS/HB 687. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 224—A bill to be entitled An act relating to medically essential electric public utility service; creating s. 366.15, F.S.; defining the term "medically essential"; requiring electric public utilities to provide medically essential service under specified circumstances; providing procedures for certification of medically essential utility service; authorizing utilities to disconnect service under certain circumstances; providing for notice to customers; providing for payment for service; providing for monitoring of customers; providing responsibilities for customers; providing for the identification of sources for funding purposes; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1125—A bill to be entitled An act relating to Monroe County; amending ch. 99-395, Laws of Florida; establishing effluent water quality standards for reuse systems; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 885915)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsection (8) of section 6 of chapter 99-395, Laws of Florida, is amended to read:

Section 6. Sewage requirements in Monroe County.—

(8) The requirements of subsections (2)-(7) do not apply to the following:

(a) Class 1 injection wells as defined by Department of Environmental Protection rule, including any authorized mechanical integrity tests.

(b) Authorized mechanical integrity tests associated with Class V wells as defined by Department of Environmental Protection rule.

(c) The following types of reuse systems authorized by Department of Environmental Protection domestic wastewater rules:

1. Slow-rate land application systems;

2. Industrial uses of reclaimed water; and

3. Use of reclaimed water for toilet flushing, fire protection, vehicle washing, construction dust control, and decorative water features.

However, disposal systems serving as backups to reuse systems shall *be required to meet the following effluent water quality limitations* ~~comply with the other provisions of this act~~. *Systems discharging less than 100,000 gallons per day based on the annual average daily flows to the backup system, including any other discharge of effluent to the backup system or other injection wells, shall provide a level of treatment that will produce an effluent that contains, on an annual average basis, not more than 10 milligrams per liter of biochemical oxygen demand, 10 milligrams per liter of suspended solids, 10 milligrams per liter of total nitrogen, and 1 milligram per liter of total phosphorous. Systems discharging 100,000 gallons per day or more based on the annual average daily flows to the backup system, including any other discharge of effluent to the backup system or other injection wells, shall provide a level of treatment that will produce an effluent that contains, on an annual average basis, not more than 5 milligrams per liter of biochemical oxygen demand, 5 milligrams per liter of suspended solids, 3 milligrams per liter of total nitrogen, and 1 milligram per liter of total phosphorous. Such systems shall comply with the Department of Environmental Protection's reuse rules.*

(d) In areas that are scheduled to be served by a central sewage facility before July 1, 2010, interim construction standards for new, expanded or existing onsite sewage treatment and disposal systems shall be allowed.

1. Interim construction standards for undocumented systems, cesspit replacements, system modifications and new onsite sewage treatment and disposal systems in such areas shall be in compliance with interim standards in effect on March 3, 1998.

2. In such areas approved, existing onsite sewage treatment and disposal systems in failure may be repaired with in-kind replacements of the approved existing system. At a minimum, existing drainfields must be replaced with a drainfield in compliance with rules in effect on March 3, 1998.

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

And the title is amended as follows:

On page,
remove from the bill: entire title

and insert in lieu thereof: A bill to be entitled An act relating to Monroe County; amending ch. 99-395, Laws of Florida; establishing effluent water quality limitations for reuse systems; provides interim construction standards for new, expanded, or existing onsite sewage and disposal systems scheduled to be served by a central sewage facility before July 1, 2010; providing an effective date.

Rep. Sorensen moved the adoption of the amendment.

The Committee on Natural Resources & Environmental Protection offered the following:

(Amendment Bar Code: 832651)

Substitute Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsection (8) of section 6 of chapter 99-395, Laws of Florida, is amended to read:

Section 6. Sewage requirements in Monroe County.—

(8) The requirements of subsections (2)-(7) do not apply to the following:

(a) Class 1 injection wells as defined by Department of Environmental Protection rule, including any authorized mechanical integrity tests.

(b) Authorized mechanical integrity tests associated with Class V wells as defined by Department of Environmental Protection rule.

(c) The following types of reuse systems authorized by Department of Environmental Protection domestic wastewater rules:

1. Slow-rate land application systems;

2. Industrial uses of reclaimed water; and

3. Use of reclaimed water for toilet flushing, fire protection, vehicle washing, construction dust control, and decorative water features.

However, disposal systems serving as backups to reuse systems shall *be required to meet the following effluent water quality limitations* ~~comply with the other provisions of this act~~. *Systems discharging for no more than 25 days per year and less than 100,000 gallons per day based on the average of the total flows to the backup system over 25 days, including any other discharge of effluent to the backup system or other injection wells, shall provide a level of treatment that will produce an effluent that contains, on an average basis, not more than 10 milligrams per liter of biochemical oxygen demand, 10 milligrams per liter of suspended solids, 10 milligrams per liter of total nitrogen, and 1 milligram per liter of total phosphorous. Systems discharging more than 25 days per year or more than 100,000 gallons per day based on the average daily flows to the backup system, including any other discharge of effluent to the backup system or other injection wells, shall provide a level of treatment that will produce an effluent that contains, on an average basis, not more than 5 milligrams per liter of biochemical oxygen demand, 5 milligrams per liter of suspended solids, 3 milligrams per liter of total nitrogen, and 1 milligram per liter of total phosphorous. Such systems shall comply with the Department of Environmental Protection's reuse rules.*

(d) In areas that are scheduled to be served by a central sewage facility before July 1, 2010, interim construction standards for new, expanded or existing onsite sewage treatment and disposal systems shall be allowed.

1. Interim system requirements shall be allowed through July 1, 2004, for onsite sewage treatment and disposal systems under the jurisdiction of the Department of Health, as defined in 381.0065, Florida Statutes, in areas that are scheduled to be served, according to an adopted local comprehensive plan determined to be in compliance by the Department of Community Affairs, by a central sewage facility before July 1, 2010. The interim system requirements shall be those requirements for the Florida Keys contained in Department of Health rules effective on March 3, 1998.

2. After July 1, 2004, interim system requirements shall be allowed in an area scheduled to be served by a central sewage facility only when all of the following conditions are met:

a. An enforceable contract to provide the central sewage facility and collection system has been signed;

b. The contract contains a binding schedule for connecting the onsite sewage treatment and disposal systems under the jurisdiction of the Department of Health to the central sewage facility; and

c. There is an enforceable requirement for abandonment of the onsite sewage treatment and disposal systems under the jurisdiction of the Department of Health.

3. Onsite sewage treatment and disposal systems under the jurisdiction of the Department of Health that are not scheduled to be served in accordance with this paragraph shall provide the level of treatment required under paragraph (c).

4. All onsite treatment and disposal systems under the jurisdiction of the Department of Health in operation on July 1, 2010, shall provide the level of treatment required under paragraph (c).

And the title is amended as follows:

On page ,
remove from the bill: entire title

and insert in lieu thereof: A bill to be entitled An act relating to Monroe County; amending ch. 99-395, Laws of Florida; establishing effluent water quality limitations for reuse systems; provides interim construction standards for new, expanded, or existing onsite sewage and disposal systems scheduled to be served by a central sewage facility before July 1, 2010; providing an effective date.

Rep. Sorensen moved the adoption of the substitute amendment.

Representative(s) Sorensen offered the following:

(Amendment Bar Code: 080429)

Amendment 1 to Substitute Amendment 1—On page 2, line 8 through page 3, line 13,
remove from the substitute amendment: all of said lines

and insert in lieu thereof:

However, disposal systems serving as backups to reuse systems shall comply with the other provisions of this act.

(d) In areas that are scheduled to be served by a central sewage facility before July 1, 2010, interim construction standards for new, expanded or existing onsite sewage treatment and disposal systems shall be allowed.

1. Interim system requirements shall be allowed through July 1, 2004, for onsite sewage treatment and disposal systems under the jurisdiction of the Department of Health, as defined in 381.0065, Florida Statutes, in areas that are scheduled to be served, according to an adopted local comprehensive plan determined to be in compliance by the Department of Community Affairs, by a central sewage facility before July 1, 2010. The interim system requirements shall be those interim standards for the Florida Keys contained in Department of Health rules effective on March 3, 1998.

Rep. Sorensen moved the adoption of the amendment to the substitute amendment, which was adopted.

The question recurred on the adoption of **Substitute Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 175—A bill to be entitled An act relating to reckless driving; amending s. 316.192, F.S.; providing penalties for reckless driving resulting in damage to property or person or serious bodily injury; providing a definition; amending s. 782.071, F.S., relating to vehicular homicide; providing penalties; amending ss. 921.0022 and 960.03, F.S.; conforming cross references; providing an effective date.

—was read the second time by title.

Representative(s) Machek offered the following:

(Amendment Bar Code: 304219)

Amendment 1—On page 2, line 9,
remove from the bill: all of said line

and insert in lieu thereof:
an injury to another person, which consists

Rep. Machek moved the adoption of the amendment, which was adopted.

Representative(s) Machek offered the following:

(Amendment Bar Code: 454531)

Amendment 2 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 316.1923, Florida Statutes, is created to read:

316.1923 Aggressive careless driving.—"Aggressive careless driving" means committing two or more of the following acts simultaneously or in succession:

(1) Exceeding the posted speed as defined in s. 322.27(3)(d)5.b.

(2) Unsafely or improperly changing lanes as defined in s. 316.085.

(3) Following another vehicle too closely as defined in s. 316.0895(1).

(4) Failing to yield the right-of-way as defined in s. 316.079, s. 316.0815, or s. 316.123.

(5) Improperly passing as defined in s. 316.083, s. 316.084, or s. 316.085.

(6) Violating traffic control and signal devices as defined in ss. 316.074 and 316.075.

Section 2. Paragraph (a) of subsection (1) of section 316.650, Florida Statutes, is amended to read:

316.650 Traffic citations.—

(1)(a) The department shall prepare, and supply to every traffic enforcement agency in this state, an appropriate form traffic citation containing a notice to appear (which shall be issued in prenumbered books with citations in quintuplicate) and meeting the requirements of this chapter or any laws of this state regulating traffic, which form shall be consistent with the state traffic court rules and the procedures established by the department. *Upon all future printings of the traffic citation, the form shall include a special box which is to be checked by the law enforcement officer when the officer believes that the traffic violation or crash was due to aggressive careless driving as defined in s. 316.1923.*

Section 3. *The Department of Highway Safety and Motor Vehicles shall prepare and deliver a report to the Speaker of the House of Representatives and the President of the Senate no later than December 1, 2002, setting forth the number of incidents of aggressive careless driving in this state.*

Section 4. This act shall take effect upon becoming a law.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to aggressive careless driving; creating s. 316.1923, F.S.; defining the term "aggressive careless driving"; amending s. 316.650, F.S.; requiring that the Department of Highway Safety and Motor Vehicles revise the uniform traffic citation upon future printings, to include a special check-off box for law enforcement officers to use to indicate aggressive careless driving; requiring the department to make a report to the Legislature on the number of aggressive careless driving incidents; providing an effective date.

Rep. Machek moved the adoption of the amendment, which was adopted.

Representative(s) Machek offered the following:

(Amendment Bar Code: 765275)

Amendment 3 (with title amendment)—

On page 9, between lines 4 and 5 insert:

Section 5. Section 316.1923, Florida Statutes, is created to read:

316.1923 Aggressive careless driving.—"Aggressive careless driving" means committing two or more of the following acts simultaneously or in succession:

(1) Exceeding the posted speed as defined in s. 322.27(3)(d)5.b.

(2) Unsafely or improperly changing lanes as defined in s. 316.085.

(3) Following another vehicle too closely as defined in s. 316.0895(1).

(4) Failing to yield the right-of-way as defined in s. 316.079, s. 316.0815, or s. 316.123.

(5) Improperly passing as defined in s. 316.083, s. 316.084, or s. 316.085.

(6) Violating traffic control and signal devices as defined in ss. 316.074 and 316.075.

Section 6. Paragraph (a) of subsection (1) of section 316.650, Florida Statutes, is amended to read:

316.650 Traffic citations.—

(1)(a) The department shall prepare, and supply to every traffic enforcement agency in this state, an appropriate form traffic citation containing a notice to appear (which shall be issued in prenumbered books with citations in quintuplicate) and meeting the requirements of this chapter or any laws of this state regulating traffic, which form shall be consistent with the state traffic court rules and the procedures established by the department. *Upon all future printings of the traffic citation, the form shall include a special box which is to be checked by the law enforcement officer when the officer believes that the traffic violation or crash was due to aggressive careless driving as defined in s. 316.1923.*

Section 7. *The Department of Highway Safety and Motor Vehicles shall prepare and deliver a report to the Speaker of the House of Representatives and the President of the Senate no later than December 1, 2002, setting forth the number of incidents of aggressive careless driving in this state.*

And the title is amended as follows:

On page 1, line 9, after "references;" insert: creating s. 316.1923, F.S.; defining the term "aggressive careless driving"; amending s. 316.650, F.S.; requiring that the Department of Highway Safety and Motor Vehicles revise the uniform traffic citation upon future printings, to include a special check-off box for law enforcement officers to use to indicate aggressive careless driving; requiring the department to make a report to the Legislature on the number of aggressive careless driving incidents;

Rep. Machek moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 959—A bill to be entitled An act relating to mortgage foreclosure proceedings; providing for expedited procedure under certain conditions; providing that a hearing and an adjudication that requested attorney's fees are reasonable are not necessary under certain conditions; providing that attorney's fees when provided in a note or mortgage constitute liquidated damages; amending s. 702.10, F.S.; specifying information to be included in an order to show cause why a final judgment of foreclosure should not be entered; providing that a hearing on attorney's fees is unnecessary under certain circumstances; requiring the court to enter a final judgment of foreclosure under certain circumstances; providing an effective date.

—was read the second time by title.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 555015)

Amendment 1 (with title amendment)—On page 1, between lines 20 and 21

insert

Section 1. Section 697.07, Florida Statutes, is amended to read:

697.07 Assignment of rents.—

(1) A mortgage or separate instrument may provide for an assignment of rents of real property or any interest therein as security for repayment of an indebtedness.

(2) If such an assignment is made, the mortgagee shall hold a lien on the rents, and the lien created by the assignment shall be perfected and effective against third parties upon recordation of the mortgage or separate instrument in the public records of the county in which the real property is located, according to law.

(3) Unless otherwise agreed to in writing by the mortgagee and mortgagor, the assignment of rents shall be enforceable upon the mortgagor's default and written demand for the rents made by the mortgagee to the mortgagor, whereupon the mortgagor shall turn over all rents in the possession *or control* of the mortgagor at the time of the written demand or collected thereafter (the "collected rents") to the mortgagee less payment of any expenses authorized by the mortgagee in writing.

(4) Upon application by the mortgagee or mortgagor, in a foreclosure action, and notwithstanding any asserted defenses or counterclaims of the mortgagor, a court of competent jurisdiction, pending final adjudication of any action, may require the mortgagor to deposit the collected rents into the registry of the court, or in such other depository as the court may designate. However, the court may authorize the use of the collected rents, before deposit into the registry of the court or other depository, to:

(a) Pay the reasonable expenses solely to protect, preserve, and operate the real property, including, without limitation, real estate taxes and insurance;

(b) Escrow sums required by the *mortgagee* ~~mortgagor~~ or separate *assignment of rents* ~~assignment of rents~~ instrument; and

(c) Make payments to the mortgagee.

The court shall require the mortgagor to account to the court and the mortgagee for the receipt and use of the collected rents and may also impose other conditions on the mortgagor's use of the collected rents.

(5) Nothing herein shall preclude the court from granting any other appropriate relief regarding the collected rents pending final adjudication of the action. The undisbursed collected rents remaining in the possession of the mortgagor or in the registry of the court, or in such other depository as ordered by the court, shall be disbursed at the conclusion of the action in accordance with the court's final judgment or decree.

(6) The court shall expedite the hearing on the application by the mortgagee or mortgagor to enforce *the* ~~its~~ assignment of rents. The procedures authorized by this statute are in addition to any other rights or remedies of the mortgagee or mortgagor under the mortgage, separate *assignment of rents* ~~assignment of rents~~ instrument, promissory note, at law, or in equity.

(7) Nothing herein shall alter the lien priorities, rights, or interests among mortgagees or other lienholders or alter the rights of the mortgagee under the mortgage, separate *assignment of rents* ~~assignment of rents~~ instrument, at law or in equity, concerning rents collected before the written demand by the mortgagee. A mortgagee's enforcement of its *assignment* ~~assignments~~ of rents under this statute shall not operate to transfer title to any rents not received by the mortgagee.

(8) Any moneys received by the mortgagee pursuant to this statute shall be applied by the mortgagee in accordance with the mortgage, separate *assignment of rents* ~~assignment of rents~~ instrument, or promissory note, and the mortgagee shall account to the mortgagor for such application.

And the title is amended as follows:

On page 1, lines 2 through 3
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to mortgages; amending s. 697.07, F.S.; providing that rents in the control of a mortgagor are subject to assignment of rents; correcting language regarding assignment of rents; providing for expedited procedure

Rep. Gottlieb moved the adoption of the amendment, which was adopted.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 362405)

Amendment 2—On page 5, line 13, after the word "court"
remove from the bill: may

and insert in lieu thereof: *shall*

Rep. Gottlieb moved the adoption of the amendment, which was adopted.

The Council for Ready Infrastructure offered the following:

(Amendment Bar Code: 630813)

Amendment 3—On page 2, lines 3-4,
remove from the bill: all of said lines

and insert in lieu thereof: *fees do not exceed 3 percent of the principal amount owed at the time of filing the complaint, even if the note or mortgage*

Rep. Gottlieb moved the adoption of the amendment, which was adopted.

The Council for Ready Infrastructure offered the following:

(Amendment Bar Code: 893161)

Amendment 4 (with title amendment)—On page 4, line 13 of the bill

after the period, insert: *Whenever a legal advertisement, publication, or notice relating to a foreclosure proceeding is required to be placed in a newspaper, such advertisement, publication, or notice shall be placed directly by the attorney for the party, by the party if it is acting pro se, or by the clerk of the court.*

And the title is amended as follows:

On page 1, line 13

after the semicolon, insert: providing certain notices be published in a newspaper;

Rep. Gottlieb moved the adoption of the amendment, which was adopted.

Representative(s) Gottlieb offered the following:

(Amendment Bar Code: 793743)

Amendment 5—On page 2, line 30, of the bill

after the period insert: *Failure to hold the hearing within such time shall affect neither the validity of the order to show cause nor the jurisdiction of the court to issue subsequent orders.*

Rep. Gottlieb moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 559—A bill to be entitled An act relating to the Pinellas County School District; providing for a seven-member district school board, with four members elected from single-member districts and three members elected from the county at large, notwithstanding the provisions of s. 230.061, s. 230.10, or s. 230.105, F.S.; providing for implementation at specified elections; providing that school board members shall continue to be elected on a nonpartisan basis and shall be elected in conjunction with the first primary and general election; providing qualifying and other applicable election procedures; providing for future reapportionment of the single-member districts; providing for a referendum; providing effective dates.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 257—A bill to be entitled An act relating to road designations; designating "Steven Cranman Boulevard" and "Ethel Beckford Boulevard" in Miami-Dade County; designating "Phicol Williams Boulevard" in Miami-Dade County; directing the Department of Transportation to erect suitable markers; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 203—A bill to be entitled An act relating to child pornography and images harmful to minors; amending s. 827.071, F.S.; revising the definition of "sexual conduct"; amending s. 847.001, F.S.; revising and adding definitions; amending s. 847.0135, F.S.; revising the "Computer Pornography and Child Exploitation Act of 1986" to clarify certain penalties; creating s. 847.0137, F.S.; prohibiting transmissions of child pornography and any image, information, or data harmful to minors; providing penalties; creating s. 847.0139, F.S.; providing immunity from civil liability for reporting child pornography, transmission of child pornography, or unlawful transmission of any image, information, or data harmful to minors; providing severability; providing an effective date.

—was read the second time by title.

Representative(s) Ryan offered the following:

(Amendment Bar Code: 703181)

Amendment 1—On page 5, lines 5-6,
remove from the bill: all of said lines

and insert in lieu thereof:

(1) "Child pornography" means any image depicting a minor engaged in sexual conduct.

Rep. Ryan moved the adoption of the amendment, which was adopted.

Representative(s) Ryan offered the following:

(Amendment Bar Code: 101861)

Amendment 2 (with title amendment)—On page 8, line 3, through page 10, line 10,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 3. Subsection (2) of section 847.0135, Florida Statutes, is amended to read:

847.0135 Computer pornography; penalties.—

(2) COMPUTER PORNOGRAPHY.—A person who:

(a) Knowingly compiles, enters into, or transmits by *use* ~~means~~ of computer;

(b) Makes, prints, publishes, or reproduces by other computerized means;

(c) Knowingly causes or allows to be entered into or transmitted by *use* ~~means~~ of computer; or

(d) Buys, sells, receives, exchanges, or disseminates,

any notice, statement, or advertisement *of*~~, or~~ any minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information~~,~~ for purposes of facilitating, encouraging, offering, or soliciting sexual conduct of or with any minor, or the visual depiction of such conduct*, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.984*. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this section shall not constitute a defense to a prosecution under this section. ~~Any person who violates the provisions of this subsection commits a felony of the third degree, punishable as provided for in s. 775.082, s. 775.083, or s. 775.084.~~

Section 4. Section 847.0137, Florida Statutes, is created to read:

847.0137 Transmission of pornography by electronic device or equipment prohibited; penalties.—

(1) For purposes of this section:

(a) "Minor" means any person less than 18 years of age.

(b) "Transmit" means the act of sending and causing to be delivered any image, information, or data from one or more persons or places to one or more other persons or places over or through any medium, including the Internet, by use of any electronic equipment or device.

(2) Notwithstanding ss. 847.012 and 847.0133, any person in this state who knew or reasonably should have known that he or she was transmitting child pornography, as defined in s. 847.001, to another person in this state or in another jurisdiction commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Notwithstanding ss. 847.012 and 847.0133, any person in any jurisdiction other than this state who knew or reasonably should have known that he or she was transmitting child pornography, as defined in s. 847.001, to any person in this state commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) This section shall not be construed to prohibit prosecution of a person in this state or another jurisdiction for a violation of any law of this state, including a law providing for greater penalties than prescribed in this section, for the transmission of child pornography, as defined in s. 847.001, to any person in this state.

(5) A person is subject to prosecution in this state pursuant to chapter 910 for any act or conduct proscribed by this section, including a person in a jurisdiction other than this state, if the act or conduct violates subsection (3).

The provisions of this section do not apply to subscription-based transmissions such as list servers.

Section 5. Section 847.0138, Florida Statutes, is created to read:

847.0138 Transmission of material harmful to minors to a minor by electronic device or equipment prohibited; penalties.—

(1) For purposes of this section:

(a) "Known by the defendant to be a minor" means that the defendant had actual knowledge or had reason to believe that the recipient of the communication was a minor.

(b) "Transmit" means to send to a specific individual known by the defendant to be a minor via electronic mail.

(2) Notwithstanding ss. 847.012 and 847.0133, any person in this state who knew or reasonably should have known that he or she was transmitting an image, information, or data that is harmful to minors, as defined in s. 847.001, to a specific individual known by the defendant to be a minor in this state commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Notwithstanding ss. 847.012 and 847.0133, any person in any jurisdiction other than this state who knew or reasonably should have known that he or she was transmitting an image, information, or data that is harmful to minors, as defined in s. 847.001, to a specific individual known by the defendant to be a minor in this state commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

The provisions of this section do not apply to subscription-based transmissions such as list servers.

And the title is amended as follows:

On page 1, line 12,

after "penalties;" insert: creating s. 847.0138, F.S.; prohibiting transmission of material harmful to minors by electronic device or equipment; providing definitions; providing penalties;

Rep. Ryan moved the adoption of the amendment, which was adopted.

Representative(s) Ryan offered the following:

(Amendment Bar Code: 585397)

Amendment 3 (with title amendment)—On page 10, between lines 26-27, of the bill

insert:

Section 6. Subsection (7) is added to section 905.34, Florida Statutes, to read:

905.34 Powers and duties; law applicable.—The jurisdiction of a statewide grand jury impaneled under this chapter shall extend throughout the state. The subject matter jurisdiction of the statewide grand jury shall be limited to the offenses of:

(7) Any violation of s. 847.0135, s. 847.0137, or s. 847.0138 relating to computer pornography and child exploitation prevention, or any offense related to a violation of s. 847.0135, s. 847.0137, or s. 847.0138;

or any attempt, solicitation, or conspiracy to commit any violation of the crimes specifically enumerated above, when any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits. The statewide grand jury may return indictments and presentments irrespective of the county or judicial circuit where the offense is committed or triable. If an indictment is returned, it shall be certified and transferred for trial to the county where the offense was committed. The powers and duties of, and law applicable to, county grand juries shall apply to a statewide grand jury except when such powers, duties, and law are inconsistent with the provisions of ss. 905.31-905.40.

And the title is amended as follows:

On page 1, line 17,

after "minors;" insert: amending s. 905.34, F.S.; providing jurisdiction of the statewide grand jury over offenses relating to computer pornography, child exploitation, or violations of s. 847.0135, F.S.;

Rep. Ryan moved the adoption of the amendment, which was adopted.

Representative(s) Trovillion offered the following:

(Amendment Bar Code: 863313)

Amendment 4 (with title amendment)—On page 11, line 1 of the bill
remove from the bill: all of said line

and insert in lieu thereof:

Section 7. This section shall take effect October 1, 2001.

Each county or municipal public library that makes available for public use computer on-line service, Internet service, or local bulletin-board service shall install and maintain computer software or equivalent technology on any computer that is made available to persons under 18 years of age which prohibits access to materials that contain obscene descriptions, photographs, or depictions. If the library has only one computer available for public use, the installation of such software or technology shall be within the discretion of the library.

Section 8. *In accordance with section 18, Article VII of the State Constitution, the Legislature finds that the installation and maintenance by public libraries of computer software or equivalent technology that prohibits access by persons under 18 years of age to obscene materials fulfills an important state interest.*

Section 9. Except as otherwise provided, this act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 18
remove from the title of the bill: all of said line

and insert in lieu thereof: requiring public libraries to install and maintain computer software or equivalent technology that prohibits access to obscene materials by minors; providing that the installation of software or technology in a library having only one public-access computer is within the library's discretion; providing a finding of important state interest; providing effective dates.

Rep. Trovillion moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HBs 715 & 1355—A bill to be entitled An act relating to breast and cervical cancer; creating s. 381.93, F.S.; providing a short title; providing legislative intent; authorizing specified breast and cervical cancer services to be rendered by the Department of Health; providing for funding sources for such services; providing for limits on service enrollment based on income; providing for income verification; authorizing the department to provide related services funded by other means; amending s. 409.904, F.S.; providing for Medicaid eligibility for certain women in need of treatment for breast and cervical cancer; specifying "qualified entity" for such purpose; providing for eligibility, presumptive eligibility, and duration of eligibility; providing an effective date.

—was read the second time by title.

The Committee on Health & Human Services Appropriations offered the following:

(Amendment Bar Code: 681345)

Amendment 1 (with title amendment)—On page 3, between lines 24 and 25, of the bill

insert:

Section 3. *Implementation of the provisions of this act is contingent upon specific appropriation therefore.*

And the title is amended as follows:

On page 1, line 18, after the semicolon

insert: providing that funding is contingent upon specific appropriation;

Rep. Lerner moved the adoption of the amendment, which was adopted.

Representative(s) Lerner offered the following:

(Amendment Bar Code: 142753)

Amendment 2 (with title amendment)—On page 3, between lines 24 and 25, of the bill

insert:

Section 3. *The Department of Health and the Agency for Health Care Administration shall monitor the total Medicaid expenditures for services provided under this act. In the event that Medicaid expenditures are projected to exceed the amount appropriated, the Department of Health shall limit the number of screenings to ensure that Medicaid expenditures remain within appropriation. The Department of Health, in cooperation with the Agency for Health Care Administration, shall prepare an annual report which shall include the number of women screened, the percentage of positive and negative outcomes, the number of referrals to Medicaid and other providers for treatment services, the estimated number of women not screened or not served by Medicaid due to appropriation limitations, if any, the cost of Medicaid treatment services, and the estimated cost of treatment services for women not screened or referred due to appropriation limitations. This report shall be submitted to the President of the Senate, the Speaker of the House of Representatives, and the Executive Office of the Governor by March 1 of each year.*

And the title is amended as follows:

On page 1, line 18,

after the semicolon, insert: providing for monitoring of Medicaid expenditures; requiring an annual report;

Rep. Lerner moved the adoption of the amendment. Further consideration of **Amendment 2** was temporarily postponed under Rule 11.10.

Further consideration of **CS/HBs 715 & 1355**, with pending amendment, was temporarily postponed under Rule 11.10.

On motion by Rep. Goodlette, the rules were waived and the House moved to the order of—

Motions Relating to Committee or Council References

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1169 was withdrawn from the Council for Healthy Communities and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, CS/HB 459 was withdrawn from the Committee on Education Innovation and remains referred to the Council for Smarter Government.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1093 was withdrawn from the Committee on Education Appropriations and remains referred to the Council for Lifelong Learning.

On motion by Rep. Goodlette, agreed to by two-thirds vote, CS/HB 135 was withdrawn from the Committee on Fiscal Policy & Resources and remains referred to the Council for Lifelong Learning.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1265 was withdrawn from the Committee on Natural Resources & Environmental Protection and remains referred to the Committee on General Government Appropriations and the Council for Ready Infrastructure.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 567 was withdrawn from the Committee on Fiscal Policy & Resources and remains referred to the Council for Smarter Government.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 567 was withdrawn from the Council for Smarter Government and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1365 was withdrawn from the Council for Competitive Commerce and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, CS/HB 1385 was withdrawn from the Council for Smarter Government and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1471 was withdrawn from the Council for Smarter Government and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1789 was withdrawn from the Council for Competitive Commerce and placed on the Calendar of the House.

Messages from the Senate

First Reading by Publication

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed SB 130; passed CS for SB 208 and SBs 226 and 338, as amended; passed CS for SB 354; passed CS for CS for SB 400, as amended; passed CS for SB 424; passed SB 428, as amended; passed SB 536; passed SBs 540 and 648, as amended; passed SB 672; passed SB 676 and CS for SB 780, as amended; passed CS for SB 828; passed CS

for SB 972; CS for SB 1190; CS for SB 1210; and SB 1412, as amended; passed SB 1516; passed SBs 1644 and 2104, as amended; adopted SCR 2106; passed CS for SB 2110, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By Senator Silver—

SB 130—A bill to be entitled An act relating to eminent domain; amending s. 166.411, F.S.; authorizing municipalities to exercise the power of eminent domain for public school purposes; providing for future repeal; providing an effective date.

Referred to the Calendar of the House.

By the Committee on Commerce and Economic Opportunities and Senator Geller—

CS for SB 208—A bill to be entitled An act relating to consumer protection; amending s. 501.203, F.S.; including business or commercial entity within the definition of the term "consumer" for purposes of ch. 501, F.S.; incorporating revisions to applicable regulations; amending s. 501.204, F.S.; incorporating interpretations relating to the Federal Trade Commission Act; amending s. 501.207, F.S.; authorizing an action on behalf of a governmental entity for damages caused by a violation of part II of ch. 501, F.S.; amending s. 501.2075, F.S.; providing for waiver of civil penalties if restitution is made for actual damages to a governmental entity; repealing s. 501.2091, F.S., relating to an authorization for a stay of proceedings pending trial by a party to an action under part II of ch. 501, F.S.; amending s. 501.211, F.S.; providing for the recovery of actual damages on the part of a person who suffers a loss as a result of a violation of part II of ch. 501, F.S.; amending s. 501.212, F.S.; providing that an exemption from regulation under part II of ch. 501, F.S., applies to activities regulated under laws administered by the Public Service Commission; providing an effective date.

Referred to the Calendar of the House.

By Senator Dawson—

SB 226—A bill to be entitled An act relating to prisons; creating the "Protection Against Sexual Violence in Florida Jails and Prisons Act"; amending s. 944.35, F.S.; requiring the Criminal Justice Standards and Training Commission to develop a course relating to sexual assault identification and prevention as part of the correctional-officer training program; creating s. 951.221, F.S.; prohibiting sexual misconduct by employees of county or municipal detention facilities; providing for termination of employment under certain circumstances; providing penalties; providing an effective date.

Referred to the Calendar of the House.

By Senator Campbell—

SB 338—A bill to be entitled An act relating to criminal justice; providing a short title; amending s. 782.04, F.S.; making it a capital felony to commit the unlawful killing of a human being while perpetrating or attempting to perpetrate the act of resisting an officer with violence to the officer's person; providing penalties for specified murders involving the perpetration of or the attempt to perpetrate the act of resisting an officer with violence to the officer's person; amending s. 775.0823, F.S.; correcting sentencing references; reenacting ss. 782.051, 903.133, 921.0022(3)(h) and (i), and 947.146(3)(i), F.S., relating to attempted felony murder, relating to bail on appeal prohibited for certain felony convictions, relating to the Criminal Punishment Code offense severity ranking chart, and relating to the Control Release Authority; providing an effective date.

Referred to the Calendar of the House.

By the Committee on Commerce and Economic Opportunities and Senators Miller and Crist—

CS for SB 354—A bill to be entitled An act relating to civil rights; amending s. 760.11, F.S., pertaining to administrative and civil remedies for violations of ss. 760.01-760.10, F.S., the "Florida Civil Rights Act of 1992"; revising procedures for filing complaints; providing an effective date.

Referred to the Calendar of the House.

By the Committees on Appropriations, Children and Families and Senator Horne and others—

CS for CS for SB 400—A bill to be entitled An act relating to support of dependents; amending s. 827.06, F.S.; providing alternative punishment for nonsupport of dependents; providing a felony penalty for fourth or subsequent violations; providing for the amount of restitution due; providing requirements with respect to certain evidence; providing for satisfaction of the element of notice under certain circumstances; providing an effective date.

Referred to the Calendar of the House.

By the Committee on Judiciary and Senator Jones—

CS for SB 424—A bill to be entitled An act relating to retired judges; amending s. 25.073, F.S.; redefining the term "retired justice" or "retired judge" with respect to certain justices or judges assigned to temporary duty; providing an effective date.

Referred to the Calendar of the House.

By Senators Dyer and Crist—

SB 428—A bill to be entitled An act relating to building construction; amending s. 95.11, F.S.; providing alternative applications to a statute of limitations for certain legal or equitable actions for actions to enforce claims against payment bonds; revising a statute of limitations for actions to enforce claims against certain payment bonds; amending s. 255.05, F.S.; clarifying criteria for performance of bonds; revising a provision relating to notice of nonpayment for certain labor, materials, or supplies; amending s. 713.01, F.S.; revising certain definitions; amending s. 713.02, F.S.; clarifying a criterion for a proscription against certain liens; amending s. 713.13, F.S.; deleting authorization for certain fax numbers in notices of commencement; amending s. 713.18, F.S.; revising provisions relating to manner of serving notices and certain instruments; amending s. 713.23, F.S.; including certain unpaid finance charges under a written notice of nonpayment of a payment bond; amending s. 713.245, F.S.; providing additional bond criteria for coextension of a surety's duty to pay lienors with a contractor's duty to pay; amending ss. 725.06, 725.08, F.S.; revising indemnification and hold harmless requirements for construction contracts and design professional contracts; repealing s. 713.18(3), F.S., relating to service of certain notices by facsimile transmission; providing effective dates. amending s. 489.13, F.S.; providing for issuance of a notice of noncompliance, imposition of an administrative fine, and assessment of reasonable investigative and legal costs of prosecution for unlicensed contracting; specifying that such remedies are not exclusive; providing for uses of fine proceeds; requiring the Department of Business and Professional Regulation to create a web page on its Internet website dedicated to listing known information concerning unlicensed contractors; providing an effective date.

Referred to the Calendar of the House.

By Senator Bronson—

SB 536—A bill to be entitled An act relating to demineralization concentrate; amending s. 403.0882, F.S.; reorganizing and clarifying the section; directing the Department of Environmental Protection to enter into rulemaking; creating a technical advisory committee to assist in rule development; providing permitting requirements relating to failure of toxicity tests due to naturally occurring constituents; amending s. 403.061, F.S.; providing an exemption allowing demineralization concentrate mixing zones in Outstanding Florida Waters with specific requirements; providing an effective date.

Referred to the Calendar of the House.

By Senators Burt and Crist—

SB 540—A bill to be entitled An act relating to criminal activities; creating the White Collar Crime Victim Protection Act; providing legislative intent; providing definitions; specifying crimes and acts that constitute a white collar crime; providing that a person commits an aggravated white collar crime if the white collar crime is committed against certain persons or against a state agency or political subdivision; providing enhanced penalties for aggravated white collar crimes; requiring that a defendant convicted of an aggravated white collar crime pay court costs and restitution; requiring that payment of restitution be a condition of probation; amending s. 910.15, F.S.; providing that a communication made by or through the use of the Internet was made in every county of the state for purposes of prosecuting certain fraudulent practices; amending s. 921.0022, F.S.; adding certain aggravated white collar crimes to the Criminal Punishment Code offense severity ranking chart; providing for severability; providing an effective date.

Referred to the Calendar of the House.

By Senator Garcia—

SB 648—A bill to be entitled An act relating to the Beverage Law; amending ss. 562.11, 562.111, F.S.; providing an exemption for giving or serving to certain underage students alcoholic beverages that are delivered as part of a required curriculum at an accredited institution; providing an exemption for the possession of alcoholic beverages by underage students in specified circumstances; providing an effective date.

Referred to the Calendar of the House.

By Senator Mitchell and others—

SB 672—A bill to be entitled An act relating to financial responsibility for indigent hospital patients; amending s. 154.306, F.S.; providing procedures for computing the maximum amount that specified counties must pay for the treatment of an indigent resident of the county at a hospital located outside the county; providing for the exclusion of active-duty military personnel and certain institutionalized county residents from state population estimates when calculating a county's financial responsibility for such hospital care; requiring the county of residence to accept the hospital's documentation of financial eligibility and county residence; requiring that the documentation meet specified criteria; providing an effective date.

Referred to the Calendar of the House.

By Senator Smith—

SB 676—A bill to be entitled An act relating to sentencing; amending s. 775.082, F.S.; redefining the term "prison releasee reoffender" to include a defendant who commits certain felonies within a specified period after being released from a correctional institution outside the state or while escaped from a correctional institution outside the state; providing requirements for sentencing a defendant if the state attorney proves by a preponderance of the evidence that the defendant is a prison releasee reoffender; providing an effective date.

Referred to the Calendar of the House.

By the Committee on Education and Senator Dawson—

CS for SB 780—A bill to be entitled An act relating to parental consent; amending s. 232.465, F.S.; providing that a student is exempt from certain services under the school health services plan if his or her parent or guardian requests such an exemption in writing; amending s. 234.02, F.S.; limiting transportation of a student to a medical treatment facility without parental consent; providing an effective date.

Referred to the Calendar of the House.

By the Committee on Health, Aging and Long-Term Care and Senator Dyer—

CS for SB 828—A bill to be entitled An act relating to prevention and control of communicable diseases; amending s. 381.003, F.S.; requiring the Department of Health to adopt certain standards applicable to all public-sector employers; requiring the compilation and maintenance of certain information by the department for use by employers; providing an effective date.

Referred to the Calendar of the House.

By the Committee on Governmental Oversight and Productivity and Senator Bronson—

CS for SB 972—A bill to be entitled An act relating to water management district fiscal matters; amending s. 373.536, F.S.; revising notice and hearing provisions relating to the adoption of a final budget for the water management districts; specifying to whom a copy of the water management districts' tentative budgets must be sent for review; specifying the contents of the tentative budgets; requiring the Executive Office of the Governor to file with the Legislature a report summarizing its review of the water management districts' tentative budgets and displaying the adopted budget allocations by program area; requiring the water management districts to submit certain budget documents to specified officials; amending s. 373.079, F.S.; deleting a requirement that the water management districts submit a 5-year capital improvement plan and fiscal report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of Environmental Protection; repealing s. 373.507, F.S., relating to postaudits and budgets of water management districts and basins; repealing s. 373.589, F.S., relating to audits of water management districts; amending s. 373.501, F.S.; providing procedures for the transfer of funds for proposed water management district projects; amending s. 373.59, F.S.; authorizing the use of the Water Management Lands Trust Fund for specified purposes other than acquisition; deleting a prospective repeal; amending s. 475.628, F.S.; recognizing certain appraisal methods; providing an effective date.

Referred to the Calendar of the House.

By the Committee on Appropriations and Senator Sullivan—

CS for SB 1190—A bill to be entitled An act relating to higher education; amending s. 240.3836, F.S.; providing legislative intent; providing a process for authorizing community colleges to offer baccalaureate degree programs; amending s. 240.2011, F.S.; creating a fiscally autonomous campus of the University of South Florida; amending s. 240.527, F.S.; requiring a Campus Board of the University of South Florida St. Petersburg; requiring separate accreditation; providing powers and duties of the Campus Board and the Campus Executive Officer; providing a procedure for preparing a budget request; providing for central support services contracts and a letter of agreement; excluding certain entities from certain provisions; adding to the State University System the New College in Sarasota; creating fiscally autonomous campuses of the University of South Florida; requiring a Campus Board of the University of South Florida Sarasota/Manatee; authorizing separate accreditation; providing powers and duties of the Campus Board and the Campus Executive Officer; providing a procedure for preparing a budget request; providing for central-support-services contracts and a letter of agreement; establishing a mission, goals, and board of trustees for New College of Florida; providing Legislative intent; redesignating St. Petersburg Junior College as "St. Petersburg College"; requiring accreditation; providing a mission; providing for students and fees; providing conditional authority to offer baccalaureate-degree-level programs; authorizing certain baccalaureate-degree programs and a process for increasing their number; establishing a governing board and a coordinating board; providing for dispute resolution; providing for certain employment classifications; providing for the acquisition of land, buildings, and equipment; authorizing the power of eminent domain; providing for state funding; requiring a cost-accounting process; providing an effective date.

Referred to the Calendar of the House.

By the Committee on Banking and Insurance and Senator Latvala—

CS for SB 1210—A bill to be entitled An act relating to health insurance; amending s. 627.410, F.S.; requiring certain group

certificates for health insurance coverage to be subject to the requirements for individual health insurance policies; revising requirements for filing and approval of individual health insurance rates; exempting group health insurance policies insuring groups of a certain size from rate filing requirements; providing alternative rate filing requirements for insurers with less than a specified number of nationwide policyholders or members; amending s. 627.411, F.S.; revising the grounds for the disapproval of insurance policy forms; providing that a health insurance policy form may be disapproved if it results in certain rate increases; specifying allowable new business rates and renewal rates if rate increases exceed certain levels; authorizing the Department of Insurance to determine medical trend for purposes of approving rate filings; amending s. 627.6487, F.S.; revising the types of policies that individual health insurers must offer to persons eligible for guaranteed individual health insurance coverage; prohibiting individual health insurers from applying discriminatory underwriting or rating practices to eligible individuals; amending s. 627.6515, F.S.; requiring that coverage issued to a state resident under certain group health insurance policies issued outside the state be subject to the requirements for individual health insurance policies; amending s. 627.6699, F.S.; revising definitions used in the Employee Health Care Access Act; allowing carriers to separate the experience of small employer groups with fewer than two employees; revising the rating factors that may be used by small employer carriers; amending s. 627.9408, F.S.; authorizing the department to adopt by rule certain provisions of the Long-Term Care Insurance Model Regulation, as adopted by the National Association of Insurance Commissioners; amending s. 641.31, F.S.; exempting contracts of group health maintenance organizations covering a specified number of persons from the requirements of filing with the department; specifying the standards for department approval and disapproval of a change in rates by a health maintenance organization; providing alternative rate filing requirements for organizations with less than a specified number of subscribers; amending s. 627.6482, F.S.; amending definitions used in the Florida Comprehensive Health Association Act; amending s. 627.6486, F.S.; revising the criteria for eligibility for coverage from the association; providing for cessation of coverage; requiring all eligible persons to agree to be placed in a case-management system; amending s. 627.6487, F.S.; redefining the term "eligible individual" for purposes of guaranteed availability of individual health insurance coverage; providing that a person is not eligible if the person is eligible for coverage under the Florida Comprehensive Health Association; amending s. 627.6488, F.S.; revising the membership of the board of directors of the association; revising the reimbursement of board members and employees; requiring that the plan of the association be submitted to the department for approval on an annual basis; revising the duties of the association related to administrative and accounting procedures; requiring an annual financial audit; specifying grievance procedures; establishing a premium schedule based upon an individual's family income; deleting requirements for categorizing insureds as low-risk, medium-risk, and high-risk; authorizing the association to place an individual with a case manager who determines the health care system or provider; requiring an annual review of the actuarial soundness of the association and the feasibility of enrolling new members; requiring a separate account for policyholders insured prior to a specified date; requiring appointment of an executive director with specified duties; authorizing the board to restrict the number of participants based on inadequate funding; limiting enrollment; specifying other powers of the board; amending s. 627.649, F.S.; revising the requirements for the association to use in selecting an administrator; amending s. 627.6492, F.S.; requiring insurers to be members of the association and to be subject to assessments for operating expenses; limiting assessments to specified maximum amounts; specifying when assessments are calculated and paid; allowing certain assessments to be charged by the health insurer directly to each insured, member, or subscriber and to not be subject to department review or approval; amending s. 627.6498, F.S.; revising the coverage, benefits, covered expenses, premiums, and deductibles of the association; requiring preexisting condition limitations; providing that the act does not provide an entitlement to health care services or health insurance and does not create a cause of action; limiting enrollment in the association; repealing s. 627.6484, F.S., relating to a prohibition on the Florida Comprehensive Health Association from accepting applications for coverage after a certain date; making a legislative finding that the provisions of this act fulfill an important state interest; providing that the amendments to s. 627.6487(3), F.S., do not take effect unless approved by the U.S. Health Care Financing Administration; providing effective dates.

Referred to the Calendar of the House.

By Senator Posey—

SB 1412—A bill to be entitled An act relating to child restraint requirements; creating the Child Safety Booster Seat Act of 2001; amending s. 316.613, F.S.; revising requirements with respect to the use of child restraint devices; providing for a phase-in period; providing effective dates.

Referred to the Calendar of the House.

By Senator Constantine—

SB 1516—A bill to be entitled An act relating to surety bonds; amending ss. 235.32, 255.05, F.S.; prohibiting public entities from directing that contractors building public facilities obtain surety bonds from a specific agent or bonding company; providing an effective date.

Referred to the Calendar of the House.

By Senator Smith—

SB 1644—A bill to be entitled An act relating to education; amending s. 231.262, F.S.; requiring school districts to institute policies regarding complaints against teachers and administrators; providing penalties for noncompliance; authorizing the district school superintendent to temporarily suspend a certificateholder from regularly assigned duties until completion of certain proceedings; providing an effective date.

Referred to the Calendar of the House.

By Senator Crist—

SB 2104—A bill to be entitled An act relating to hiring or leasing with intent to defraud; amending s. 812.155, F.S.; providing that the exclusion of property obtained under a rental-purchase agreement from criminal statutes relating to hiring or leasing with intent to defraud and similar offenses does not apply when the rental store retains title to the property through the period of the agreement; providing penalties; providing an effective date.

Referred to the Calendar of the House.

By Senator Peaden—

SCR 2106—A concurrent resolution naming the legislative clinic in honor of Dr. Edward G. Haskell, Jr.

Referred to the Calendar of the House.

By the Committee on Health, Aging and Long-Term Care and Senators Silver and Sanderson—

CS for SB 2110—A bill to be entitled An act relating to Medicaid services; amending s. 409.905, F.S.; providing that the Agency for Health Care Administration may restrict the provision of mandatory services by mobile providers; amending s. 409.906, F.S.; providing that the agency may restrict or prohibit the provision of services by mobile providers; providing that Medicaid will not provide reimbursement for dental services provided in mobile dental units, except for certain units; providing an effective date.

Referred to the Calendar of the House.

Motion to Adjourn

Rep. Byrd moved that the House adjourn for the purpose of holding committee and council meetings and conducting other House business, to reconvene at 10:30 a.m., Friday, April 27. The motion was agreed to.

Recorded Votes

Rep. Ball:

Yeas—CS/HB 1925

Rep. Crow:

Yeas—HB 115; CS/HB 479; HB 585; HB 629; HB 763; HB 775; HB 777; HB 799; HB 845; HB 847; HB 849; HB 851; HB 855; HB 857; HB 859; HB 879; HB 885; HB 887; HB 897; HB 901; HB 903; HB 905; HB 911; HB 919; HB 927; HB 929; HB 931; HB 937; HB 939; HB 943; HB 945; HB 975; HB 1037; HB 1041; HB 1115; HB 1183; HB 1815; HB 1851; HB 1855; HB 1857; HB 1859; HB 1887; HB 1897; HB 1899; HB 1903

Rep. Farkas:

Yeas—CS/HB 1199

Rep. Greenstein:

Yeas—motion to read CS/CS/HB 1533 the second time in full after reconsideration

Rep. Waters:

Nays—motion to read CS/CS/HB 1533 the second time in full after reconsideration

Rep. Wishner:

Nays—Amendment 1 to CS/HBs 1617 & 1487

Cosponsors

CS/HB 255—Lacasa
HB 531—Gelber, Heyman, Lerner
HB 651—Simmons
HB 1077—Farkas
HB 1111—Lacasa
CS/CS/HB 1193—Lynn
HB 1467—Romeo

Introduction and Reference

By Representative Kyle—

HB 413—A bill to be entitled An act relating to Lee County and the City of Fort Myers; amending section 4, chapter 98-488, Laws of Florida, as amended; providing for the addition of a special election that may be conducted by the city for the interlocal agreement approval referendum; providing an effective date.

Proof of publication of the required notice was attached.

First reading by publication (Art. III, s. 7, Florida Constitution).

Referred to the Committee on Local Government & Veterans Affairs.

By the Council for Smarter Government; Representative Brummer—

HB 1985—A bill to be entitled An act relating to public records; creating s. 560.4045, F.S.; providing an exemption from public records requirements for personal identifying information contained in the database for deferred presentment providers maintained by the Department of Banking and Finance under s. 560.404, F.S.; providing exceptions; providing for future review and repeal; providing findings of public necessity; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

Referred to the Calendar of the House.

Reference

HB 1865—Referred to the Calendar of the House.

First Reading of Council and Committee Substitutes by Publication

By the Council for Competitive Commerce; Representative Russell—

CS/HB 103—A bill to be entitled An act relating to off-highway vehicles; creating ch. 261, F.S.; creating the T. Mark Schmidt Off-Highway-Vehicle Safety and Recreation Act; providing legislative intent; providing definitions; creating the Off-Highway-Vehicle Recreation Advisory Committee; providing duties and responsibilities; providing for duties and responsibilities of the Department of Agriculture and Consumer Services; providing for rulemaking authority; providing for the publication and distribution of a guidebook; providing for the repair, maintenance, and rehabilitation of areas, trails, and lands; providing for contracts and agreements; providing criteria for recreation areas and trails; providing for the use of designated off-highway-vehicle funds within the Incidental Trust Fund of the Division of Forestry of the Department of Agriculture and Consumer Services; amending s. 316.2074, F.S.; revising the definition of the term "all-terrain vehicle"; prohibiting the use of all-terrain vehicles on public roadways in the state; creating the Florida Off-Highway-Vehicle Titling and Registration Act; providing legislative intent; providing definitions; providing for administration by the Department of Highway Safety and Motor Vehicles; providing for rules, forms, and notices; requiring certificates of title; providing for application for and issuance of certificates of title; providing for duplicate certificates of title; requiring the furnishing of a manufacturer's statement of origin; requiring registration; providing for application for and issuance of certificate of registration, registration number, and decal; providing for registration period and for reregistration by mail; providing for change of interest and address; providing for duplicate registration certificate and decal; providing for fees; providing for disposition of fees; providing for refusal to issue and authority to cancel a certificate of title or registration; providing for crimes relating to certificates of title and registration decals; providing penalties; providing for nonmoving traffic violations; providing penalties; amending s. 375.315, F.S., relating to the registration of off-road vehicles; providing an appropriation; providing an effective date.

By the Committee on Fiscal Policy & Resources; Representative Fasano—

CS/HB 1363—A bill to be entitled An act relating to pari-mutuel wagering; requiring dogracing permitholders to provide a greyhound adoption booth at each dogracing facility in the state; requiring that information concerning the adoption of a greyhound be made available to the public at the facility; requiring the permitholder to provide adoption information in racing programs and to identify greyhounds that will become available for adoption; authorizing the permitholder to hold an additional charity day that is designated as "Greyhound Adopt-A-Pet Day"; requiring that profits derived from the charity day be used to fund activities promoting the adoption of greyhounds; authorizing the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation to adopt rules; providing penalties; amending s. 550.1647, F.S., relating to unclaimed tickets and breaks with respect to greyhound racing; defining the term "bona fide organization that promotes or encourages the adoption of greyhounds"; amending s. 550.5251, F.S.; revising requirements for the operation of cardrooms by thoroughbred racing permitholders; amending s. 849.086, F.S.; revising requirements for the operation of cardrooms; revising a definition; authorizing a permitholder to amend an application for license renewal; providing requirements for licensure of certain permitholders; providing for licensing fees; revising conditions for operating a cardroom; authorizing cardrooms to award prizes; limiting the amount of a bet; revising the rate of the gross receipts tax on admissions; revising the percentage of the tax which must be used for specified purposes; providing an effective date.

By the Council for Lifelong Learning; Representatives Waters, Gannon, Frankel, Machek, McGriff, Melvin, Attkisson, Betancourt, Richardson, Heyman, Henriquez, Maygarden, and Wallace—

CS/HB 1511—A bill to be entitled An act relating to postsecondary education; amending s. 240.235, F.S.; requiring the approval of certain

student fee modifications, rather than just increases, by certain committees; changing language to conform with other provisions of the bill; creating ss. 240.236 and 240.336, F.S.; providing for the establishment of student governments at each state university and community college with the authority to establish certain procedures and to provide for the election or removal of student government officers; providing powers and duties; providing for suspension or removal from office under certain circumstances; amending ss. 240.295, 240.382, 240.531, 447.203, and 447.301, F.S.; conforming language to other provisions of the act and Florida law; repealing s. 240.136, F.S., relating to the removal and suspension of student government officers; providing an effective date.

By the Committee on State Administration; Representative Smith—

CS/HB 1701—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; expanding the exemption from public records requirements for identifying information relating to code enforcement officers to include additional information and to include such officers' spouses and children; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

By the Fiscal Responsibility Council; Committee on Elder & Long-Term Care; Representatives Green and Murman—

CS/HB 1879—A bill to be entitled An act relating to long-term care; amending s. 400.0073, F.S., relating to state and local ombudsman council investigations; requiring ombudsman verification and reporting of nursing home staff on duty and the posting thereof; providing penalty for refusal of a nursing home or assisted living facility to allow entry to an ombudsman; amending s. 400.021, F.S.; revising definitions; defining "controlling interest" and "voluntary board member"; creating s. 400.0223, F.S.; requiring nursing homes to allow electronic monitoring of residents in their rooms; requiring posting of notice; providing facility requirements; providing penalties; amending s. 400.023, F.S.; providing for election of survival damages, wrongful death damages, or recovery for negligence; providing for attorney's fees for injunctive relief or administrative remedy; providing that ch. 766, F.S., does not apply to actions under this section; providing burden of proof; providing that a violation of a right is not negligence per se; prescribing the duty of care; prescribing a nurse's duty of care; eliminating presuit provisions; eliminating the requirement for presuit mediation; requiring a copy of complaint to be served to the Agency for Health Care Administration; creating s. 400.0233, F.S.; providing for presuit notice; prohibiting the filing of suit for a specified time; requiring a response to the notice; tolling the statute of limitations; limiting discovery of presuit investigation documents; limiting liability of presuit investigation participants; authorizing the obtaining of opinions from a nurse or doctor; authorizing the obtaining of unsworn statements; authorizing discovery of relevant documents; prescribing the time for acceptance of settlement offers; requiring mediation; prescribing the time to file suit; creating s. 400.0234, F.S.; requiring the availability of facility records for presuit investigation; specifying the records to be made available; specifying what constitutes evidence of failure to make records available in good faith; specifying the consequences of such failure; creating s. 400.0235, F.S.; providing that the provisions of s. 768.21(8), F.S., do not apply to actions under part II of ch. 400, F.S.; creating s. 400.0236, F.S.; providing a statute of limitations; providing a statute of limitations when there is fraudulent concealment or intentional misrepresentation of fact; providing for application of the statute of limitation to accrued actions; creating s. 400.0237, F.S.; requiring evidence of the basis for punitive damages; prohibiting discovery relating to financial worth; providing for proof of punitive damages; defining the terms "intentional misconduct" and "gross negligence"; prescribing criteria governing employers' liability for punitive damages; providing for the remedial nature of provisions; creating s. 400.0238, F.S.; prescribing limits on the amount of punitive damages; providing for the calculation of attorney's fees; amending s. 768.735, F.S.; providing that the section is inapplicable to actions brought under ch. 400, F.S.; amending s. 415.1111, F.S.; limiting actions against nursing homes and assisted living facilities; amending s. 400.071, F.S.; revising requirements and providing additional requirements for application for a nursing home license; amending s. 400.102, F.S.; providing additional grounds for administrative or other actions against a nursing home; amending s. 400.118, F.S.; requiring agency staff to verify and report staff on duty at a nursing home; providing requirements for resident comprehensive assessment, plan of care, and treatment and services; providing for a resident's incapacity or refusal with regard to the plan of care; creating s. 400.1183, F.S.; requiring nursing homes to have a grievance procedure for residents; providing requirements; requiring recordkeeping and reports to the agency; providing for agency investigations; providing a penalty for noncompliance; amending s. 400.121, F.S.; revising a penalty for violations of pt. II of ch. 400, F.S.; providing additional grounds for denial of a nursing home licensure application; providing for review of administrative proceedings challenging agency licensure enforcement actions; amending s. 400.141, F.S.; providing qualifications for nursing home medical directors and nursing personnel; requiring sufficient nursing staff; requiring a comprehensive resident assessment; requiring daily charting of certain care delivered; requiring report of management agreements; requiring report of staff ratios, turnover, and stability, and bed vacancies; creating s. 400.1413, F.S.; requiring nursing homes to establish internal risk management and quality assurance programs; providing requirements for implementation; defining "adverse incident"; requiring reports to the agency; providing agency access to facility records, review of incidents and programs, and report to regulatory boards; limiting liability of risk managers; amending s. 400.1415, F.S.; providing for administrative penalties or a moratorium on admissions for a nursing home where alteration of records has occurred; requiring reporting; requiring referral of personnel for disciplinary action; amending s. 400.19, F.S.; providing for quarterly onsite review of facilities with a conditional licensure status; amending s. 400.191, F.S.; requiring facility posting of the Florida Nursing Home Guide Watch List; amending s. 400.211, F.S.; revising qualifications for temporary employment of nursing assistants; providing performance review and inservice training requirements for certified nursing assistants; amending s. 400.23, F.S.; deleting obsolete language and references; deleting requirement for review of local emergency management plans; providing for agency rules relating to consumer satisfaction surveys, posting of reports and records, and quality assurance and risk management; specifying minimum nursing home staffing requirements; providing a moratorium on admissions for certain failure to comply with minimum staffing requirements; providing a penalty; revising provisions relating to deficient practices and classifications thereof; revising penalties; providing an exemption from certain minimum staffing requirements; requiring a report; amending s. 400.241, F.S.; providing a cross reference; providing a penalty; amending s. 400.407, F.S.; correcting a cross reference; amending s. 400.426, F.S.; requiring a daily record of care of residents; providing for access to and maintenance of such records; amending s. 400.428, F.S.; revising requirement for notice of a resident's relocation or termination from a facility; providing a penalty; amending s. 400.429, F.S.; providing for election of survival damages, wrongful death damages, or recovery for negligence; providing for attorney's fees for injunctive relief or administrative remedy; providing that ch. 766, F.S., does not apply to actions under this section; prescribing the burden of proof; providing that a violation of a right is not negligence per se; prescribing the duty of care; prescribing a nurse's duty of care; eliminating presuit provisions; eliminating the requirement for presuit mediation; requiring a copy of complaint to be served to the agency; creating s. 400.4293, F.S.; providing for presuit notice; prohibiting the filing of suit for a specified time; requiring a response to the notice; tolling the statute of limitations; limiting the discovery of presuit investigation documents; limiting liability of presuit investigation participants; authorizing the obtaining of opinions from a nurse or doctor; authorizing the obtaining of unsworn statements; authorizing discovery of relevant documents; prescribing a time for acceptance of settlement offers; requiring mediation; prescribing the time to file suit; creating s. 400.4294, F.S.; requiring the availability of facility records for presuit investigation; specifying the records to be made available; specifying what constitutes evidence of failure to make records available in good faith; specifying the consequences of such failure; creating s. 400.4295, F.S.; providing that the provisions of s. 768.21(8), F.S., do not apply to actions under part III of ch. 400, F.S.; creating s. 400.4296, F.S.; providing a statute of limitations; providing a statute of limitations

when there is fraudulent concealment or intentional misrepresentation of fact; providing for application of the statute of limitation to accrued actions; creating s. 400.4297, F.S.; requiring evidence of the basis for punitive damages; prohibiting discovery relating to financial worth; providing for proof of punitive damages; defining the terms "intentional misconduct" and "gross negligence"; prescribing criteria governing employers' liability for punitive damages; providing for the remedial nature of provisions; creating s. 400.4298, F.S.; providing limits on the amount of punitive damages; providing for the calculation of attorney's fees; creating s. 400.449, F.S.; providing penalties for altering, defacing, or falsifying records of an assisted living facility; amending s. 430.708, F.S.; deleting a provision relating to certificate-of-need calculations for nursing home beds pursuant to Medicaid community diversion pilot projects; amending s. 430.709, F.S.; providing requirements for contracts for independent evaluation of long-term care community diversion projects; transferring responsibility from the Department of Elderly Affairs to the agency; requiring reports to the agency and Legislature; amending s. 435.04, F.S.; deleting obsolete language; amending s. 464.201, F.S.; revising definition of "approved training program" for nursing assistants; amending s. 464.2085, F.S.; directing the Council on Certified Nursing Assistants to develop advanced competency designations for certified nursing assistants; amending ss. 101.655, 397.405, and 400.0069, F.S.; correcting cross references; requiring the Auditor General develop a standard chart of accounts for Medicaid long-term care provider cost reporting; requiring implementation by the agency by a specified date; requiring the agency to amend the Medicaid Title XIX Long-Term Care Reimbursement Plan to include specified provisions; directing the Board of Nursing to provide for commendation of certain professional nurses; requiring wage and benefit increases for nursing home direct care staff; requiring a report; reenacting s. 400.021(11), F.S., relating to the definition of "nursing home bed"; reenacting s. 400.0225, F.S., relating to consumer satisfaction surveys; reenacting s. 400.0255(3) and (8), F.S., relating to discharge or transfer of residents; reenacting s. 400.141(4) and (5), F.S., relating to the repackaging of residents' medication and access to other health-related services; reenacting s. 400.191(2) and (6), F.S., relating to requirements for providing information to consumers; reenacting s. 400.23(5), F.S., relating to rules for standards of care for persons under 21 years of age residing in nursing home facilities; reenacting s. 400.235(3)(a), (4), (5)(e), and (9), F.S., and reenacting the repeal of s. 400.235(5)(h), F.S., 1999, relating to designation under the nursing home Gold Seal Program; reenacting s. 400.962(1), F.S., relating to requirement for licensure under pt. XI of ch. 400, F.S.; reenacting s. 397.405(2), F.S., relating to a cross reference; reenacting s. 10 of ch. 2000-350, Laws of Florida, relating to requirements for a study of the use of automated medication dispensing machines in nursing facilities and for demonstration projects and a report; providing legislative intent; repealing subsection (1) of section 71 of chapter 98-171, Laws of Florida; abrogating repeal of certain background screening requirements; providing for implementation contingent on specific appropriations in the General Appropriations Act for such purposes; providing effective dates.

Reports of Councils and Standing Committees

Council Reports

Received April 26:

The Council for Smarter Government recommends the following pass:
HB 875

The above bill was placed on the Calendar.

The Council for Competitive Commerce recommends a council substitute for the following:
HB 103

The above council substitute was placed on the Calendar, subject to review under Rule 6.3, and, under the rule, HB 103 was laid on the table.

The Fiscal Responsibility Council recommends a council substitute for the following:
HB 1879

The above council substitute was placed on the Calendar, subject to review under Rule 6.3, and, under the rule, HB 1879 was laid on the table.

The Council for Lifelong Learning recommends a council substitute for the following:
HB 1511

The above council substitute was placed on the Calendar, subject to review under Rule 6.3, and, under the rule, HB 1511 was laid on the table.

Committee Reports

Received April 26:

The Committee on Fiscal Policy & Resources recommends a committee substitute for the following:
HB 1363 (fiscal note attached)

The above committee substitute was placed on the Calendar, subject to review under Rule 6.3, and, under the rule, HB 1363 was laid on the table.

The Committee on State Administration recommends a committee substitute for the following:
HB 1701

The above committee substitute was referred to the Council for Smarter Government, subject to review under Rule 6.3, and, under the rule, HB 1701 was laid on the table.

Excused

Rep. Davis

Conference Committee Managers Excused

The following Conference Committee Managers were excused from time to time:

SBs 2000 and 2002 (appropriations): Rep. Lacasa, Chair; At Large—Reps. Fasano, Greenstein, Murman, Wallace, Wilson, and Sobel (alternate); Transportation & Economic Development Appropriations—Rep. Johnson, Chair, Reps. Bense, Hart, Jennings, Ritter, Rubio, Berfield (alternate), and Hogan (alternate); Health & Human Services Appropriations—Rep. Maygarden, Chair, Reps. Brummer, Farkas, Green, Rich, Slosberg, Benson (alternate), Brutus (alternate), and Garcia (alternate); Education Appropriations—Rep. Lynn, Chair, Reps. Alexander, Flanagan, Justice, Melvin, Stansel, Arza (alternate), Bucher (alternate), and Mealor (alternate); Criminal Justice Appropriations—Rep. Ball, Chair, Reps. Barreiro, Bilirakis, Mahon, Meadows, Seiler, and Bowen (alternate); General Government Appropriations—Rep. Dockery, Chair, Reps. Holloway, Kilmer, Miller, Siplin, Spratt, and Brown (alternate).

Adjourned

Pursuant to the motion previously agreed to, the House adjourned at 7:58 p.m., to reconvene at 10:30 a.m., Friday, April 27.